



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes - DRAFT

To: NCPA Commission
From: Cary A. Padgett, Assistant Secretary to the Commission
Subject: October 25, 2018, NCPA Commission Meeting / Teleconference

1. *Call Meeting to Order and Introductions*

Chair Roger Frith called the meeting to order at 9:40 am at NCPA's Roseville Office, 651 Commerce Drive, Roseville California. A quorum was present. Introductions were made. Those in attendance and attending via teleconference are shown on the attached attendance list.

2. *Approve Minutes of the September 25, 2018, Regular Commission Meeting and the October 4, 2018, Special Commission Meeting*

Motion: A motion was made by Jerry Serventi and seconded by Greg Scharff to approve the Minutes of the *September 25, 2018, Regular Commission Meeting and the October 4, 2018, Special Commission Meeting*. The motion carried unanimously on a voice vote of those members present.

PUBLIC FORUM

Chair Frith asked if any members of the public were present who would like to address the Commission on the agenda items. No members of the public were present.

REPORTS AND COMMITTEE UPDATES

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

General Manager Randy Howard reported:

- Provided an update on HCI activities. AMI platform progress is moving forward.
- Met with CEC Commissioners along with SCPA and CMUA regarding regulatory reporting requirements and wildfire mitigation. Plan to continue to meet with Commissioners to ensure public power's concerns are heard.
- Met with the Pacific Northwest Public Power Committee and provided them an overview of the wildfire mitigation and discussions taking place in California. The Northwest utilities are very interested in the steps California is taking to assist in the wildfire mitigation.
- Had a good meeting with the newly hired Lompoc City Manager and staff.

- Provided an update on the TO18 PG&E Rate Case. Did receive a favorable decision from the Administrative Law Judge. TO19 settled by parties and currently moving forward by the Federal Energy Regulatory Commission. Member should see refunds with the California Independent System Operator soon. Staff is currently working with the Transmission Agency of Northern California on the TO20 rate case as rates have increase dramatically.

4. *Executive Committee*

Committee Chair Frith reported the Committee met that morning and heard a presentation from Assistant General Manager Tony Zimmer regarding Power Management goals. The Committee also met in closed session to discuss four closed session items. However, the Committee did go into recess, and will reconvene following the Commission meeting. No reportable action had been taken on the closed session items discussed.

5. *Facilities Committee*

Assistant General Manager Tony Zimmer reported the Committee met once since the last Commission meeting. The Committee met and discussed item 14 on today's Agenda. The Committee did not establish a quorum, but did recommend Commission approval.

6. *Finance Committee*

Committee Chair David Hagele reported the Committee held a Special Committee meeting on October 9th to review and approve NCPA's FY18 Annual Audit. Baker Tilly, the Agency's auditor, reported the financial statements of NCPA received an 'Unmodified' or 'Clean' opinion meaning there were no material weaknesses or significant deficiencies in controls. In addition, there were no other audit findings or concerns. The Committee recommended Commission approval, which is item 13 on today's Agenda. The next regularly scheduled meeting is on November 13th.

7. *Legal Committee*

General Counsel Jane Luckhardt reported that the Committee did not meet since the last Commission meeting.

8. *Legislative & Regulatory Affairs Committee*

Committee Chair Mark Chandler reported the Committee did not meet since the last Commission meeting. Chair Chandler reported that the Federal Power Marketing Working Group met for the first time to discuss general CVP issues. The Group agreed to meet every third Monday of the month. On October 15, staff attended a CVP Preference Power Customer Forum with Bureau of Reclamation Commissioner Brenda Burman and Western Area Power Administration Administrator Mark Gabriel in Sacramento. An outline of upcoming Agency events was provided: Capitol Day is scheduled on February 4, 2019; NCPA's Strategic Issues Conference (SIC) is scheduled for January 15-17, 2019, at the Kimpton Sawyer Hotel in Sacramento; and the 2019 NCPA/NWPPA Federal Policy Conference is scheduled for April 28-May 2 in Washington, D.C.

The next Committee meeting is scheduled on November 28 at NCPA's office in Roseville.

9. *Members' Announcements & Meeting Reporting*

Chair Frith met with NCPA staff and a large customer from Biggs at NCPA's office to discuss power procurement and a potential project. Chair Frith thanked NCPA staff for facilitating the meeting and that he was pleased with the outcome.

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.

Motion: A motion was made by Greg Scharff and seconded by David Hagele to approve the Consent Calendar consisting of Items 10, 11, 12, 13, and 14. 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, Plumas-Sierra REC, Shasta Lake, and Truckee Donner were absent.*

10. ***NCPA's Financials for the Months Ended September 30, 2018*** – approval by all members.

11. ***Treasurer's Report for the Months Ended September 30, 2018*** – accept by all members.

12. ***2019 NCPA Committee Meeting Calendar*** – approval by all members the Committee Meeting Calendar for CY 2019.

Fiscal Impact: None.

13. ***Acceptance of the Annual Financial Statements and Associated Audit Report and Letters for the Years Ended June 30, 2018 and 2017*** – accept and file by all members the Annual Financial Statements and Associated Audit Report and Letter for the Years Ended June 30, 2018 and 2017.

Fiscal Impact: This is a financial report for the years ended June 30, 2018, and 2017, which has no direct budget impact to the Agency, but merely reports on the fiscal impacts for the last fiscal year.

14. ***Resolution 18-84, WSA Engineered Systems, Inc., – Five Year Multi-Task General Services Agreement to provide equipment, materials and maintenance of brush/ball cleaning system; Applicable to the following project: NCPA Geothermal facility*** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with WSA Engineered Systems, Inc., to provide equipment, materials, and maintenance of brush/ball tube cleaning systems, and consulting services, including on-site supervision and operator training on new systems, 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 NCPA's Geothermal facility

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 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 and Redding abstained.*

DISCUSSION / ACTION ITEMS

15. ***Resolution 18-83, Adoption of Amount of Employer Contribution to CalPERS Medical Plans for Calendar Year 2019*** – adopt resolutions by all members approving the setting up 90% of Kaiser Basic Family Sacramento Region Rate, but not less than the amounts prescribed by Section 22893 (a) (1), plus CalPERS administrative fees and Contingency Reserve Fund assessments, as the maximum Agency contribution for the CalPERS Medical Plans for employees and annuitants and their dependents for calendar year 2019; and approve specific CalPERS Resolutions for each employee and/or employee/annuitant group including Resolution Nos. 18-83 A for IBEW Local 1245-Group 200, 18-83 B for HEA-Group 300, 18-83 C for Unrepresented Staff-Group 400, 18-83 D for Power Generation Employees-NPERS Group 701, 18-83 E for

Unrepresented Administrative Members-NPERS Group 702, 18-83 F for HEA-NPERS Group 703, 18-83 G for IBEW Local 1245-Group 002, 18-83 H for HEA-Group 003, and 18-83 I for Unrepresented Staff-Group 004.

Fiscal Impact: The cost of the Agency's contribution for the CalPERS Medical Plans for employees and annuitants is included in the current fiscal year approved budget. The monthly maximum contribution for active employees is \$1,609.89 for 2019 which is a decrease of \$37.38 per employee from the approved amount of \$1,647.27 in 2018. Under GC 22893, the maximum monthly retiree contribution for family coverage in 2019 is \$1,788.00, which is an increase of \$22.00 from \$1,766.00 in 2018.

Assistant General Manager/CFO Monty Hanks provided an explanation of the CalPERS medical insurance and supporting resolutions.

Motion: A motion was made by Basil Wong and seconded by Teresa O'Neill to adopt the approving the setting up 90% of Kaiser Basic Family Sacramento Region Rate, but not less than the amounts prescribed by Section 22893 (a) (1), plus CalPERS administrative fees and Contingency Reserve Fund assessments, as the maximum Agency contribution for the CalPERS Medical Plans for employees and annuitants and their dependents for calendar year 2019; and approve specific CalPERS Resolutions for each employee and/or employee/annuitant group including Resolution Nos. 18-83 A for IBEW Local 1245-Group 200, 18-83 B for HEA-Group 300, 18-83 C for Unrepresented Staff-Group 400, 18-83 D for Power Generation Employees-NPERS Group 701, 18-83 E for Unrepresented Administrative Members-NPERS Group 702, 18-83 F for HEA-NPERS Group 703, 18-83 G for IBEW Local 1245-Group 002, 18-83 H for HEA-Group 003, and 18-83 I for Unrepresented Staff-Group 004. The motion carried by a unanimous roll call vote of those members present.

San Francisco BART, Plumas-Sierra, Shasta Lake, and Truckee Donner were absent.

16. **Resolution, 18-85, Authorize NCPA to Join California State Association of Counties Excess Insurance Authority to Gain Volume Purchasing Capacity for the Agency's Health and Welfare** – adopt resolution by all members authorizing NCPA to join California State Association of Counties (CSAC) Excess Insurance Authority (EIA) for the purpose of enabling the Agency to leverage group purchasing power arrangements. CSAC EIA has various benefit carriers, such as Delta Dental, Vision Service Plan and Managed Health Network.

Fiscal Impact: Membership in CSAC EIA has no associated cost. The cost of the Agency's contribution for dental, vision, and EAP Plans for employees is included in the current fiscal year approved budget. However, the Agency should see a fiscal year savings (half year) of approximately \$18,000.

Assistant General Manager/CFO Monty Hanks gave a presentation of the purchasing cost to join the California State Association of Counties compared to the Agency's current vendor.

Motion: A motion was made by Bob Lingl and seconded by Mark Chandler authorizing NCPA to join California State Association of Counties (CSAC) Excess Insurance Authority (EIA) for the purpose of enabling the Agency to leverage group purchasing power arrangements. CSAC EIA has various benefit carriers, such as Delta Dental, Vision Service Plan and Managed Health Network. The motion carried by a unanimous roll call vote of those members present.

San Francisco BART, Plumas-Sierra, Shasta Lake, and Truckee Donner were absent.

17. **Overview of Budget Process and Approach – Request of Guidance of FY2019/20 NCPA Operating Budget Directions** – accept by all members the Overview of Budget directions as presented and direct staff to prepare for the FY2019/20 Operating Budget in accordance with the accepted directions.

Fiscal Impact: Direction provided in this presentation will provide budget guidance for FY2019/20. Specific fiscal impact is not known at this time. Actual fiscal impact will be presented at the time of final approval of the FY2019/20 Operating Budget, currently scheduled for April 2019.

Assistant General Manager/CFO Monty Hanks gave a presentation on the overview of the budget process and approach for FY2019-20 Operating Budget.

Motion: A motion was made by Bob Lingl and seconded by Dan Beans to approve the Overview of Budget directions as presented and direct staff to prepare for the FY2019/20 Operating Budget in accordance with the accepted directions. The motion carried unanimously on a voice vote of those members present.

San Francisco BART, Plumas-Sierra, Shasta Lake, and Truckee Donner were absent.

INFORMATION ITEMS

18. Overview of Annual Billing Settlement Process – update and staff presentation.

Assistant General Manager / CFO Monty Hanks gave a presentation on the FY 2018 Settlement Summary and Preliminary Results of generation resources, transmission, management services, pass-throughs, and third party revenues. Preliminary results of the net FY18 settlements is approximately \$6.97 million. Once the settlement discussions are vetted through the Committees and approved by the Commission, Members will have the option to put these funds in GORE or refund included in total annual billing settlements. Non-members refunds will be in accordance with Agency payment terms.

CLOSED SESSION

Non-essential Members and NCPA staff left the meeting for Closed Session Item 19 discussion.

19. 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 19.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

The October 25, 2018, Commission meeting was adjourned at 10:53 am.

Respectfully submitted,

CARY A. PADGETT
Assistant Secretary to the Commission

Attachments

**Northern California Power Agency
Commission Meeting of October 25, 2018
COMMISSIONER
Attendance List**

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

MEMBER	NAME
ALAMEDA	<i>Sergio Serrano</i>
BIGGS	<i>Roy L. Smith</i>
GRIDLEY	<i>Paul E. Ewert</i>
HEALDSBURG	<i>[Signature]</i>
LODI	<i>Mark Chandler</i>
LOMPOC	<i>Bob King</i>
PALO ALTO	<i>[Signature]</i>
PORT OF OAKLAND	<i>Paul W. [Signature]</i>
PLUMAS-SIERRA REC	
REDDING	<i>D. Bean</i>
ROSEVILLE	<i>John Alford</i>
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART)	
SANTA CLARA	<i>Teresa O'Neill</i>
SHASTA LAKE	
TRUCKEE DONNER	
UKIAH	<i>Mel Grandi</i>

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: **October 25, 2018**

Consent Items Listed on the Agenda: # 10 to # 14

Consent Items Removed from the Agenda and Approved Separately:

0

ROLL-CALL VOTE BY MEMBERS: *P.A. / HEA*

Member	Item Numbers Abstained	Vote	Absent
Alameda		Y	
BART			X
Biggs		X	
Gridley		Y	
Healdsburg		X	
Lodi		Y	
Lompoc		Y	
Palo Alto		Y	
Port of Oakland	<i>14</i>	Y	
Redding	<i>14</i>	Y	
Roseville		X	
Santa Clara		Y	
Shasta Lake			X
Truckee Donner			X
Ukiah		Y	
Plumas-Sierra			X

ATTEST:

 Cary A. Padgett
 Assistant Secretary to the Commission

**Northern California Power Agency
ROLL CALL VOTE**

Topic: Resolution 18.85

	<u>VOTE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Alameda	<u>X</u>	<u> </u>	<u> </u>
BART	<u> </u>	<u> </u>	<u>X</u>
Biggs	<u>X</u>	<u> </u>	<u> </u>
Gridley	<u>X</u>	<u> </u>	<u> </u>
Healdsburg	<u>X</u>	<u> </u>	<u> </u>
Lodi	<u>X</u>	<u> </u>	<u> </u>
Lompoc	<u>X</u>	<u> </u>	<u> </u>
Palo Alto	<u>X</u>	<u> </u>	<u> </u>
Plumas-Sierra	<u> </u>	<u> </u>	<u>X</u>
Port of Oakland	<u>X</u>	<u> </u>	<u> </u>
Redding	<u>X</u>	<u> </u>	<u> </u>
Roseville	<u>X</u>	<u> </u>	<u> </u>
Santa Clara	<u>X</u>	<u> </u>	<u> </u>
Shasta Lake	<u> </u>	<u> </u>	<u>X</u>
Truckee Donner	<u> </u>	<u> </u>	<u>X</u>
Ukiah	<u>X</u>	<u> </u>	<u> </u>

Passed and adopted this 25th day of October 2018, by the above vote on roll call.


 ROGER FRITH
 Commission Chair

ATTEST: 
 CARY A. PADGETT
 Assistant Secretary

**Northern California Power Agency
ROLL CALL VOTE**

Topic: Resolution 18.83

	<u>VOTE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Alameda	<u>Y</u>	<u> </u>	<u> </u>
BART	<u> </u>	<u> </u>	<u>X</u>
Biggs	<u>Y</u>	<u> </u>	<u> </u>
Gridley	<u>Y</u>	<u> </u>	<u>NA</u>
Healdsburg	<u>Y</u>	<u> </u>	<u> </u>
Lodi	<u>Y</u>	<u> </u>	<u> </u>
Lompoc	<u>Y</u>	<u> </u>	<u> </u>
Palo Alto	<u>Y</u>	<u> </u>	<u> </u>
Plumas-Sierra	<u> </u>	<u> </u>	<u>X</u>
Port of Oakland	<u>Y</u>	<u> </u>	<u> </u>
Redding	<u>Y</u>	<u> </u>	<u> </u>
Roseville	<u>Y</u>	<u> </u>	<u> </u>
Santa Clara	<u>Y</u>	<u> </u>	<u> </u>
Shasta Lake	<u> </u>	<u> </u>	<u>X</u>
Truckee Donner	<u> </u>	<u> </u>	<u>X</u>
Ukiah	<u>Y</u>	<u> </u>	<u> </u>

Passed and adopted this 25th day of October 2018, by the above vote on roll call.


ROGER FRITH
 Commission Chair

ATTEST: 
CARY A. PADGETT
 Assistant Secretary



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Commission Staff Report

AGENDA ITEM NO.: 5

Date: November 29, 2018
To: NCPA Commission
Subject: November 7, 2018 Facilities Committee Meeting Minutes

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



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes - DRAFT

Date: November 13, 2018
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: November 7, 2018 Facilities Committee Meeting Minutes

- 1. Call meeting to order & Roll Call** - The meeting was called to order by Committee Chair Mike Brozo at 9:05 am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Alan Hanger (Alameda), Mark Sorensen (Biggs), Shiva Swaminathan (Palo Alto), Paulo Apolinario (Santa Clara), and Willie Manual (TID) during the Geo items only. Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Gridley, Healdsburg, Port of Oakland, Redding, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

- 2. Approve Minutes from the August 1, 2018, September 5, 2018, and October 3, 2018 Facilities Committee Meetings, and the August 14, 2018 Special Facilities Committee Meeting.**

Motion: A motion was made by Bill Forsyth and seconded by Melissa Price recommending approval of the August 1, 2018, September 5, 2018, and October 3, 2018 Facilities Committee Meetings, and the August 14, 2018 Special Facilities Committee Meeting. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

- 3. Appointment of Facilities Committee Chair and Vice Chair** – The 2018 Vice Chair, Tikan Singh (Lompoc), will be appointed as the 2019 Chair. The Committee nominated Bill Forsythe (Roseville), as the new Vice Chair.

Motion: A motion was made by Melissa Price and seconded by Mike Brozo recommending approval of the 2018 Vice Chair, Tikan Singh, to be appointed as the 2019 Chair, and nominates Bill Forsythe as the new Vice Chair. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

4. **All Generation Services Facilities, Members, SCPPA – Babcock and Wilcox Construction, Co. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Babcock and Wilcox Construction, Co. for maintenance 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.

This item was pulled from the agenda. The agreement is not ready for approval. This item will be added to the next Facilities Committee meeting in December.

5. **All Generation Services Facilities, Members, SCPPA – Thermal Engineering Company MTPSA** – Staff provide background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Professional Services Agreement with Thermal Engineering Company for engineering related 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. This is a new agreement with a new vendor. There were no other bidders for this work. 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 Bill Forsythe and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Thermal Engineering International (USA), Inc. for engineering 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

6. **All Generation Services Facilities, Members, SCPPA – Voith Turbo, Inc. MTGSA** – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Voith Turbo, Inc. for turbo machinery support 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. This is a renewal agreement with an existing vendor. It 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 Melissa Price and seconded by Mike Brozo recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Voith Turbo, Inc. for turbo machinery support 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

7. **All Generation Services Facilities, Members, SCPPA – Well Analysis Corporation, Inc. dba WELACO, Inc. MTGSA** – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Well Analysis Corporation, Inc. dba WELACO, Inc., for well-related 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. This is a renewal agreement with an existing vendor. It 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 Bill 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 Well Analysis Corporation, Inc., WELACO, Inc. for well related 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

8. **All Generation Services Facilities, Members, SCPPA – AECOM Technical Services, Inc. First Amendment to MTPSA** – Staff was seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task Professional Services Agreement with AECOM Technical Services, Inc., increasing the not to exceed amount from \$100,000 to \$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. This agreement is being utilized more than originally anticipated. It is an enabling agreement with no commitment of funds. PG&E also used this vendor for maintenance. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Bill Forsythe and seconded by Mike Brozo recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. for injection well related consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not exceed amount from \$100,000 to \$500,000, for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

9. **All Generation Services Facilities, Members, SCPPA – Wagner Mechanical, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Wagner Mechanical, Inc., for general T&M maintenance 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. This is a renewal agreement with an existing vendor. It 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 Melissa Price and seconded by Bill Forsythe recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Wagner Mechanical, Inc. for general T&M maintenance 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

- 10. All Generation Services Facilities, Members, SCPPA – Nor-Cal Controls ES, Inc. First Amendment to MTPSA** – Staff is seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc., increasing the not to exceed amount from \$350,000 to \$800,000, 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. This agreement is being utilized more than originally anticipated. It 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 Melissa Price and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. for control systems support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not exceed from \$350,000 to \$800,000, for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

- 11. All Generation Services Facilities, Members, SCPPA – Schneider Electric USA, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Schneider Electric USA, Inc. 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.

This item was pulled from the agenda. The agreement is not ready for approval. This item will be added to the next Facilities Committee meeting in December.

- 12. All Generation Services Facilities, Members, SCPPA – Bay Valve Service and Engineering, LLC MTGSA** – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Bay Valve Service and Engineering, LLC for valve testing and maintenance, 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. This is a renewal agreement with an existing vendor. It 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 Bill 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 Bay Valve Service & Engineering, Inc. for valve related testing and 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

- 13. All Generation Services Facilities, Members, SCPPA – Reliability Management Group First Amendment to MTCSA** – Staff was seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task Consulting Services Agreement with Reliability Management Group, increasing the not to exceed amount from \$100,000 to \$500,000, and opening this agreement for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members, per request by NCPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. This is an enabling agreement with no commitment of funds. The amendment is only increasing the amount for NCPA Members to utilize this agreement. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Melissa Price and seconded by Mike Brozo recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task Consulting Services Agreement with Reliability Management Group for consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not to exceed amount from \$100,000 to \$500,000 and make this agreement available for use at any facilities owned or operated by NCPA, its Members, Southern California Public Power Authority ("SCPPA"), or 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.

- 14. All Generation Services Facilities – Capuano Engineering Company MTCSA** – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Capuano Engineering Company for consulting services including development of new or production well workover, 24 hour supervision 7 days a week at drill rig sites, and interpretation of well analysis reports, with a not to exceed amount of \$1,000,000, for use at all NCPA Generation facilities. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. 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 Bill Forsythe and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Capuano Engineering Company 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 \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

15. NCPA Geothermal Facility – Westgate Petroleum Company, Inc. First Amendment to EMS – Staff provided background information and was seeking a recommendation for Commission approval of a First Amendment to the Equipment, Materials, and Supplies Agreement with Westgate Petroleum Company, Inc. for delivery of fuels oils and lubrications, increasing the not to exceed amount from \$1,350,000 to \$2,350,000, for use at NCPA’s Geothermal facility. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. This is an enabling agreement with no commitment of funds. Only the not to exceed amount is being changed. No more time is needed to complete the agreement. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Bill Forsythe and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Agreement for the Purchase of Equipment, Materials and Supplies with Westgate Petroleum Company, Inc. for delivery of fuel and other miscellaneous petroleum products, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not to exceed amount from \$1,350,000 to \$2,350,000, for use at the Geyser’s Geothermal Plant Facility. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, Santa Clara and TID. The motion passed.

16. NCPA Geothermal Facility – P-Site Well Workovers Project – Staff provided background information and was seeking a recommendation for Commission approval of the Geothermal P-Site Well Workovers Project and delegation of authority to the General Manager or his designee to award bids, enter into agreements, and issue purchase orders for the Project in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total not to exceed project cost of \$9 Million (subject to approval of \$3 Million in the FY2020 budget to complete the proposed work for all four wells).

After a routine inspection in 2017 of the Geothermal wells, it was determined that two (2) wells on the P-site had significant damage, due to increased corrosion. The recommendation for two (2) well work overs on production wells P-4, and P-7, was approved in the FY 2019 budget for \$6 Million. Since the initial inspection, staff have found two (2) additional wells that also need work overs, which are injection well P-9, and production well P-5. Staff recommends P-9 be plugged and abandoned for \$500,000 and a work over for P-5, with an additional \$2.5 Million needed for this. Timing of the work is recommended to begin in spring 2019 which would allow for all four (4) wells to be completed one after another, reducing mobilization and demobilization costs, with potential better pricing for performing work on four (4) wells versus two (2). Staff recommends an additional \$3 Million be included in the FY 2020 budget for this work to be done. The probability of success from the well work overs is good for these three wells.

Motion: A motion was made by Melissa Price and seconded by Mike Brozo recommending Commission approval authorizing the Geothermal P-Site Well Workovers Project and delegating authority to the General Manager or his designee to award bids, enter into agreements, and issue purchase orders for the Project in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total not to exceed project cost of \$9 Million (subject to approval of \$3 Million in the FY2020 budget to complete the proposed work for all four wells). A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, Santa Clara and TID. The motion passed.

17. NCPA Hydro Facility – Hibbard Inshore, LLC GSA – Staff provided background information and was seeking a recommendation for Commission approval of a General Services Agreement with Hibbard Inshore, LLC, to complete the Collierville Power Tunnel inspection at the NCPA Hydroelectric Project, and granting authority to the General Manager to issue purchase orders and Changes Orders for this work, with a not to exceed amount of \$400,000, for use at NCPA’s Hydro facility. The Collierville Tunnel is eight (8) miles long. Inspection of the tunnel is done approximately every 10 years. It’s recommended to inspect the tunnel when it’s fully watered up with about 90cfs water to protect the generating equipment. Materials collected in the rock trap need to be evaluated, and possibly removed. Hibbard was the lowest bidder for the project, and is available to perform the work December 1-2, during the rewind, which would be optimal timing. A geologist will be on site for the evaluation.

Motion: A motion was made by Melissa Price and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a General Services Agreement and to issue Purchase Orders to Hibbard Inshore, LLC., for remote operated vehicle inspection of the Collierville power tunnel, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$400,000 for use at the NCPA Hydroelectric Facility. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

18. NCPA Generation Services Plant Updates – NCPA Plant Staff provided the Committee with informational updates on current plant activities and conditions.

CTs –The Alameda CT1 U1 old turbine was removed and the new one has been installed. Removing the old turbine was a lengthy process. As well, there was a problem with the bleed valves, and the alignment, causing a delay in the completion of the project by approximately one week. Full load testing is currently being done, and should be back online today. The October operations between CT1 U2 and Lodi had 29 starts between the units for a total of 44 hours. The STIG operations has been quiet.

Geo – There were no safety incidents to report for the month of October at the geothermal facilities. CAL FIRE is currently conducting vegetation management with brush removal near the project. The Stretford Project has been started, and is due for completion in December. A new structure is being built due to the old structure deteriorating. A new HVAC system has just been installed, and is up and running. The old system dated back to the 1980s. A new project with Calpine is being discussed for a cross tie pipeline with NCPA. New pipe would be added for this project. This could potentially be a true economic value to both parties. Quarterly meetings are being setup to discuss options.

Hydro – The Collierville Unit 2 generator rewind is still in progress with the bars undergoing testing for the unit. Six extra bars underwent the testing/stressing and passed with no issues. Braising has just been completed of the bars, and now moving into the lashing phase. There is a very specialized crew for this work. The project is still on schedule, with the re-assembly to begin November 19, and is due to be completed by December 21. Other maintenance is being done during the rewind as well. The weather has been good for the rewind. The hydro project peaked in early June and is currently below 85,000 acre feet, and likely will be approximately 72,000 acre feet by December. Staff would like to keep up to at least 80,000 acre feet, and the project usually increases by 30,000 acre feet through December. Operations will be low due to water issues.

- 19. Settlements Summary Results for FY18** – Staff reviewed the summary results, seeking a recommendation for approval of the FY18 Annual Billing Settlement for the period of July 1, 2017 through June 30, 2018.

The final result of the FY 2018 Settlement is a refund of \$6.97 Million. Generation projects contributed \$4.22 Million, with Hydro at \$2.03 Million and Geo at \$2.88 Million. The refund from transmission, management services, pass-through, and third party revenues contributed approximately \$2.75 Million, with the management services refund at \$2.21 Million. The standard process for NCPA members is for the refund to be deposited in each members GOR. Non-members will receive refunds in accordance with Agency payment terms. An option presented to the Hydro and Geo Project Participants is to transfer refunds from each project into the Capital Development Reserve fund (Hydro) and/or Maintenance Reserve (Geo) (to be committed for future major projects). The preference of each member for this option will be discussed with the UDs at the next Utility Director's meeting (scheduled on November 15). Letters of direction will go out with the final refunding amounts pending approval at the Commission meeting November 29.

- 20. 2019 Insurance Renewal Proposal** – Staff gave an insurance renewal program overview and was seeking a recommendation for Commission approval of NCPA Major insurance renewals for 2019. Within the past year, the insurance market has begun to tighten due to the ongoing exposure of flooding, hurricanes, and the devastating west coast fires. California wildfires have now had a significant impact on the liability insurance market, with underwriters withdrawing from the California liability insurance market. Many companies are also reducing capacities. NCPA has had four (4) claims in the past three (3) years (with three (3) claims being settled, and one currently pending). The premium for this next year will increase by 8.83% due to insured value increase, business interruption value increase, and property value increasing. The rate for 2019 will be \$2,242,314, which is 3% below the budgeted amount.

A quorum of the Committee was not present for this item. The general consensus of the Committee is to recommend Commission approval authorizing the General Manager to negotiate and bind property damage, and liability coverage amounts as presented (or better) with a not-to-exceed proposed premium of approximately \$2,175,135.

- 21. SFWPA Services Agreement Offer** – Staff presented background information and was seeking a recommendation regarding the terms and conditions of NCPA's proposal to provide services to South Feather Water and Power Agency (SFWPA). SFWPA owns and operates 120 MW of Hydro Generation through four (4) facilities. Their current services contract with PG&E expires June 30, 2020. SFWPA has been exploring different options for services and have expressed interest in services from NCPA. Services provided by NCPA would be very similar to MEID services.

Key impacts to NCPA could include staffing needs, changing from the status of a low to medium impact entity under NERC/WECC Reliability Standards, costs of integration, and other possible impacts. Analysis and assessments are currently being conducted regarding this. Staff recommends developing a draft proposal while these evaluations are in process. Any formal agreement would need subsequent approval from the Facilities Committee and the Commission.

A quorum of the Committee was not present for this item. The general consensus of the Committee recommends NCPA staff to develop a draft Services Agreement to present to SFWPA for consideration, including the proposed scope of services and compensation structure as described in the presentation discussed at the November 7, 2018 Facilities

Committee meeting. Any proposal developed by NCPA staff is meant for discussion purposes only, and any formal offer submitted by NCPA to SFWPA is contingent upon approval and authorization provided by the Facilities Committee and the NCPA Commission.

22. Scheduling Coordinator Services Agreement – Staff discussed options regarding granting NCPA authorization to procure short-term Resource Adequacy Capacity on behalf of NCPA members, to address outage coordination requirements. Recently the CAISO is more frequently denying outage requests with RA capacity.

Staff are considering options for amending the Scheduling Coordinator Services Agreement to give NCPA authority to procure RA for short term outages. Pending staffs further consideration, staff will bring a formal proposal to the Facilities Committee for review and approval. This would then need to be approved by the Commission. The Committee agrees this is a good idea, and recommends further exploring this option.

23. Planning and Operations Update –

- The 2019 RA demonstration was due October 31, and has been filed with the CAISO.
- The SC Self-Audit for BART was just completed, and filed October 31.
- The SC Self-Audit and SQMD Affirmation for Pioneer Community Energy, East Bay Community Energy, and San Jose Clean Energy were completed and filed October 31.
- The Tri-annual GHG Obligation/Surrender has been completed and filed with CARB, due November 1.
- The annual hard failover for Dispatch, during which all business functions are switched to the DRC, was conducted on October 26 -28. The test went very well.
- The Lodi CT1 has used a majority of its 200 available run hours, but the unit is still available for dispatch. NCPA is exploring use of new use-limited functionality being developed by the CAISO to help manage this limited resource prospectively.

24. Schedule next meeting date – the next regular Facilities Committee meeting is scheduled for December 5, 2018.

CLOSED SESSION

Non-essential Members and NCPA staff left the meeting for the closed session item #25.

25. Conference with Legal Counsel – Anticipated Litigation – Pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9 – One (1) case. (*Commission Category: Closed Session; Sponsor: Hydro*)

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 the closed session item #25.

ADJOURNMENT

The Vice Chair adjourned the meeting at 2:10 pm.

**Northern California Power Agency
November 7, 2018 Special Facilities Committee Meeting
Attendance List**

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

NAME	AFFILIATION
Carrie Pollo	NCPA
Melissa Price	Lodi
Jake Eymann	NCPA
Randy Bowers of	NCPA
ED VOGEL	NCPA
DAVID CLINTON	NCPA
Michael De Bartsis	NCPA
JAKE SNYDER	NCPA
Marty LeBrett	nCPA
Brian Zard	Roseville
Bill Forsythe	Roseville
Rui Dai	NCPA
Randy Howard	NCPA
Jane Luckhardt	NCPA
Dennis Sismaet	NCPA
Tony Zimmer	NCPA
Michael Brozo	PSREC
Sandra Ainsworth	NCPA

**Northern California Power Agency
November 7, 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>Mark C.</i>
LOMPOC	<i>Sharon P.</i>
PALO ALTO	
PLUMAS-SIERRA REC	<i>Michael Brog</i>
PORT OF OAKLAND	
REDDING	
ROSEVILLE	<i>Bill Forsythe</i>
SANTA CLARA	
TID	
UKIAH	



Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

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

RECOMMENDATION:

Approval by all members

NOTICE:

The disbursements of the Northern California Power Agency for the month reported herein, will be approved at the November 29, 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 October 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 October 2018

Operations:

Geothermal	\$ 1,853,974
Hydroelectric	3,517,367
CT#1 Combustion Turbines	145,292
CT#2 STIG	557,506
Lodi Energy Center	4,557,635
NCPA Operating	<u>30,828,556</u>
Total	<u>\$ 41,460,330</u>

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

PERCENT OF YEAR ELAPSED 33%

	This Month	Actual Year To-Date	FY 2019 Budget	% Used	
GENERATION RESOURCES					
NCPA Plants					
Hydroelectric					
Other Plant Cost	\$ 885,051	\$ 5,286,536	\$ 16,699,691	32%	
Debt Service (Net)	2,929,735	11,718,942	35,156,824	33%	
Annual Budget Cost	3,814,786	17,005,478	51,856,515	33%	
Geothermal					
Other Plant Cost	2,664,635	10,326,189	29,488,515	35%	
Debt Service (Net)	411,408	1,645,632	4,936,896	33%	
Annual Budget Cost	3,076,043	11,971,821	34,425,411	35%	
Combustion Turbine No. 1	714,072	2,220,832	6,605,701	34%	
Combustion Turbine No. 2 (Stig)					
Fuel and Pipeline Transport Charges	89,109	659,131	977,410	67%	(a)
Other Plant Cost	215,893	745,763	2,048,734	36%	
Debt Service (Net)	476,392	1,905,569	5,716,708	33%	
Annual Budget Cost	781,394	3,310,463	8,742,852	38%	
Lodi Energy Center					
Fuel	5,814,940	16,479,620	33,092,116	50%	(b)
Other Plant Cost	2,996,232	8,147,676	24,544,632	33%	
Debt Service (Net)	2,173,321	8,693,284	26,079,852	33%	
Annual Budget Cost	10,984,493	33,320,580	83,716,600	40%	
Member Resources - Energy	4,651,865	21,987,320	64,448,814	34%	
Member Resources - Natural Gas	456,667	1,680,091	3,098,278	54%	(c)
Western Resources	1,505,105	6,207,527	31,349,618	20%	
Market Power Purchases	1,974,734	7,939,858	15,539,033	51%	(d)
Load Aggregation Costs - CAISO	29,949,641	98,252,078	273,858,269	36%	
Net GHG Obligations	-	615,100	1,122,972	55%	(e)
	57,908,800	204,511,148	574,764,063	36%	
TRANSMISSION					
Independent System Operator					
Grid Management Charge	311,439	1,550,914	3,662,271	42%	(f)
Wheeling Access Charge	7,112,573	34,367,372	104,569,875	33%	
Ancillary Services	768,596	3,041,833	3,040,303	100%	(g)
Other ISO Charges/(Credits)	(2,849,729)	(5,313,748)	1,549,274	-343%	(h)
	5,342,879	33,646,371	112,821,723	30%	
MANAGEMENT SERVICES					
Legislative & Regulatory					
Legislative Representation	212,907	716,133	2,023,068	35%	
Regulatory Representation	37,730	181,806	886,616	21%	
Western Representation	64,171	190,728	848,160	22%	
Member Services	18,555	111,649	438,389	25%	
Judicial Action	84,195	155,001	625,000	25%	

Management Services continued on next page

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

PERCENT OF YEAR ELAPSED 33%
--

	This Month	Actual Year To-Date	FY 2019 Budget	% Used
Power Management				
System Control & Load Dispatch	468,461	1,880,571	6,107,416	31%
Forecasting, Planning, Prescheduling & Trading	182,758	810,864	2,775,167	29%
Industry Restructuring & Regulatory Affairs	20,205	90,506	438,813	21%
Contract Admin, Interconnection Svcs & External Affairs	60,291	276,656	1,134,623	24%
Green Power Project	22	101	2,964	3%
Gas Purchase Program	4,106	20,854	77,781	27%
Market Purchase Project	9,553	28,804	112,014	26%
Energy Risk Management	12,999	45,026	259,585	17%
Settlements	35,746	187,569	941,392	20%
Integrated Systems Support	3,017	44,936	272,850	16%
Participant Pass Through Costs	125,250	261,089	1,619,170	16%
Support Services	30,228	397,754	-	N/A
	1,370,194	5,400,047	18,563,008	29%
TOTAL ANNUAL BUDGET COST	64,621,873	243,557,566	706,148,794	34%
LESS: THIRD PARTY REVENUE				
Plant ISO Energy Sales	13,940,677	59,335,285	100,456,289	59% (i)
Member Resource ISO Energy Sales	2,648,232	15,315,581	28,186,777	54% (j)
NCPA Contracts ISO Energy Sales	2,069,957	9,686,661	14,720,326	66% (j)
Western Resource Energy Sales	1,088,992	11,488,889	23,182,775	50% (j)
Load Aggregation Energy Sales	23,645,226	62,224,910	131,328,609	47% (k)
Ancillary Services Sales	692,352	2,293,209	4,409,129	52% (l)
Transmission Sales	9,198	36,792	110,376	33%
Western Credits, Interest and Other Income	1,431,476	6,652,113	37,414,086	18%
	45,526,110	167,033,440	339,808,367	49%
NET ANNUAL BUDGET COST TO PARTICIPANTS	\$ 19,095,763	\$ 76,524,126	\$ 366,340,427	21%

- (a) Increase in costs due to greater than projected MWhs of generation. CT2 is at 317% of budgeted MWhs at 10/31/18. Fuel costs and CA ISO charges have increased as a result of increased generation.
- (b) Increase in costs due to greater than projected MWhs of generation. LEC is at 91% of budgeted MWhs at 10/31/18. Fuel costs and CA ISO charges have increased as a result of increased generation.
- (c) Increase due to greater than projected MWhs of generation at CT1, CT2, and LEC. See notes (a) and (b).
- (d) Variance due to unbudgeted market purchases and NCPA contracts. Unbudgeted deals made after the FY19 budget including certain NextEra and Shell deals.
- (e) 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.
- (f) Increase due to greater than projected MWhs of generation. See notes (a) and (b).
- (g) Increase due to greater than projected MWhs of generation. See notes (a) and (b).
- (h) The budget to actual variance is caused by unbudgeted CAISO costs including imbalance costs, neutrality allocations, congestion offsets, and other cost allocations. These costs are not budgeted due to their unpredictable nature.
- (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) The load aggregation energy sales variance calculated above uses 4/12 of the annual budget. When comparing actual sales to monthly budgeted amounts, the variance is less due to much of the generation being scheduled at the beginning of the year. Additionally, all gas fired units have been running more than expected, at higher prices, due to high southern California gas prices and transmission constraints at the California Oregon Intertie. The above variance is expected to normalize throughout the year.
- (l) Increase due to greater than projected MWhs of generation. See notes (a) and (b) and corresponding increase in ancillary services costs.

COMBINED STATEMENTS OF NET POSITION

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

UNAUDITED

	October 31,	
	2018	2017
(in thousands)		
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 30,627	\$ 18,344
Investments	50,538	59,755
Accounts receivable		
Participants	156	220
Other	418	3,030
Interest receivable	416	235
Inventory and supplies	9,746	9,807
Prepaid expenses	645	564
TOTAL CURRENT ASSETS	<u>92,546</u>	<u>91,955</u>
RESTRICTED ASSETS		
Cash and cash equivalents	41,710	45,078
Investments	168,924	168,198
Interest receivable	786	720
TOTAL RESTRICTED ASSETS	<u>211,420</u>	<u>213,996</u>
ELECTRIC PLANT		
Electric plant in service	1,504,905	1,503,244
Less: accumulated depreciation	(983,785)	(953,037)
	<u>521,120</u>	<u>550,207</u>
Construction work-in-progress	182	151
TOTAL ELECTRIC PLANT	<u>521,302</u>	<u>550,358</u>
OTHER ASSETS		
Regulatory assets	229,212	235,360
Unused vendor credits	-	24
Preliminary survey and investigation costs	149	-
Investment in associated company	265	-
TOTAL ASSETS	<u>1,054,894</u>	<u>1,091,693</u>
DEFERRED OUTFLOWS OF RESOURCES		
Excess cost on refunding of debt	38,717	44,302
Pension deferrals	19,200	13,506
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u>57,917</u>	<u>57,808</u>
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	<u>\$ 1,112,811</u>	<u>\$ 1,149,501</u>

COMBINED STATEMENTS OF NET POSITION

NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	October 31,	
	2018	2017
	(in thousands)	
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 21,347	\$ 33,931
Accounts and retentions payable - restricted for construction	50	-
Member advances	1,138	993
Operating reserves	21,472	20,644
Current portion of long-term debt	41,950	41,870
Accrued interest payable	11,185	12,452
TOTAL CURRENT LIABILITIES	<u>97,142</u>	<u>109,890</u>
NON-CURRENT LIABILITIES		
Net pension and OPEB liability	76,002	64,589
Operating reserves and other deposits	146,772	142,661
Interest rate swap liability	11,818	15,433
Long-term debt, net	663,975	705,491
TOTAL NON-CURRENT LIABILITIES	<u>898,567</u>	<u>928,174</u>
TOTAL LIABILITIES	<u>995,709</u>	<u>1,038,064</u>
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	69,510	72,118
Pension and OPEB deferrals	3,195	4,460
TOTAL DEFERRED INFLOWS OF RESOURCES	<u>72,705</u>	<u>76,578</u>
NET POSITION		
Net investment in capital assets	(46,464)	(47,925)
Restricted	46,757	44,632
Unrestricted	44,104	38,152
TOTAL NET POSITION	<u>44,397</u>	<u>34,859</u>
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	<u>\$ 1,112,811</u>	<u>\$ 1,149,501</u>

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

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

UNAUDITED

	Four Months Ended October 31,	
	2018	2017
	(in thousands)	
OPERATING REVENUES		
Participants	\$ 127,859	\$ 116,321
Other Third-Party	112,246	91,512
TOTAL OPERATING REVENUES	<u>240,105</u>	<u>207,833</u>
OPERATING EXPENSES		
Purchased power	106,374	95,909
Operations	33,083	24,478
Transmission	59,234	50,376
Depreciation	10,319	10,324
Maintenance	7,584	7,051
Administrative and general	6,298	5,410
TOTAL OPERATING EXPENSES	<u>222,892</u>	<u>193,548</u>
NET OPERATING REVENUES	<u>17,213</u>	<u>14,285</u>
NON OPERATING (EXPENSES) REVENUES		
Interest expense	(13,242)	(14,750)
Interest income	4,996	2,646
Other	2,133	1,656
TOTAL NON OPERATING EXPENSES	<u>(6,113)</u>	<u>(10,448)</u>
FUTURE RECOVERABLE AMOUNTS	(1,935)	(884)
REFUNDS TO PARTICIPANTS	<u>(2,836)</u>	<u>(2,154)</u>
INCREASE (DECREASE) IN NET POSITION	6,329	799
NET POSITION, Beginning of year	<u>38,068</u>	<u>34,060</u>
NET POSITION, Period ended	<u>\$ 44,397</u>	<u>\$ 34,859</u>

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

October 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	\$ -	\$ -	\$ 95	\$ -	\$ 30,456	\$ 30,627
Investments	-	-	-	-	-	-	-	-	-	-	50,538	50,538
Accounts receivable	-	-	-	-	-	-	-	-	-	-	-	-
Participants	-	-	-	-	-	-	-	-	-	-	156	156
Other	-	-	-	-	-	-	-	-	-	-	27	418
Interest receivable	-	-	-	-	-	-	-	-	-	-	262	416
Inventory and supplies	4,509	1,079	642	1,405	2,111	-	-	-	-	-	-	9,746
Prepaid expenses	53	91	6	9	57	-	-	-	6	-	423	645
Due from Agency and other programs*	19,015	8,738	2,265	(2,161)	24,828	-	-	-	16,203	-	(71,828)	-
TOTAL CURRENT ASSETS	23,578	9,908	2,914	(746)	27,069	-	-	-	16,504	-	10,034	92,546
RESTRICTED ASSETS												
Cash and cash equivalents	4,889	10,591	2	-	7,875	-	-	-	-	-	13,805	41,710
Investments	22,899	35,149	3,018	-	27,309	-	-	-	-	-	56,986	168,924
Interest receivable	132	129	11	-	157	-	-	-	-	-	357	786
TOTAL RESTRICTED ASSETS	27,920	45,869	3,031	-	35,341	-	-	-	-	-	71,148	211,420
ELECTRIC PLANT												
Electric plant in service	570,463	394,838	64,845	36,521	423,810	7,736	-	-	742	-	5,950	1,504,905
Less: accumulated depreciation	(536,969)	(265,414)	(49,098)	(34,542)	(86,425)	(7,736)	-	-	(430)	-	(3,171)	(983,785)
Construction work-in-progress	33,494	129,424	15,747	1,979	337,385	-	-	-	312	-	2,779	521,120
TOTAL ELECTRIC PLANT	33,494	129,424	15,747	1,979	337,567	-	-	-	312	-	2,779	521,302
OTHER ASSETS												
Regulatory assets	(549)	133,718	9,910	-	24,341	-	-	-	-	-	61,792	229,212
Preliminary survey and investigation costs	-	-	-	-	-	-	-	-	149	-	-	149
Investment in associated company	-	-	-	-	-	-	-	-	-	-	265	265
TOTAL ASSETS	84,443	318,919	31,602	1,233	424,318	-	-	-	16,765	-	146,018	1,054,894
DEFERRED OUTFLOWS OF RESOURCES												
Excess cost on refunding of debt	1,585	34,249	856	-	2,027	-	-	-	-	-	-	38,717
Pension deferrals	-	-	-	-	-	-	-	-	-	-	19,200	19,200
TOTAL DEFERRED OUTFLOWS OF RESOURCES	1,585	34,249	856	-	2,027	-	-	-	-	-	19,200	57,917
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 86,028	\$ 353,168	\$ 32,458	\$ 1,233	\$ 426,345	\$ -	\$ -	\$ -	\$ 16,765	\$ 16,765	\$ 165,218	\$ 1,112,811

* Eliminated in Combination

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

October 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
LIABILITIES										
CURRENT LIABILITIES										
Accounts payable and accrued expenses	\$ 108	\$ 259	\$ -	\$ -	\$ 5,827	\$ -	\$ 6,003	\$ -	\$ 9,150	\$ 21,347
Accounts and retentions payable - restricted for construction	-	10	-	-	40	-	-	-	-	50
Member advances	791	-	-	-	-	-	-	347	-	1,138
Operating reserves	7,109	250	513	(537)	14,137	-	-	-	-	21,472
Current portion of long-term debt	5,095	21,180	4,195	-	11,480	-	-	-	-	41,950
Accrued interest payable	179	4,568	371	-	6,067	-	-	-	-	11,185
TOTAL CURRENT LIABILITIES	13,282	26,267	5,079	(537)	37,551	-	6,003	347	9,150	97,142
NON-CURRENT LIABILITIES										
Net pension and OPEB liability	-	-	-	-	-	-	-	-	76,002	76,002
Operating reserves and other deposits	20,270	17,455	-	-	1,716	-	28,266	7,917	71,148	146,772
Interest rate swap liability	-	11,818	-	-	-	-	-	-	-	11,818
Long-term debt, net	20,100	286,738	25,978	-	331,159	-	-	-	-	663,975
TOTAL NON-CURRENT LIABILITIES	40,370	316,011	25,978	-	332,875	-	28,266	7,917	147,150	898,567
TOTAL LIABILITIES	53,652	342,278	31,057	(537)	370,426	-	34,269	8,264	156,300	995,709
DEFERRED INFLOWS OF RESOURCES										
Regulatory credits	18,497	4,059	921	2,146	40,384	-	-	270	3,233	69,510
Pension and OPEB deferrals	-	-	-	-	-	-	-	-	3,195	3,195
TOTAL DEFERRED INFLOWS OF RESOURCES	18,497	4,059	921	2,146	40,384	-	-	270	6,428	72,705
NET POSITION										
Net investment in capital assets	(3,531)	(21,679)	(4,535)	-	(16,719)	-	-	-	-	(46,464)
Restricted	6,582	19,738	2,660	-	17,957	-	-	(181)	1	46,757
Unrestricted	10,828	8,772	2,355	(376)	14,297	-	(2,673)	8,412	2,489	44,104
TOTAL NET POSITION	13,879	6,831	480	(376)	15,535	-	(2,673)	8,231	2,490	44,397
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 86,028	\$ 353,168	\$ 32,458	\$ 1,233	\$ 426,345	\$ -	\$ 31,596	\$ 16,765	\$ 165,218	\$ 1,112,811

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 Four Months Ended October 31, 2018

	GENERATING & TRANSMISSION RESOURCES										Combined	
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission	Purchased Power & Transmission	Associated Member Services	Other Agency			
OPERATING REVENUES												
Participants	\$ 554	\$ 4,683	\$ 1,204	\$ 1,224	\$ 11,139	\$ -	\$ 101,231	\$ 7,427	\$ -	\$ 397	\$ 127,859	
Other Third-Party	13,373	11,985	1,452	1,210	33,764	-	50,162	300	-	-	112,246	
TOTAL OPERATING REVENUES	13,927	16,668	2,656	2,434	44,903	-	151,393	7,727	-	397	240,105	
OPERATING EXPENSES												
Purchased power	737	1,300	43	221	2,170	-	101,903	-	-	-	106,374	
Operations	4,959	1,230	834	722	19,891	-	1,680	3,767	-	-	33,083	
Transmission	100	202	46	102	320	-	58,462	2	-	-	59,234	
Depreciation	1,316	3,189	734	64	4,871	-	-	32	113	-	10,319	
Maintenance	3,293	1,880	227	929	1,236	-	-	19	-	-	7,584	
Administrative and general	1,533	994	229	215	1,591	-	-	2,262	(526)	-	6,298	
Intercompany (sales) purchases, net*	(221)	91	25	29	98	-	-	(22)	-	-	-	
TOTAL OPERATING EXPENSES	11,717	8,886	2,138	2,282	30,177	-	162,045	6,060	(413)	810	222,892	
NET OPERATING REVENUES	2,210	7,782	518	152	14,726	-	(10,652)	1,667	-	810	17,213	
NON OPERATING (EXPENSES) REVENUES												
Interest expense	(179)	(7,648)	(496)	-	(4,919)	-	-	-	-	-	(13,242)	
Interest income	517	581	55	1	791	-	503	35	2,513	-	4,996	
Other	-	-	683	-	1,140	-	64	-	246	-	2,133	
TOTAL NON OPERATING (EXPENSES) REVENUES	338	(7,067)	242	1	(2,988)	-	567	35	2,759	-	(6,113)	
FUTURE RECOVERABLE AMOUNTS												
REFUNDS TO PARTICIPANTS	(766)	(1,023)	(699)	-	553	-	-	-	-	-	(1,935)	
INCREASE (DECREASE) IN NET POSITION	173	(248)	10	97	-	-	(684)	(268)	(1,916)	1,653	(2,836)	
NET POSITION, Beginning of year	1,955	(556)	71	250	12,291	-	(10,769)	1,434	-	1,653	6,329	
NET POSITION, Period ended	11,924	7,387	409	(626)	3,244	-	8,096	6,797	837	-	38,068	
NET POSITION, Period ended	\$ 13,879	\$ 6,831	\$ 480	\$ (376)	\$ 15,535	\$ -	\$ (2,673)	\$ 8,231	\$ 2,490	\$ -	\$ 44,397	

* Eliminated in Combination

NORTHERN CALIFORNIA POWER AGENCY & ASSOCIATED POWER CORPORATIONS
AGED ACCOUNTS RECEIVABLE
October 31, 2018

<u>Status</u>	<u>Participant / Customer</u>	<u>Description</u>	<u>Amount</u>
CURRENT			\$ 573,979
PAST DUE:			
1 - 30			
31 - 60			
61 - 90			
91 - 120			
Over 120 Days			
PARTICIPANT and OTHER RECEIVABLES (net)			<u>\$ 573,979</u>

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

**Schedule of Disbursements
(Unaudited)**

For the Month of October 2018

Operations:

Geothermal	\$ 1,853,974
Hydroelectric	3,517,367
CT#1 Combustion Turbines	145,292
CT#2 STIG	557,506
Lodi Energy Center	4,557,635
NCPA Operating	<u>30,828,556</u>
Total	<u>\$ 41,460,330</u>



11

Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

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

AGENDA CATEGORY: Consent

FROM: Sondra Ainsworth <i>S.A.</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"/>
<i>If other, please specify</i>		
<hr/> <hr/>		

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 \$2,705,132 of which approximately \$3,984 was applicable to Special and Reserve Fund Deposits, \$10,901 to Debt Service and \$2,690,247 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 \$289,043,127 at month end. The current market value of the portfolio totaled \$285,233,893.

The overall portfolio had a combined weighted average interest rate of 2.062% with a bond equivalent yield (yield to maturity) of 2.091%. Investments with a maturity greater than one year totaled \$170,568,000. October maturities totaled \$22 million and monthly receipts totaled \$39 million. During the month \$30 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 14 basis points (from 2.20% to 2.34%) and rates on one year T-Bills increased 7 basis points (from 2.59% to 2.66%).

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

NORTHERN CALIFORNIA POWER AGENCY

TREASURER'S REPORT

OCTOBER 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
October 31, 2018**

	CASH	INVESTMENTS	TOTAL	PERCENT
NCPA FUNDS				
Operating	\$ 759,917	\$ 107,653,300	\$ 108,413,217	37.16%
Special Deposits	\$ 900,805	\$ -	\$ 900,805	0.31%
Construction	\$ 1,029,525	\$ 3,967,209	\$ 4,996,734	1.71%
Debt Service	\$ 10,901	\$ 26,400,629	\$ 26,411,530	9.05%
Special & Reserve	\$ 3,984	\$ 151,021,989	\$ 151,025,973	51.77%
	<u>\$ 2,705,132</u>	<u>\$ 289,043,127</u>	<u>\$ 291,748,259</u>	<u>100.00%</u>

Portfolio Investments at Market Value \$ 285,233,893

NOTE A - Investment amounts shown at book carrying value.

NOTE B - The total portfolio book value includes General Electric (GE) bonds totaling \$1,233,100 with maturity date 1/09/2023. S&P Global Ratings (S&P) downgraded their credit rating of GE from A2 (rating at time of purchase) to BBB+ with a stable outlook on 10/2/2018; Moody's downgraded their rating of GE from A2 (rating at time of purchase) to Baa1 with a stable outlook on 10/31/2018. Fitch downgraded their credit rating of GE from A (rating at time of purchase) to BBB+ on 11/2/2018. NCPA will continue to monitor the economic outlook for the issuer.

**Northern California Power Agency
Treasurer's Report
Cash Activity Summary
October 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	\$ 34,653,742	\$ 247,524	\$ 18,232,139	\$ (20,013,880)	\$ (14,405,730)	\$ (18,983,058)	\$ (269,263)
Special Deposits	4,019,280	11	-	(15,955,485)	-	11,931,273	(4,921)
Construction	-	-	-	-	-	-	-
Debt Service	1,870	331	2,223,855	-	(12,326,769)	6,165,805	(3,934,908)
Special & Reserve	-	188,113	1,617,367	-	(2,932,480)	885,980	(241,020)
	\$ 38,674,892	\$ 435,979	\$ 22,073,361	\$ (35,969,365)	\$ (29,664,979)	\$ -	\$ (4,450,112)

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
October 31, 2018**

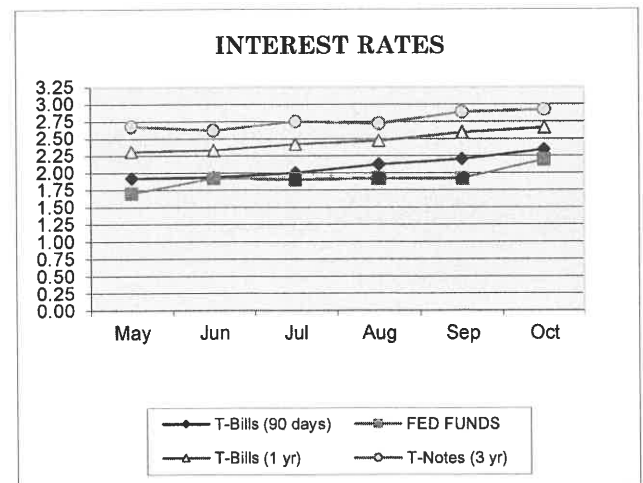
	PURCHASED	SOLD OR MATURED	(NON-CASH)	(NON-CASH)	INVESTMENTS	
			DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
NCPA FUNDS						
Operating	\$ 14,405,730	\$ (18,232,139)	\$ 11,553	\$ -	\$ -	\$ (3,814,856)
Special Deposits	-	-	-	-	-	-
Construction	-	-	(594)	-	-	(594)
Debt Service	12,326,769	(2,223,855)	31,914	-	-	10,134,828
Special & Reserve	2,932,480	(1,617,367)	(5,871)	(23,760)	-	1,285,482
	<u>\$ 29,664,979</u>	<u>\$ (22,073,361)</u>	<u>\$ 37,002</u>	<u>\$ (23,760)</u>	<u>\$ -</u>	<u>7,604,860</u>
Less Non- Cash Activity						
Disc/(Prem) Amortization & Gain/(Loss) on Sale						<u>(13,242)</u>
Net Change in Investment --Before Non-Cash Activity						<u>\$ 7,591,618</u>

NOTE A -Investment amounts shown at book carrying value.

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

	<u>WEIGHTED AVERAGE INTEREST RATE</u>	<u>BOND EQUIVALENT YIELD</u>
OVERALL COMBINED	<u><u>2.062%</u></u>	<u><u>2.091%</u></u>
<u>OPERATING FUNDS:</u>	1.971%	2.078%
<u>PROJECTS:</u>		
Geothermal	2.279%	2.445%
Capital Facilities	2.283%	2.290%
Hydroelectric	2.122%	2.157%
Lodi Energy Center	2.042%	1.758%

KEY INTEREST RATES		
	<u>CURRENT</u>	<u>PRIOR YEAR</u>
Fed Fds (Overnight)	2.19%	1.16%
T-Bills (90da.)	2.34%	1.11%
Agency Disc (90da.)	2.31%	1.12%
T-Bills (1yr.)	2.66%	1.43%
Agency Disc (1yr.)	2.53%	1.41%
T-Notes (3yr.)	2.92%	1.73%



**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
October 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	\$ -	\$ 40,535	\$4,372	\$ 6,170	\$ 2,515	\$ 117,962	\$ 2,000	\$ 173,554	59.75%
Corporate Bonds (MTN)	-	-	-	-	-	48,960	-	48,960	16.86%
US Bank Trust Money Market	5	-	-	-	-	-	-	5	0.00%
Commercial Paper	11,666	-	-	-	-	-	-	11,666	4.02%
Investment Trusts (LAIF)	44,122	-	-	-	-	-	-	44,122	15.19%
Investment Trusts (CAMP)	5,004	-	-	-	-	-	-	5,004	1.72%
U.S.Treasury Market Acct. *	2,349	-	-	-	-	-	-	2,349	0.81%
U.S.Treasury Bill/Note	-	2,603	331	177	48	146	-	3,305	1.14%
Certificates of Deposit	-	10	-	-	-	1,500	-	1,510	0.51%
Total Dollars	\$ 63,145	\$43,148	\$4,703	\$6,347	\$2,563	\$168,568	\$2,000	\$ 290,474	100.00%
Total Percents	21.74%	14.85%	1.62%	2.19%	0.88%	58.03%	0.69%	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

10/31/2018



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	3,217,800	1.750	11/26/2014	3,217,800		1	1.750	3,217,800	SYS70101	70101	3,217,800
Local Agency Investm	LAIF	15,358,634	2.157	07/01/2013	15,358,634		1	2.157	15,358,634	SYS70000	70000	15,358,634
California Asset Mgm	CMP	5,004,079	2.300	10/19/2018	5,004,079		1	2.300	5,004,079	SYS70070	70070	5,004,079
Union Bank of Califo	UBOC	863,561	0.002	07/01/2013	863,561		1	0.002	863,561	SYS70014	70014	863,561
US Bank	USB	759,917	0.001	06/30/2013	759,917		1	0.001	759,917	SYS70050	70050	759,917
US Bank	USB	8,447,778	0.850	08/24/2017	8,447,778		1	0.850	8,447,778	SYS70056	70056	8,447,778
Federal Farm Credit	UBOC	3,626,000	1.290	12/21/2015	3,624,948	11/19/2018	18	1.300	3,624,296	3133EFPJ0	26280	3,625,982
US Bank	USB	10,000	0.050	10/07/2018	10,000	01/07/2019	67	0.050	10,000	SYS30315	30315	10,000
Federal Home Loan Mt	UBOC	4,000,000	1.750	06/09/2015	4,046,160	05/30/2019	210	1.450	3,980,760	3137EADG1	26231	4,006,742
General Dynamics	UBOC	1,000,000	2.875	09/20/2018	998,980	05/11/2020	557	2.937	996,310	369550BA5	26668	999,051
Federal Home Loan Ba	UBOC	4,975,000	1.600	08/28/2017	4,990,373	07/17/2020	624	1.490	4,868,684	3130AETW6	26466	4,984,114
Walmart, Inc.	UBOC	1,000,000	1.900	09/20/2018	979,580	12/15/2020	775	2.848	975,430	931142EA7	26674	980,620
John Deere Capital C	UBOC	500,000	2.350	09/21/2018	492,195	01/08/2021	799	3.057	491,540	24422ETZ2	26676	492,573
Federal Home Loan Ba	UBOC	2,785,000	1.400	07/19/2016	2,783,608	01/19/2021	810	1.411	2,689,530	3130AEP80	26355	2,784,314
Cisco Systems Inc.	UBOC	1,000,000	2.200	09/20/2018	982,020	02/28/2021	850	2.968	976,100	17275RBD3	26667	982,860
Federal Home Loan Mt	UBOC	3,000,000	2.530	03/29/2018	3,000,000	03/29/2021	879	2.530	2,967,990	3134GSGT6	26564	3,000,000
Home Depot Inc.	UBOC	500,000	2.000	03/21/2018	487,800	04/01/2021	882	2.846	485,965	437076BL5	26558	490,262
Intel Corp	UBOC	1,000,000	1.700	09/20/2018	968,960	05/19/2021	930	2.919	965,000	458140AW0	26670	970,287
Pfizer Inc	UBOC	500,000	1.950	06/12/2018	487,130	06/03/2021	945	2.858	485,350	717081DX8	26617	488,800
Federal Home Loan Mt	UBOC	1,000,000	2.500	06/28/2018	1,000,000	06/28/2021	970	2.990	998,230	3134GSGJ6	26628	1,000,000
Federal Farm Credit	UBOC	2,602,000	1.720	08/28/2017	2,611,784	07/26/2021	998	1.620	2,513,948	3133EHSR5	26465	2,608,844
Federal Home Loan Mt	UBOC	3,500,000	1.500	11/23/2016	3,500,000	08/23/2021	1,026	1.500	3,362,240	3134GAVH4	26385	3,500,000
American Honda Finan	UBOC	1,000,000	1.700	09/20/2018	959,220	09/09/2021	1,043	3.149	957,290	02665WBG5	26669	960,784
3M Company	UBOC	1,000,000	3.000	09/21/2018	999,480	09/14/2021	1,048	3.018	997,010	88579YBA8	26675	999,499
Federal Home Loan Mt	UBOC	202,000	2.200	01/30/2017	202,000	01/26/2022	1,182	2.200	195,350	3134GAV92	26403	202,000
Procter & Gamble	UBOC	1,000,000	2.300	09/20/2018	975,770	02/05/2022	1,193	3.060	972,820	74271BDY2	26673	976,587
Johnson & Johnson	UBOC	1,000,000	2.250	09/20/2018	976,140	03/03/2022	1,218	2.982	971,310	478160CD4	26671	976,927
TD Ameritrade	UBOC	500,000	2.950	05/15/2018	493,385	04/01/2022	1,247	3.315	488,615	87236YAE8	26601	494,172
PepsiCo Inc.	UBOC	500,000	2.250	03/21/2018	487,005	05/02/2022	1,278	2.924	482,065	713448DT2	26557	488,935
Apple Inc.	UBOC	1,123,337	2.300	02/01/2018	1,121,966	05/11/2022	1,287	2.329	1,084,031	037833CQ1	26525	1,122,206
NSIstar Electric Co.	UBOC	500,000	2.375	06/12/2018	484,480	10/15/2022	1,444	3.144	478,770	67021CAG2	26616	485,860
Boeing Co.	UBOC	500,000	2.200	06/12/2018	482,180	10/30/2022	1,459	3.074	478,960	097023BN4	26612	483,750
American Honda Finan	UBOC	500,000	2.600	06/12/2018	488,550	11/16/2022	1,476	3.157	482,905	02665WCA7	26614	489,548
Chevron Corp.	UBOC	500,000	2.355	03/21/2018	485,760	12/05/2022	1,495	3.008	479,780	166764AB6	26555	487,609
Visa Inc.	UBOC	400,000	2.800	08/03/2018	394,552	12/14/2022	1,504	3.135	389,772	92826CAC6	26647	394,857
Toyota Motor Credit	UBOC	1,000,000	2.700	08/03/2018	974,760	01/11/2023	1,532	3.315	967,040	89236TEL5	26645	976,150
Simon Property Group	UBOC	500,000	2.750	05/15/2018	484,585	02/01/2023	1,553	3.464	481,755	828807CN5	26603	486,094
Oracle Corp.	UBOC	500,000	2.625	03/21/2018	488,010	02/15/2023	1,567	3.154	481,725	68389XBR5	26556	489,505
Exxon Mobil Corporat	UBOC	1,000,000	2.726	08/03/2018	985,450	03/01/2023	1,581	3.068	971,560	30231GAR3	26648	986,227
John Deere Capital C	UBOC	500,000	2.800	06/12/2018	489,875	03/06/2023	1,586	3.264	485,185	24422ETG4	26613	490,701

Northern California Power Agency
 Treasurer's Report
 10/31/2018



Operating

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
Berkshire Hathaway I	UBOC	500,000	2.750	03/21/2018	492,280	03/15/2023	1,595	3.086	485,315	084670BR8	26554	493,227
United Parcel Servc	UBOC	500,000	2.500	05/15/2018	483,225	04/01/2023	1,612	3.248	478,815	911312BK1	26600	484,811
United Parcel Servc	UBOC	500,000	2.500	09/21/2018	483,120	04/01/2023	1,612	3.308	478,815	911312BK1	26677	483,534
Bank of NY Mellon Co	UBOC	500,000	3.500	05/15/2018	501,265	04/29/2023	1,639	3.443	496,815	06406RAG2	26602	501,147
Hershey Company	UBOC	500,000	3.375	06/12/2018	503,125	05/15/2023	1,656	3.236	498,575	427866AZ1	26615	502,880
US Bank	UBOC	1,000,000	3.400	09/03/2018	1,000,000	07/24/2023	1,726	3.399	990,720	90331HN1	26646	1,000,000
Microsoft Corp.	UBOC	1,000,000	2.000	09/20/2018	947,350	09/09/2023	1,741	3.172	937,040	594918Q6	26672	948,578
Fund Total and Average		\$ 81,375,106	1.911		\$ 80,998,840		543	2.051	\$ 80,255,180			\$ 80,981,806

MPP GHG Auction Acct

Local Agency Investm		95,201	2.157	07/01/2013	95,201		1	2.157	95,201	SYS70045	70045	95,201
Fund Total and Average		\$ 95,201	2.157		\$ 95,201		1	2.157	\$ 95,201			\$ 95,201

SCPA Balancing Account

Local Agency Investm	LAIF	3,077,648	2.157	07/01/2013	3,077,648		1	2.157	3,077,648	SYS70022	70022	3,077,648
Union Bank of Califo	UBOC	622,186	0.002	07/01/2013	622,186		1	0.002	622,186	SYS70023	70023	622,186
Federal National Mig	UBOC	1,462,000	1.625	12/18/2014	1,476,255	11/27/2018	26	1.369	1,461,240	3135G0Y14	26187	1,462,261
Federal National Mig	UBOC	1,847,000	1.350	07/28/2016	1,947,000	07/28/2020	635	1.350	1,796,337	3136G3139	26357	1,847,000
Bank of NY Mellon Co	UBOC	500,000	2.050	04/03/2018	486,105	05/03/2021	914	3.000	483,865	06406FAB9	26570	488,709
Microsoft Corp.	UBOC	500,000	2.375	04/04/2018	492,295	02/12/2022	1,199	2.798	486,185	594918BA1	26574	493,444
Walt Disney Company/	UBOC	500,000	2.450	07/24/2018	487,520	03/04/2022	1,219	3.186	485,085	25468PDC6	26630	488,451
TD Ameritrade	UBOC	500,000	2.950	04/03/2018	497,200	04/01/2022	1,247	3.100	488,615	87236YAE8	26571	497,605
Home Depot Inc.	UBOC	500,000	2.625	04/04/2018	494,290	06/01/2022	1,308	2.918	488,140	437076BG6	26572	495,080
Public Storage	UBOC	500,000	2.370	04/04/2018	483,705	09/15/2022	1,414	3.161	479,095	74460DAB5	26573	485,812
Visa Inc.	UBOC	250,000	2.800	07/24/2018	246,975	12/14/2022	1,504	3.096	243,608	92826CAC6	26632	247,161
Intel Corp	UBOC	500,000	2.700	06/22/2018	492,300	12/15/2022	1,505	3.070	485,945	458140AM2	26625	492,916
Toyota Motor Credit	UBOC	550,000	2.625	05/09/2018	536,294	01/10/2023	1,531	3.203	530,827	89233P7F7	26598	537,696
Cisco Systems Inc.	UBOC	500,000	2.600	06/22/2018	487,655	02/28/2023	1,580	3.170	483,365	17275RBE1	26624	488,600
Exxon Mobil Corporat	UBOC	500,000	2.726	05/09/2018	492,670	03/01/2023	1,581	3.055	485,780	30231GAR3	26599	493,398
Berkshire Hathaway I	UBOC	500,000	2.750	05/09/2018	490,280	03/15/2023	1,595	3.185	485,315	084670BR8	26596	491,238
United Parcel Servc	UBOC	500,000	2.500	06/22/2018	484,780	04/01/2023	1,612	3.191	478,815	911312BK1	26627	485,922
Nike Inc	UBOC	500,000	2.250	05/09/2018	480,350	05/01/2023	1,642	3.108	474,160	654106AC7	26597	482,236
Federal Home Loan Mt	UBOC	2,500,000	2.750	05/24/2018	2,500,000	05/24/2023	1,665	3.326	2,487,850	3134GSLU7	26604	2,500,000
Simon Property Group	UBOC	500,000	2.750	07/24/2018	484,725	06/01/2023	1,673	3.438	480,635	828807DD6	26631	485,573
Federal Home Loan Mt	UBOC	1,000,000	2.700	06/14/2018	1,000,000	06/14/2023	1,686	3.316	996,780	3134GSNE1	26622	1,000,000
Federal Home Loan Mt	UBOC	2,000,000	3.000	07/23/2018	1,999,000	08/14/2023	1,686	3.300	1,978,980	3134GSNK7	26629	1,998,056
Federal Home Loan Mt	UBOC	2,600,000	2.750	08/17/2018	2,603,900	08/15/2023	1,687	3.467	2,589,912	3134GSIMY8	26653	2,603,734
Pfizer Inc	UBOC	500,000	3.000	06/22/2018	496,550	06/15/2023	1,687	3.150	490,730	717081DH3	26626	496,798
Federal Home Loan Mt	UBOC	2,500,000	3.050	08/28/2018	2,501,250	08/28/2023	1,761	3.039	2,468,325	3134GSU26	26654	2,501,206

Northern California Power Agency
Treasurer's Report
10/31/2018

SCPA Balancing Account

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	3.000	09/26/2018	1,999,200	09/26/2023	1,790	3.587	1,995,500	3134GSVW15	26678	1,999,216
Fund Total and Average		\$ 27,408,834	2.483		\$ 27,260,133		1243	2.825	\$ 27,024,923			\$ 27,262,946

General Operating Reserve

Local Agency Investm	LAIF	13,750,379	2.157	07/01/2013	13,750,379		1	2.157	13,750,379	SYS70000	70002	13,750,379
Union Bank of Califo	UBOC	54,724	0.002	07/01/2013	54,724		1	0.002	54,724	SYS70019	70019	54,724
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70051	70051	0
Federal National Mitg	UBOC	5,970,000	1.625	12/23/2014	6,009,701	11/27/2018	26	1.450	5,966,896	3135G0Y14	26188	5,970,730
Federal National Mitg	UBOC	4,982,000	1.750	08/28/2015	5,047,364	11/26/2019	390	1.430	4,929,888	3135G0Z72	26246	4,988,469
Federal Farm Credit	UBOC	4,285,000	1.440	07/20/2016	4,280,715	01/19/2021	810	1.463	4,145,009	3133EGMP7	26356	4,282,888
Federal Home Loan Ba	UBOC	11,720,000	1.400	07/19/2016	11,714,140	01/19/2021	810	1.411	11,318,238	3130A8P80	26354	11,717,113
Federal National Mitg	UBOC	5,162,000	1.625	05/25/2016	5,162,000	05/25/2021	936	1.625	4,974,206	3136G3N15	26332	5,162,000
Federal National Mitg	UBOC	1,300,000	1.500	08/30/2016	1,300,000	05/28/2021	939	1.500	1,249,092	3136G33W3	26368	1,300,000
Federal Farm Credit	UBOC	10,629,000	1.690	06/02/2016	10,629,000	06/02/2021	944	1.690	10,284,302	3133EGDH5	26335	10,629,000
Federal Home Loan Mt	UBOC	467,000	2.200	01/30/2017	467,000	01/26/2022	1,182	2.200	451,626	3134GAV92	26402	467,000
Microsoft Corp.	UBOC	400,000	2.375	04/26/2018	391,480	02/12/2022	1,199	2.972	388,948	594918BA1	26578	392,634
TD Ameritrade	UBOC	500,000	2.950	04/26/2018	492,950	04/01/2022	1,247	3.335	488,615	87236YAE8	26582	493,872
Apple Inc.	UBOC	4,025,452	2.300	02/01/2018	4,020,538	05/11/2022	1,287	2.329	3,884,601	037833CQ1	26524	4,021,399
Federal Home Loan Ba	UBOC	3,575,000	2.125	08/28/2017	3,634,560	08/10/2022	1,317	1.760	3,467,500	313379Q69	26467	3,619,929
PepsiCo Inc.	UBOC	500,000	3.100	04/26/2018	500,310	07/17/2022	1,354	3.083	496,410	713448CX4	26580	500,272
Visa Inc.	UBOC	500,000	2.800	04/26/2018	492,600	12/14/2022	1,504	3.145	487,215	92826CAC6	26584	493,421
General Electric Co.	UBOC	500,000	3.100	04/26/2018	490,415	01/09/2023	1,530	3.545	479,390	36962G658	26577	491,462
Bank of NY Mellon Co	UBOC	500,000	2.950	04/26/2018	491,790	01/29/2023	1,550	3.325	486,200	06406RAE7	26575	492,677
Oracle Corp.	UBOC	500,000	2.625	04/26/2018	487,350	02/15/2023	1,567	3.195	481,725	68389XBR5	26579	488,704
Praxair Inc	UBOC	500,000	2.700	04/26/2018	488,920	02/21/2023	1,573	3.225	484,610	74005PBF0	26581	489,592
Berkshire Hathway I	UBOC	500,000	2.750	04/26/2018	488,920	03/15/2023	1,595	3.243	485,315	084670BR8	26576	490,085
United Parcel Serv	UBOC	500,000	2.500	04/26/2018	483,135	04/01/2023	1,612	3.245	478,815	911312BK1	26583	484,893
Fund Total and Average		\$ 70,820,565	1.842		\$ 70,877,421		689	1.821	\$ 69,233,704			\$ 70,791,243
GRAND TOTALS:		\$ 179,699,696	1.971		\$ 179,231,595		707	2.078	\$ 176,609,008.			\$ 179,131,196

*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 10/31/2018

Investment #26332	FNMA	Callable quarterly	Investment #26402	FHLMC	Callable quarterly
Investment #26335	FFCB	Callable anytime	Investment #26403	FHLMC	Callable quarterly
Investment #26354	FHLB	Callable anytime	Investment #26564	FHLMC	Callable until 3/29/19
Investment #26355	FHLB	Callable anytime	Investment #26629	FHLMC	Callable quarterly
Investment #26356	FFCB	Callable anytime	Investment #26646	USB	Callable on 6/23/2023
Investment #26357	FNMA	Callable quarterly	Investment #26653	FHLMC	Callable on 6/15/2020
Investment #26368	FNMA	Callable quarterly	Investment #26678	FHLMC	Callable quarterly starting 12/26/2018
Investment #26385	FHLMC	Callable quarterly			

Northern California Power Agency
Treasurer's Report
10/31/2018



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	62	2.096	234,634	313384AB5A	26633	235,167
Federal Home Loan Ba	USBT	235,000	2.125	08/31/2018	233,280	01/02/2019	62	2.170	233,640	313384AB5A	26655	234,140
Federal Home Loan Ba	USBT	236,000	2.220	10/17/2018	234,879	01/02/2019	62	2.261	234,634	313384AB5A	26680	235,098
Federal National Mtg	USBT	234,000	2.220	10/29/2018	233,062	01/02/2019	62	2.259	233,073	313588AB1A	26702	233,105
Fund Total and Average		\$ 941,000	2.154		\$ 935,138		62	2.197	\$ 935,981			\$ 937,510

Geo 2012A Debt Service

Federal Home Loan Ba	USBT	124,000	2.050	07/31/2018	122,906	01/02/2019	62	2.096	123,282	313384AB5A	26634	123,562
Federal Home Loan Ba	USBT	124,000	2.125	08/31/2018	123,092	01/02/2019	62	2.170	123,282	313384AB5A	26656	123,546
Federal Home Loan Ba	USBT	123,000	2.220	10/17/2018	122,416	01/02/2019	62	2.261	122,288	313384AB5A	26681	122,530
Federal National Mtg	USBT	123,000	2.220	10/29/2018	122,507	01/02/2019	62	2.259	122,513	313588AB1A	26703	122,530
Fund Total and Average		\$ 494,000	2.153		\$ 490,921		62	2.197	\$ 491,365			\$ 492,168

Geo 2016A Debt Service

U.S. Treasury	USBT	54,000	1.949	07/31/2018	53,564	12/27/2018	56	1.993	53,815	912796Q05	26635	53,836
U.S. Treasury	USBT	55,000	2.017	08/31/2018	54,636	12/27/2018	56	2.059	54,812	912796Q05	26657	54,827
U.S. Treasury	USBT	55,000	2.115	10/17/2018	54,771	12/27/2018	56	2.153	54,812	912796Q05	26682	54,819
Federal National Mtg	USBT	54,000	2.220	10/29/2018	53,784	01/02/2019	62	2.259	53,786	313588AB1A	26704	53,794
Fund Total and Average		\$ 218,000	2.076		\$ 216,755		57	2.116	\$ 217,225			\$ 217,276

Geothermal Special Reserve

Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70015	70015	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	25	1.150	1,498,935	3134G8KVO	26302	1,500,000
Fund Total and Average		\$ 1,500,000	1.150		\$ 1,500,000		25	1.150	\$ 1,498,935			\$ 1,500,000

Geo Decommissioning Reserve

Local Agency Investm	LAIF	3,172,747	2.157	07/01/2013	3,172,747		1	2.157	3,172,747	SYS70027	70027	3,172,747
Union Bank of Calif	UBOC	1,305	0.002	07/01/2013	1,305		1	0.002	1,305	SYS70034	70034	1,305
Federal National Mtg	UBOC	2,000,000	1.500	08/30/2016	2,000,000	05/28/2021	939	1.500	1,921,680	3136G33W3	26389	2,000,000
Ally Bank	UBOC	250,000	3.000	08/30/2018	250,000	08/30/2021	1,033	3.002	248,895	02007GEE2A	30312	250,000
PNC Bank NA	UBOC	750,000	2.550	03/15/2018	735,450	12/09/2021	1,134	3.103	730,928	68953REV0	26553	737,897
Federal Home Loan Mt	UBOC	941,000	2.200	01/30/2017	941,000	01/26/2022	1,182	2.200	910,022	3134GAV92	26404	941,000
Apple Inc.	UBOC	861,211	2.300	11/29/2017	860,117	05/11/2022	1,287	2.329	831,077	037833CQ1	26499	860,344
Wells Fargo Bank	UBOC	250,000	3.150	08/30/2018	250,000	08/30/2022	1,398	3.154	246,540	949763TLOA	30311	250,000

Northern California Power Agency
Treasurer's Report
10/31/2018



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
Great North Bank	UBOC	250,000	3.050	08/31/2018	250,000	08/31/2022	1,399	3.051	247,485	39103QAF3A	30310	250,000
Discover Bank	UBOC	250,000	3.150	09/06/2018	250,000	09/06/2022	1,405	3.152	248,358	254673TM8A	30313	250,000
Walt Disney Company/	UBOC	750,000	2.350	03/15/2018	728,580	12/01/2022	1,491	3.004	718,088	25468PCW4	26551	731,434
General Electric Co.	UBOC	750,000	3.100	03/15/2018	740,385	01/09/2023	1,530	3.390	719,085	36962G8S8	26552	741,638
John Deere Capital C	UBOC	750,000	2.800	03/15/2018	739,748	01/27/2023	1,548	3.104	727,965	24422ERT8	26550	741,070
Bank of NY Mellon Co	UBOC	750,000	2.950	03/15/2018	740,610	01/29/2023	1,550	3.229	729,300	06406RAE7	26549	741,820
IBM Credit LLC	UBOC	500,000	3.000	03/15/2018	496,820	02/06/2023	1,558	3.140	487,490	44932HAH6	26548	497,228
Federal Home Loan Mt	UBOC	2,000,000	2.700	08/14/2018	2,000,000	08/14/2023	1,686	3.316	1,993,560	3134GSNE1	26623	2,000,000
Enerbank USA	UBOC	250,000	3.200	08/30/2018	250,000	08/30/2023	1,763	3.203	246,708	29278TCP3A	30309	250,000
Citibank NA	UBOC	250,000	3.300	09/07/2018	250,000	09/07/2023	1,771	3.301	247,775	17312QSS4A	30314	250,000
Federal Home Loan Mt	UBOC	2,000,000	3.000	09/26/2018	1,999,200	09/26/2023	1,790	3.587	1,995,500	3134GSWL5	26679	1,999,216
Federal Farm Credit	UBOC	2,000,000	3.450	07/27/2018	1,999,300	07/23/2025	2,456	3.455	1,995,100	3133EJUT4	26644	1,999,326
Fund Total and Average		\$ 18,726,263	2.601		\$ 18,655,262		1301	2.819	\$ 18,419,608			\$ 18,665,025

GEO Debt Service Reserve Acct

U.S. Treasury	USB	56,000	1.823	02/27/2018	55,041	01/31/2019	91	1.872	55,676	912796PP8	26536	55,742
Federal Home Loan Mt	USBT	907,000	1.750	06/02/2015	920,886	05/30/2019	210	1.354	902,637	3137EADG1	26228	909,018
U.S. Treasury	USB	40,000	2.273	10/17/2018	39,379	06/20/2019	231	2.333	39,368	912796QM4	26692	39,417
Federal Home Loan Mt	USBT	2,515,000	1.250	02/27/2015	2,483,839	10/02/2019	335	1.530	2,480,922	3137EADM8	26197	2,508,768
Fund Total and Average		\$ 3,518,000	1.400		\$ 3,499,145		298	1.499	\$ 3,478,603			\$ 3,512,945

Geo 2012A DSR Account

U.S. Treasury	USB	41,000	1.555	01/03/2018	40,403	12/06/2018	35	1.594	40,915	912796PE3	26511	40,938
U.S. Treasury	USB	12,000	2.394	10/17/2018	11,714	10/10/2019	343	2.472	11,705	912796RF8	26693	11,726
Federal National Mtg	USBT	1,517,000	1.625	05/25/2016	1,517,000	05/25/2021	936	1.625	1,461,812	3136G3NL5	26333	1,517,000
Fund Total and Average		\$ 1,570,000	1.629		\$ 1,569,117		908	1.631	\$ 1,514,432			\$ 1,569,664

GRAND TOTALS:

		\$ 26,967,263	2.279		\$ 26,866,338		1000	2.445	\$ 26,556,149.			\$ 26,894,588
--	--	----------------------	--------------	--	----------------------	--	-------------	--------------	-----------------------	--	--	----------------------

*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 10/31/2018

- Investment #26302 FHLMC Callable quarterly
- Investment #26333 FNMA Callable quarterly
- Investment #26369 FNMA Callable quarterly
- Investment #26404 FHLMC Callable quarterly
- Investment #26644 FFCB Callable anytime starting 7/23/2021
- Investment #26679 FHLMC Callable quarterly starting 12/26/2018

**Northern California Power Agency
Treasurer's Report
10/31/2018**

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 Ba	USBT	480,000	2.280	10/17/2018	476,733	02/01/2019	92	2.337	477,115	313384BH1	26686	477,191
Federal Home Loan Ba	USBT	479,000	2.280	10/29/2018	476,118	02/01/2019	92	2.325	476,121	313384BH1	26708	476,209
Federal Home Loan Mt	USBT	480,000	2.160	08/31/2018	475,565	02/01/2019	92	2.210	477,115	313396BH5A	26661	477,350
Fund Total and Average		\$ 1,439,000	2.243		\$ 1,428,416		92	2.291	\$ 1,430,351			\$ 1,430,750

Cap. Fac. Debt Svc Reserve

U.S. Treasury	USB	37,000	1.554	01/03/2018	36,461	12/06/2018	35	1.594	36,923	912796PE3	26514	36,944
U.S. Treasury	USB	36,000	2.397	10/17/2018	35,142	10/10/2019	343	2.475	35,115	912796RF8	26687	35,177
Federal National Mtg	USB	71,000	1.530	07/28/2016	71,000	07/28/2021	1,000	1.530	67,731	313663S97	26358	71,000
Federal Home Loan Mt	USB	1,443,000	2.375	02/13/2012	1,447,430	01/13/2022	1,169	2.340	1,415,828	3137EADB2	25845	1,444,430
Fund Total and Average		\$ 1,587,000	2.319		\$ 1,590,033		1117	2.289	\$ 1,555,597			\$ 1,587,551

GRAND TOTALS:

\$ 3,026,000	2.283	\$ 3,018,449	631	2.290	\$ 2,985,948.	\$ 3,018,301
---------------------	--------------	---------------------	------------	--------------	----------------------	---------------------

*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 10/31/2018

Investment #26358 FNMA Callable quarterly

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	LAIF	6,869,947	2.157	07/01/2013	6,869,947		1	2.157	6,869,947	SYS70028	70028	6,869,947
Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70031	70031	0
Federal National Mitg	UBOC	2,000,000	1.350	06/30/2016	2,000,000	12/30/2019	424	1.350	1,967,020	3136G3VH5	26340	2,000,000
Branch Banking & Tru	UBOC	500,000	2.625	06/13/2018	488,420	01/15/2022	1,171	3.314	487,380	073330NAQ8	26618	489,657
Exxon Mobil Corporat	UBOC	500,000	2.397	06/13/2018	490,350	03/06/2022	1,221	2.946	484,510	30231GAJ1	26621	491,342
US Bank	UBOC	550,000	3.000	08/10/2018	546,607	03/15/2022	1,230	3.182	541,222	91159HHC7	26651	546,819
Public Storage	UBOC	500,000	2.370	03/14/2018	485,770	09/15/2022	1,414	3.051	479,095	74460DAB5	26546	487,763
Visa Inc.	UBOC	500,000	2.800	03/14/2018	494,470	12/14/2022	1,504	3.051	487,215	92826CA06	26547	495,204
Toyota Motor Credit	UBOC	500,000	2.700	06/13/2018	489,100	01/11/2023	1,532	3.215	483,520	89236TEL5	26619	490,013
Oracle Corp.	UBOC	500,000	2.625	03/14/2018	488,715	02/15/2023	1,587	3.121	481,725	68388XBR5	26545	490,161
Boeing Co.	UBOC	500,000	2.800	03/14/2018	496,070	03/01/2023	1,581	2.971	488,530	097023BW4	26544	496,569
United Parcel Serv	UBOC	500,000	2.500	06/13/2018	484,900	04/01/2023	1,612	3.182	478,815	911312BK1	26620	486,106
Colgate-Palmolive Co	UBOC	550,000	2.100	08/09/2018	528,660	05/01/2023	1,642	2.985	520,960	19416QECO	26652	529,688
Federal Home Loan Ba	UBOC	1,150,000	3.050	08/08/2018	1,145,113	06/13/2023	1,685	3.144	1,132,037	3130AEEJ5	26649	1,145,345
Federal Home Loan Mt	UBOC	1,000,000	3.250	08/08/2018	1,000,000	06/28/2023	1,700	3.249	991,720	3134GSN7	26650	1,000,000
Federal Home Loan Ba	UBOC	1,500,000	3.250	10/19/2018	1,500,000	10/19/2023	1,813	3.250	1,493,295	3130AEYR5	26701	1,500,000
Fund Total and Average		\$ 17,619,947	2.404		\$ 17,508,122		824	2.555	\$ 17,386,991			\$ 17,518,614

Hydro Initial Facilities

Federal National Mitg	USB	1,529,000	1.625	12/12/2014	1,539,244	11/27/2018	26	1.450	1,528,205	3135G0YT4	26189	1,529,187
Federal Farm Credit	USB	2,437,000	1.250	02/02/2016	2,450,501	01/22/2019	82	1.060	2,431,371	3133EFVQ7	26300	2,438,022
Fund Total and Average		\$ 3,966,000	1.395		\$ 3,989,745		60	1.210	\$ 3,959,576			\$ 3,967,209

Hydro Debt Service

Federal Home Loan Ba	USBT	1,803,000	2.050	07/31/2018	1,787,086	01/02/2019	62	2.086	1,792,566	313384AB5A	26636	1,796,634
Federal Home Loan Ba	USBT	1,802,000	2.125	08/31/2018	1,788,810	01/02/2019	62	2.170	1,791,572	313384AB5A	26658	1,795,405
Federal Home Loan Ba	USBT	1,796,000	2.220	10/17/2018	1,787,472	01/02/2019	62	2.261	1,785,607	313384AB5A	26683	1,789,133
Federal National Mitg	USBT	1,795,000	2.220	10/29/2018	1,787,805	01/02/2019	62	2.259	1,787,892	313588AB1A	26705	1,788,137
Fund Total and Average		\$ 7,196,000	2.154		\$ 7,151,173		62	2.197	\$ 7,157,637			\$ 7,169,309

Hydro 2018A Debt Service

Federal Home Loan Ba	USBT	1,036,000	2.050	07/31/2018	1,026,856	01/02/2019	62	2.086	1,030,005	313384AB5A	26637	1,032,342
Federal Home Loan Ba	USBT	1,035,000	2.125	08/31/2018	1,027,424	01/02/2019	62	2.170	1,029,010	313384AB5A	26659	1,031,212
Federal Home Loan Ba	USBT	1,032,000	2.220	10/17/2018	1,027,100	01/02/2019	62	2.261	1,026,028	313384AB5A	26684	1,028,054
Federal National Mitg	USBT	1,031,000	2.220	10/29/2018	1,026,867	01/02/2019	62	2.259	1,026,917	313588AB1A	26706	1,027,058

Northern California Power Agency
Treasurer's Report
10/31/2018



Hydro 2018A 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
Fund Total and Average												
		\$ 4,134,000	2.154		\$ 4,108,247		62	2.197	\$ 4,111,960			\$ 4,118,666

Hydro 2018B Debt Service

Federal Home Loan Ba	USBT	115,000	2.050	07/31/2018	113,985	01/02/2019	62	2.086	114,335	313384AB5A	26638	114,594
Federal Home Loan Ba	USBT	123,000	2.125	08/31/2018	122,100	01/02/2019	62	2.170	122,288	313384AB5A	26660	122,550
Federal Home Loan Ba	USBT	115,000	2.220	10/17/2018	114,454	01/02/2019	62	2.261	114,335	313384AB5A	26685	114,560
Federal National Mtg	USBT	114,000	2.220	10/29/2018	113,543	01/02/2019	62	2.259	113,549	313688AB1A	26707	113,564
Fund Total and Average												
		\$ 467,000	2.153		\$ 464,082		62	2.197	\$ 464,507			\$ 465,268

Hydro Debt Service Resrv 2010A

U.S. Treasury	USB	52,000	1.625	02/27/2018	51,780	06/30/2019	241	1.945	51,671	912828WS5	26537	51,891
Federal Home Loan Ba	USB	135,000	4.375	07/28/2017	142,601	07/01/2019	242	1.400	136,419	3133XU3G6	26451	137,632
Federal Home Loan Ba	USB	103,000	2.440	10/17/2018	101,206	07/01/2019	242	2.508	101,255	313384HP7A	26694	101,311
Federal Farm Credit	USB	5,528,000	1.750	08/28/2015	5,546,187	08/04/2020	642	1.680	5,420,204	3133EE529	26243	5,534,482
Fund Total and Average												
		\$ 5,816,000	1.823		\$ 5,841,774		622	1.690	\$ 5,709,549			\$ 5,825,316

Hydro 2012A Rebate Account

U.S. Treasury	USB	19,000	2.225	10/17/2018	18,810	03/28/2019	147	2.278	18,817	912796PX1	26695	18,827
Federal Home Loan Mt	USB	689,000	1.875	04/28/2017	691,391	08/09/2021	1,012	1.790	669,033	3134G3A3	26432	690,548
Fund Total and Average												
		\$ 708,000	1.884		\$ 710,201		989	1.803	\$ 687,850			\$ 709,375

Hydro Special Reserve

Local Agency Investm	LAIF	0	0.377	07/01/2013	0		1	0.377	0	SYS70000	70003	0
Union Bank of Califo	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70016	70016	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	25	1.150	1,498,935	3134G8KVO	26303	1,500,000
Fund Total and Average												
		\$ 1,500,000	1.150		\$ 1,500,000		25	1.150	\$ 1,498,935			\$ 1,500,000

Hydro 2012 Cost of Issuance

US Bank	USB	0	0.040	07/01/2013	0		1	0.040	0	SYS79061	79061	0
Fund Total and Average												
		\$ 0	*** **		\$ 0		****	*** **	\$ 0			\$ 0

Hydro 2012 DSRA

U.S. Treasury	USB	51,000	2.225	10/17/2018	50,489	03/28/2019	147	2.278	50,510	912796PX1	26696	50,537
Federal Farm Credit	USB	100,000	1.750	08/28/2015	100,329	08/04/2020	642	1.680	98,050	3133EE529	26244	100,117

Northern California Power Agency
Treasurer's Report

10/31/2018

Hydro 2012 DSRA

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
U.S. Treasury	USB	146,000	2.250	02/27/2018	145,992	02/15/2021	837	2.251	143,896	9128283X6	26539	145,994
Federal National Mtg	USB	94,000	1.530	07/28/2016	94,000	07/28/2021	1,000	1.530	89,672	3136G3S97	26359	94,000
Federal Home Loan Mt	USB	3,928,000	2.375	02/09/2012	3,925,232	01/13/2022	1,169	2.380	3,854,036	3137EADB2	25852	3,927,430
Fund Total and Average		\$ 4,319,000	2.336		\$ 4,317,042		1130	2.340	\$ 4,236,164			\$ 4,318,078
GRAND TOTALS:		\$ 45,727,947	2.122		\$ 45,590,386		541	2.157	\$ 45,213,169.			\$ 45,591,835

*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 10/31/2018

- Investment #26303 FHLMC Callable quarterly
- Investment #26340 FNMA Callable quarterly
- Investment #26359 FNMA Callable quarterly
- Investment #26649 FHLB Callable on 6/13/2019
- Investment #26650 FHLMC Callable on 12/28/2018
- Investment #26651 USB Callable on 2/15/2022
- Investment #26701 FHLB Callable until 10/19/2020

**Northern California Power Agency
Treasurer's Report**

10/31/2018

LEC 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
Local Agency Investm		73,264	2.157	07/01/2013	73,264		1	2.157	73,264	SYS70046	70046	73,264
Fund Total and Average		\$ 73,264	2.157		\$ 73,264		1	2.157	\$ 73,264			\$ 73,264

LEC Issue#1 2010A DS Fund

US Bank Trust	USB	860	0.600	07/01/2013	860		1	0.600	860	SYS79003	79003	860
U.S. Treasury	USBT	722,000	2.055	08/31/2018	719,291	11/29/2018	28	2.094	720,787	912796QL6	26662	720,846
Federal Home Loan Ba	USBT	721,000	2.185	10/17/2018	719,075	11/30/2018	29	2.221	719,731	313385R40A	26687	719,731
Federal Home Loan Ba	USBT	719,000	2.130	10/29/2018	717,639	11/30/2018	29	2.163	717,735	313385R40A	26709	717,766
Federal Home Loan Ba	USBT	1,271,000	2.030	07/31/2018	1,262,041	12/03/2018	32	2.072	1,268,483	313385R73	26639	1,268,707
Fund Total and Average		\$ 3,433,860	2.088		\$ 3,417,906		30	2.127	\$ 3,427,596			\$ 3,427,910

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	911	0.600	07/01/2013	911		1	0.600	911	SYS79004	79004	911
U.S. Treasury	USBT	729,000	2.055	08/31/2018	725,255	11/29/2018	28	2.094	727,775	912796QL6	26663	727,835
Federal Home Loan Ba	USBT	727,000	2.185	10/17/2018	725,059	11/30/2018	29	2.221	725,720	313385R40A	26688	725,720
Federal Home Loan Ba	USBT	725,000	2.130	10/29/2018	723,627	11/30/2018	29	2.163	723,724	313385R40A	26710	723,756
Federal Home Loan Ba	USBT	1,460,000	2.030	07/31/2018	1,449,709	12/03/2018	32	2.072	1,457,109	313385R73	26640	1,457,366
Fund Total and Average		\$ 3,641,911	2.085		\$ 3,624,561		30	2.124	\$ 3,635,239			\$ 3,635,588

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	994	0.600	07/01/2013	994		1	0.600	994	SYS79011	79011	994
U.S. Treasury	USBT	436,000	2.055	08/31/2018	433,760	11/29/2018	28	2.094	435,268	912796QL6	26664	435,303
Federal Home Loan Ba	USBT	436,000	2.185	10/17/2018	434,836	11/30/2018	29	2.221	435,233	313385R40A	26689	435,233
Federal Home Loan Ba	USBT	434,000	2.130	10/29/2018	433,178	11/30/2018	29	2.163	433,236	313385R40A	26711	433,255
Federal Home Loan Ba	USBT	838,000	2.030	07/31/2018	832,093	12/03/2018	32	2.072	836,341	313385R73	26641	836,488
Fund Total and Average		\$ 2,144,994	2.086		\$ 2,134,861		30	2.125	\$ 2,141,072			\$ 2,141,273

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	1,022	0.600	07/01/2013	1,022		1	0.600	1,022	SYS79012	79012	1,022
U.S. Treasury	USBT	350,000	2.055	08/31/2018	348,202	11/29/2018	28	2.094	349,412	912796QL6	26665	349,441
Federal Home Loan Ba	USBT	349,000	2.185	10/17/2018	348,068	11/30/2018	29	2.221	348,386	313385R40A	26690	348,386
Federal Home Loan Ba	USBT	348,000	2.130	10/29/2018	347,341	11/30/2018	29	2.163	347,388	313385R40A	26712	347,403
Federal Home Loan Ba	USBT	702,000	2.030	07/31/2018	697,052	12/03/2018	32	2.072	700,610	313385R73	26642	700,733
Fund Total and Average		\$ 1,750,022	2.085		\$ 1,741,685		30	2.124	\$ 1,746,818			\$ 1,746,985

Northern California Power Agency
Treasurer's Report
10/31/2018



LEC Issue#1 2017A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
U.S. Treasury	USBT	124,000	2.055	08/31/2018	123,363	11/29/2018	28	2.094	123,792	912796QL6	26666	123,802
Federal Home Loan Ba	USBT	124,000	2.185	10/17/2018	123,669	11/30/2018	29	2.221	123,782	313385R40A	26691	123,782
Federal Home Loan Ba	USBT	123,000	2.130	10/29/2018	122,767	11/30/2018	29	2.163	122,784	313385R40A	26713	122,789
Federal Home Loan Ba	USBT	248,000	2.030	07/31/2018	246,252	12/03/2018	32	2.072	247,509	313385R73	26643	247,553
Fund Total and Average		\$ 619,000	2.086		\$ 616,051		30	2.125	\$ 617,867			\$ 617,926

LEC Issue #1 2010 DSR Fund

US Bank Trust	USB	666	0.600	07/01/2013	666		1	0.600	666	SYS79005	79005	666
U.S. Treasury	USB	82,000	2.214	10/17/2018	81,041	04/25/2019	175	2.271	81,042	912796QC6	26698	81,117
U.S. Treasury	USB	85,000	1.625	02/27/2018	84,641	06/30/2019	241	1.945	84,462	912828W55	26538	84,823
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	936	1.659	4,217,079	3133EGBZ7	26337	4,360,000
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	1,015	1.699	142,604	3137AEC9	26454	147,692
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	1,317	1.760	3,976,713	313379Q69	26463	4,151,527
Fund Total and Average		\$ 8,777,666	1.874		\$ 8,841,302		1103	1.716	\$ 8,502,566			\$ 8,825,825

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	125	0.600	07/01/2013	125		1	0.600	125	SYS79006	79006	125
U.S. Treasury	USB	38,000	1.823	02/27/2018	37,349	01/31/2019	91	1.872	37,780	912796PP8	26534	37,825
U.S. Treasury	USB	37,000	2.214	10/17/2018	36,567	04/25/2019	175	2.271	36,568	912796QC6	26699	36,602
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	06/12/2020	589	1.540	2,161,817	313370E38	26455	2,206,890
Fund Total and Average		\$ 2,220,125	3.331		\$ 2,329,187		574	1.557	\$ 2,236,290			\$ 2,281,442

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	367	0.600	07/01/2013	367		1	0.600	367	SYS79013	79013	367
U.S. Treasury	USB	25,000	1.823	02/27/2018	24,572	01/31/2019	91	1.872	24,856	912796PP8	26535	24,885
U.S. Treasury	USB	23,000	2.214	10/17/2018	22,731	04/25/2019	175	2.271	22,731	912796QC6	26700	22,752
Federal Home Loan Ba	USB	1,025,000	4.375	07/28/2017	1,082,708	07/01/2019	242	1.400	1,035,773	3133XJ3G6	26456	1,044,985
Fund Total and Average		\$ 1,073,367	4.271		\$ 1,130,378		237	1.429	\$ 1,083,727			\$ 1,092,989

LEC O & M Reserve

Local Agency Investm	UBOC	1,723,705	2.157	07/01/2013	1,723,705		1	2.157	1,723,705	SYS70047	70047	1,723,705
Union Bank of Califo	UBOC	47,164	0.002	07/18/2013	47,164		1	0.002	47,164	SYS70041	70041	47,164
Federal National Mtg	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	110	1.220	2,927,955	3135G0Z44	26248	2,938,624
Federal Home Loan Ba	USB	3,615,000	1.540	06/30/2017	3,613,952	06/05/2020	582	1.550	3,540,495	3130ABLQ0	26440	3,614,430

Northern California Power Agency
Treasurer's Report

10/31/2018



LEC O & M 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 Mtg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	607	1.300	2,925,780	3136G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,318,869	1.651		\$ 11,382,963		375	1.484	\$ 11,165,099			\$ 11,323,923
GRAND TOTALS:		\$ 35,053,078	2.042		\$ 35,292,158		452	1.758	\$ 34,629,538.			\$ 35,167,125

*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 10/31/2018

Investment #26337 FFCB Callable anytime



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Thermal Engineering International (USA), Inc. – Five Year Multi-Task Professional Services Agreement for engineering services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KOS</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 checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<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 18-88 authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Thermal Engineering International (USA), Inc. for engineering 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.

BACKGROUND:

Engineering 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 \$1,000,000.00 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.

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 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with Thermal Engineering International (USA), Inc.

RESOLUTION 18-88

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK PROFESSIONAL SERVICES AGREEMENT WITH THERMAL
ENGINEERING INTERNATIONAL (USA), INC.**

(reference Staff Report 214:18)

WHEREAS, engineering 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, Thermal Engineering International (USA), Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Professional Services Agreement with Thermal Engineering International (USA), 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 \$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 Professional Services Agreement with Thermal Engineering International (USA), Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for engineering 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND THERMAL ENGINEERING INTERNATIONAL (USA), INC.

This Professional 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 Thermal Engineering International (USA), Inc., a Delaware corporation with its office located at 18000 Studebaker Road, Suite 400, Cerritos, CA 90703 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2018 ("Effective Date").

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) years 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 reasonable 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.

- 1.6 Limited Warranty on Materials.** Consultant warrants that all equipment and materials supplied to Agency hereunder shall be free from defects in workmanship and materials and shall conform to all applicable specifications, drawings and designs agreed to by the Parties. This warranty shall apply for a period of 12 months from the date that such item of equipment or materials is put into first use but in no event longer than 18 months from the date of delivery to Agency. Consultant's liability for breach of this warranty shall be to repair or replace the defective item at Consultant's option and expense. Items of equipment or materials repaired, rebuilt or modified by Agency or other third parties without Consultant's consent carries no warranty, either express or implied. This warranty does not cover the effects of normal wear or abuse of the supplied equipment or materials, abrasion, erosion or corrosion (unrelated to Consultant's design). This warranty is conditioned upon prompt notice of the particular defect within 5 days of discovery, proper use and maintenance of the supplied equipment or materials and no further damage to such item equipment from acts of Agency or third parties after discovery of the defect.

Section 2. **COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED ONE MILLION** 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; and
- The specific payment milestone for which the invoice is issued.

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 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's invoice shall itemize the amount of any applicable federal, state and/or local sales or excise taxes due in respect of the payments hereunder. Subject to the foregoing, Consultant is solely responsible for the payment of all federal, state and local taxes that may be assessed on Consultant's income or operation, 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 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. 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. 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. 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, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or Agency member for which the Services are to be performed.

4.5.5 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 to the extent 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 (i) Services satisfactorily completed as of the effective date of termination, (ii) the costs of any non-returnable materials purchased by Consultant in connection with the rendering of Services, and (iii) any vendor cancellation charges payable by Consultant as a result of Agency's 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, and fails to cure such breach within 30 days after receipt of written notice from Agency, 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.** Consultant hereby grants Agency a royalty-free, non-exclusive, non-assignable license to use 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 (collectively, the "Deliverables") for the limited purposes of owning, installing and maintaining the equipment and/or materials to be supplied by Consultant hereunder. Agency acknowledges that the Deliverables shall not be deemed work-for-hire and that Consultant retains the exclusive ownership of all intellectual property rights to the Deliverables. 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 of Agency or that have been specifically prepared for Agency hereunder and paid for by Agency.

- 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:

Thermal Engineering International (USA), Inc.
Attention: Legal Department
18000 Studebaker Road, Suite 400
Cerritos, CA 90703

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, 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 Limitations of Liability.** In no event shall either party hereto be liable to the other party for consequential, special or indirect damages, including but not limited to damages or losses due to business interruption, loss of reputation, loss of anticipated profits or anticipated revenue, or cost of capital. Except for (i) Consultant's indemnity obligations under Sections 5 and 6 above or (ii) damages incurred by Agency arising out of Consultant's gross negligence, willful misconduct or fraud, in no event shall Consultant's aggregate liability to Agency in relation to a Purchase Order exceed the total amount payable to Consultant under such Purchase Order.

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

NORTHERN CALIFORNIA POWER AGENCY
INTERNATIONAL (USA), INC.

THERMAL ENGINEERING

Date _____

Date _____

RANDY S. HOWARD,
General Manager

Tom Richardson
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Thermal Engineering International (USA), Inc. ("Consultant") shall provide engineering related 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:

1. Provide Tube Stakes on the tube bundle in order to minimize the possibility of having tube vibration issues.
 - 1A. Engineering and drafting time to generate a Tube Stake Drawing.
 - 1B. Includes providing the tubes stakes ready to be installed but excludes installation.
2. Provide Stainless Steel Shields.
 - 2A. Provide the design and installation drawing(s) to add Stainless Steel shields on the structural carbon steel components on the discharged foot print of the steam bypass lines.
 - 2B. Includes providing the stainless steel shields ready to be installed but excludes installation.
3. Provide Carbon Steel Impingement Angles on tube bundle.
 - 3A. Provide the design and installation drawing(s) to add Carbon Steel Impingement Angles on the tube bundle to provide additional protection to the tubes.
 - 3B. Includes providing the carbon steel angles ready to be installed but excludes installation.
4. Optional: Provide Field Service Technicians to site to provide advisory services during installation, subject to additional service charge per TEi rate sheet.

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:

Pricing for services 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

Thermal Engineering International USA, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ 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: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Well Analysis Corporation, Inc., dba WELACO, Inc. – Five Year Multi-Task General Services Agreement for well related services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KDS</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 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 18-90 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Well Analysis Corporation, Inc., dba WELACO, Inc. for well related 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.

BACKGROUND:

Well related 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 \$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.

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 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Well Analysis Corporation, Inc., dba WELACO, Inc.

RESOLUTION 18-90

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH WELL ANALYSIS
CORPORATION, INC., DBA WELACO, INC.**

(reference Staff Report 216:18)

WHEREAS, well related 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, Well Analysis Corporation, Inc., dba WELACO, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Well Analysis Corporation, Inc., dba WELACO, 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 Well Analysis Corporation, Inc., dba WELACO, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 for well related 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
WELL ANALYSIS CORPORATION, INC., WELACO, 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 Well Analysis Corporation, Inc., WELACO, Inc. a corporation with its office located at 5500 Woodmere Drive, Bakersfield, CA 93313 ("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 (\$500,000.00) 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:

Well Analysis Corporation, Inc., WELACO, Inc.
Attention: Martin Feldt
5500 Woodmere Drive
Bakersfield, CA 93313

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

WELL ANALYSIS CORPORATION, INC.,
WELACO, INC.

Date _____

Date _____

RANDY S. HOWARD
General Manager

MARTIN FELDT,
General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Well Analysis Corporation, Inc., WELACO, Inc. ("Consultant") shall provide well related services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Well Inspections
- Well Testing

Insert as needed: 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:

RATE SHEET					
Quote Number:	WAC2118A	Date:		Page:	1 of 1
Prepared for:	James Fairchild	email:	jfairchild@fawinc.com		
Company:	NCPA	Tel:	(281) 497-8990		
Prepared By:	Martin G. Feldt	email:	martinf@waclog.com	Tel:	661-808-0008
Line Item	Qty	Unit	Description	Unit Price	Amount
1	1	Well	Service Charge	\$750.00	\$750.00
2	1	Well	Pressure Control	\$1,100.00	\$1,100.00
3	1	Survey	Gamma/Ray-CCL-RA Tracer	\$3,000.00	\$3,000.00
4	4	Hours	(Estimated) overtime after 8 hours X \$187.00/Hour	\$187.00	\$748.00
5	1	Well	RA Tracer, handling and processing	\$190.00	\$190.00
6	1	Well	Equipment charge memory gauges	\$750.00	\$750.00
7	1	Well	Service charge primary gauge	\$300.00	\$300.00
8	1	Well	Service charge secondary gauge	\$150.00	\$150.00
9	2	Tools	Battery charge (2 @ \$160.00 each)	\$160.00	\$320.00
10	1	Well	Logging charge	\$200.00	\$200.00
11	4	Hours	Overtime charge @ \$90.00 per hour	\$90.00	\$360.00
12			Estimated logging costs per well		\$7,868.00
13			Estimated total 2 wells	\$7,868.00	\$15,736.00
14	440	Miles	Mileage line unit	\$2.75	\$1,210.00
15	440	Miles	Mileage pick up	\$1.75	\$770.00
16	3	Days	Per Diem 2 men	\$370.00	\$1,110.00
17			Estimated total less processing and prints		\$18,826.00
			Drafting and processing charged at \$75.00 per hour (to be determined when completed)		
			Prints charged at \$25.00 each (depending on number requested)		
			Any Additional Field Time Over the 8 Hour Minimum Charge or Other Services Provided		
			Charges Will Apply: \$185.00 per hour		
			Price valid through 12/31/2018		

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.

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.

NOT APPLICABLE

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: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: AECOM Technical Services, Inc. – First Amendment to Five Year Multi-Task Consulting Services Agreement for injection well related consulting 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:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<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 18-91 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. for injection well related consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not exceed amount from \$100,000 to \$500,000, for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Injection well related consulting 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.

NCPA entered into a five year Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. effective August 12, 2016 for an amount not to exceed \$100,000. The Agency has utilized this vendor more than originally anticipated and this agreement is running low on funds. This amendment will increase the not to exceed amount from \$100,000 to \$500,000. 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:

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 similar agreements in place with CH2M Hill and Fairchild & Wells 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc.
- First Amendment to Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc.

RESOLUTION 18-91

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES
AGREEMENT WITH AECOM TECHNICAL SERVICES, INC.

(reference Staff Report 217:18)

WHEREAS, injection well related consulting 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, AECOM Technical Services, Inc. is a provider of these services; and

WHEREAS, NCPA entered into a Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. effective August 12, 2016 to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities in an amount not to exceed \$100,000 over five years; and

WHEREAS, NCPA seeks to enter into a First Amendment to Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities, increasing the not to exceed amount from \$100,000 to \$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 First Amendment to Multi-Task Consulting Services Agreement with AECOM Technical Services, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 for injection well related consulting 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:

Table with 4 columns: Name, Vote, Abstained, Absent. Rows include Alameda, BART, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Port of Oakland, Redding, Roseville, Santa Clara, Shasta Lake, Truckee Donner, Ukiah, Plumas-Sierra.

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
AECOM TECHNICAL SERVICES, 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 AECOM Technical Services, Inc., a corporation with its office located at 800 Douglas Entrance, North Tower, 2nd Floor, Coral Gables, FL 33134 ("Consultant") (together sometimes referred to as the "Parties") as of 8/12, 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 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) years 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 normal and customary 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. If during the one (1) year period following completion of Services under a Purchase Order, any Services fail to conform to the standards set forth in this section, Contractor shall, upon reasonable written notice from Agency, reperform the non-conforming Services to Agency's satisfaction. Consultant hereby disclaims all other warranties both express and implied.
- 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 HUNDRED THOUSAND** dollars (\$100,000.00) 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

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 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 claim-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, 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, 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 [Intentionally left blank.]

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy

endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPPA or Agency member for which the Services are to be performed.

- 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. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.
- 4.6 Consultant's Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement. Consultant shall not be responsible for the acts or omissions of other parties engaged by Agency nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

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.

5.3 Limitation of Liability. Notwithstanding anything to the contrary herewithin, neither Party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

CONSULTANT'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, DELAY, ERROR, OMISSION, INDEMNITY, OR OTHERWISE RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES OR BREACH OF THE AGREEMENT SHALL NOT EXCEED \$1,000,000.

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 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 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:

AECOM Technical Services, Inc.
Attention: Michael W. Bennett
2090 Palm Beach Lakes Blvd., Suite 600
West Palm Beach, FL 33409

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:

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, and Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's Proposal, the Exhibits 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.

SIGNATURES ON NEXT PAGE


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

NORTHERN CALIFORNIA POWER AGENCY

AECOM TECHNICAL SERVICES, INC.

Date 8-12-16

Date 08/03/2016





KEN SPEER,
Assistant General Manager

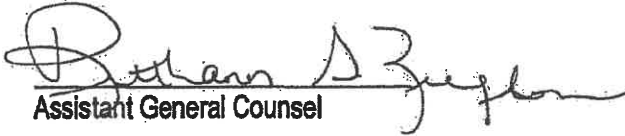
MARK J. ABBOTT,
Senior Operations Manager

Attest:



Assistant Secretary of the Commission

Approved as to Form:



Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

AECOM Technical Services, Inc. ("Consultant") shall provide consulting services regarding injection well technical matters and permits 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:

- Injection Well technical services
- Injection well permitting
- Other injection well related consulting services as needed.

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:

Hourly Rate Schedule

AECOM Technical Services, Inc. (Revised 6/16/2014)

Engineers, Planners and Scientists (E/P/S)

Job Title	Billing Rate	Job Title	Billing Rate
E/P/S I	\$94.00	Project E/P/S III	\$158.00
E/P/S II	\$100.00	Project Manager I	\$173.00
E/P/S III	\$116.00	Project Manager II	\$194.00
E/P/S IV	\$128.00	Project Manager III	\$212.00
Project E/P/S I	\$135.00	Principal/Operations Manager I	\$231.00
Project E/P/S II	\$145.00	Principal/Operations Manager II	\$268.00

CADD/Designer Personnel:

Job Title	Billing Rate	Job Title	Billing Rate
CADD/Designer I	\$97.00	CADD/Designer IV	\$131.00
CADD/Designer II	\$110.00	CADD/Designer Supervisor	\$160.00
CADD/Designer III	\$120.00		

Administrative Personnel:

Job Title	Billing Rate	Job Title	Billing Rate
Administrative Assistant I	\$55.00	Administrative Assistant IV	\$87.00
Administrative Assistant II	\$58.00		
Administrative Assistant III	\$63.00		

GIS Staff:

Job Title	Billing Rate	Job Title	Billing Rate
GIS Specialist I	\$81.00	GIS Specialist IV	\$126.00
GIS Specialist II	\$89.00		
GIS Specialist III	\$105.00		

Construction Inspection:

Job Title	Billing Rate	Job Title	Billing Rate
Resident Engineer I	\$94.00	Inspector I	\$74.00
Resident Engineer II	\$116.00	Inspector II	\$82.00
Resident Engineer III	\$135.00	Inspector III	\$102.00
Resident Engineer IV	\$158.00	Inspector IV	\$133.00

This list is not intended to be all-inclusive. Hourly rate fees for other categories of professional, support and other services shall be mutually negotiated by the Client and firm on a project by project basis as needed.

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,

Mark Abbott

(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

AECOM Technical Services, Inc.

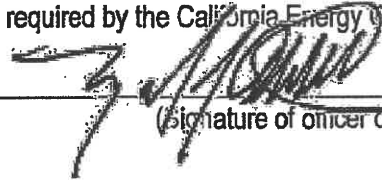
(Company name)

for contract work at

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

(Project name and location)

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



(signature of officer or agent)

Dated this 3rd day of August, 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.

2662835.5



FIRST AMENDMENT TO MUTLI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND AECOM TECHNICAL SERVICES, INC.

This First Amendment (“Amendment”) to Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and AECOM Technical Services, Inc. (“Consultant”) (collectively referred to as “the Parties”) as of _____, 2018.

WHEREAS, the Parties entered into a Multi-Task Professional Services Agreement dated effective August 12, 2016, (the “Agreement”) for Consultant to provide injection well related consulting services; 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 \$100,000.00 to a ‘NOT TO EXCEED amount of \$500,000.00; 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 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.

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: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

AECOM TECHNICAL SERVICES, INC.

RANDY S. HOWARD, General Manager

SCOTT LEE, Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Wagner Mechanical, Inc. – Five Year Multi-Task General Services Agreement for general T&M maintenance services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>ADS</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 checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<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 18-92 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Wagner Mechanical, Inc. for general T&M maintenance 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.

BACKGROUND:

General T&M 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.

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.

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 Black & Veatch (pending), Danick Mechanical, Performance Mechanical, RAM Mechanical and TNT Industrial 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Wagner Mechanical, Inc.

RESOLUTION 18-92

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

(reference Staff Report 218:18)

WHEREAS, general T&M maintenance 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, Wagner Mechanical, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Wagner Mechanical, 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 Wagner Mechanical, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 for general T&M maintenance 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
WAGNER MECHANICAL, 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 Wagner Mechanical, Inc., a corporation with its office located at 11149 Shelton Road, Linden, CA 95236 ("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 (\$500,000.00) 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:

Wagner Mechanical, Inc.
Attention: Jeff Wagner
11149 Shelton Road
Linden, CA 95236

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

WAGNER MECHANICAL, INC.

Date _____

Date _____

RANDY S. HOWARD,
 General Manager

JEFF WAGNER,
 President

Attest:

 Assistant Secretary of the Commission

Approved as to Form:

 Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Wagner Mechanical, Inc. ("Contractor") shall provide general T&M maintenance 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:

- Piping work
- Hydrotesting
- HRSG maintenance
- Boiler work
- Catalyst maintenance
- Troubleshooting
- Underground piping maintenance
- Outage support

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:

Labor Rates Good THRU 6/30/19

0

	Straight Time (per hour)	Overtime (per hour)	Double Time (per hour)
Plumber/Fitter/Welder Foreman	\$ 131.00	\$ 165.00	\$ 199.00
Plumber/Pipefitter/ Welder Journeyman	\$ 120.00	\$ 150.00	\$ 180.00
Laborer Foreman	\$ 85.00		
Laborer	\$ 80.00		
Apprentices	\$88.00-\$115.00 based on apprenticeship level		

Saturday hours-between the hours of 7:00am thru 5:30pm will be invoiced at the overtime rate; all other hours will be invoiced at the double time rate.

Sunday hours-all hours will be charged at the double time rate.

Holidays (on all days of the week) will be charged at the double time rate.

Holidays include but not limited to: New Year's Day, President's Day, Easter, Memorial Day, 4th of July, the Friday before Labor Day, Labor Day (Monday), Veteran's Day, Thanksgiving, the Friday after Thanksgiving, Christmas

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

Wagner Mechanical, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ 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: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Nor-Cal Controls ES, Inc. – First Amendment to Five Year Multi-Task Professional Services Agreement for control systems support services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KDS</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 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 18-93 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. for control systems support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not exceed from \$350,000 to \$800,000, for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Control systems support 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.

NCPA entered into a five year Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. effective April 28, 2016 for an amount not to exceed \$350,000. Members have utilized this vendor through NCPA’s Support Services Program more than anticipated and this agreement is running low on funds. This amendment will increase the not to exceed amount from \$350,000 to \$800,000. 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:

Upon execution, the total cost of the agreement is not to exceed \$800,000.00 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.

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 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Consulting Services Agreement with Nor-Cal Controls ES, Inc.
- First Amendment to Multi-Task Consulting Services Agreement with Nor-Cal Controls ES, Inc.

RESOLUTION 18-93

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES
AGREEMENT WITH NOR-CAL CONTROLS ES, INC.

(reference Staff Report 219:18)

WHEREAS, control systems support 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, Nor-Cal Controls ES, Inc. is a provider of these services; and

WHEREAS, NCPA entered into a Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. effective April 28, 2016 to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities in an amount not to exceed \$350,000 over five years; and

WHEREAS, NCPA seeks to enter into a First Amendment to Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities, increasing the not to exceed amount from \$350,000 to \$800,000 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 First Amendment to Multi-Task Professional Services Agreement with Nor-Cal Controls ES, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$800,000 for control systems support 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:

Table with 4 columns: Agency Name, Vote, Abstained, Absent. Rows include Alameda, BART, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Port of Oakland, Redding, Roseville, Santa Clara, Shasta Lake, Truckee Donner, Ukiah, and Plumas-Sierra.

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NOR-CAL CONTROLS ES, 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 Nor-Cal Controls ES, Inc., a corporation, with its office located at 6048 Enterprise Drive, Diamond Springs, CA 95619 ("Consultant") (together sometimes referred to as the "Parties") as of 4/28/, 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 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) years 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 THREE HUNDRED FIFTY THOUSAND dollars (\$350,000.00)** 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

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 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 "an occurrence" basis.
- 4.4 All Policies Requirements.**
- 4.4.1 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, 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, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or Agency member for which the Services are to be performed.
- 4.5 Waiver of Subrogation.** 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. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

- 5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

Section 6. STATUS OF CONSULTANT.

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

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1 Immediately terminate the Agreement;
 - 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

9.4 **Confidential Information and Disclosure.**

9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was

disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in 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 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:

Nor-Cal Controls ES, Inc.
Attention: Anita Sherron, Accounts Receivable
6048 Enterprise Dr.
Diamond Springs, CA 95619

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:

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, and Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's Proposal, the Exhibits 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. If requested by Agency, Member will sign the "Acknowledgement of Agreement", attached hereto as Exhibit D and incorporated herein, prior to receiving Services under the Purchase Order.

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

NORTHERN CALIFORNIA POWER AGENCY

Date 4/28/16


RANDY S. HOWARD, General Manager

NOR-CAL CONTROLS ES, INC.

Date 3/29/16


CAROLYN LOPEZ, Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Nor-Cal Controls ES, Inc. ("Consultant") shall provide engineering and technical support services on DCS, PLC, HMI, SCADA and other plant control systems located at any Facilities owned and operated by NCPA, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Software upgrades
- Logic creation and implementation
- Graphic creation and implementation
- Network configuration
- System troubleshooting

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:

Payment for Requested Work shall be made by the following Milestone Payments:

- 35% due upon acceptance by Consultant of Agency issued Purchase Order for Requested Work
- 35% due upon Delivery of Order
- 30% due upon Project Completion

See also, following Rate Sheet.

Service Code	Explanation	Hourly	Rate Terms
Controls Engineer Remote Services	Document review for content, Graphic Development, phone support, Training laptop Configuration, Engineering review, logic development, communication interfacing development, troubleshooting, HMI Configuration, Engineering support, logic advances	\$165/hr.	N/A
I&C Technician On-Site Services	Basic instrumentation & controls support and checkout, including loop checking (electrical), electrical troubleshooting, and calibrations. Advanced instrumentation & controls support and checkout, including loop checking (total), electrical and controls troubleshooting, and calibrations	\$135/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Project Manager-Engineer	Project Management Project oversight, scheduling, customer management and interactions	\$175/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Controls Engineer On-Site Services	Meetings, discussions, conferences, site training prep - materials/computers, preparing for onsite class, Engineering review, basic logic development, communication interface installation, troubleshooting-basic, consulting, training, Engineering support, installation & commissioning	\$175/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Electrical Engineer On-Site Services	Includes but no limited to: NERC/FERC interpretation, troubleshooting electro mechanical devices, troubleshooting Protection schemes and devices, Design of Protection schemes and devices, Design and review of Utility Interconnection points; Troubleshooting and design of HV & MV devices to include Switchgear, Transformers, Bus Tie, Conductor, etc.	\$185/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Electrical Engineer Remote Services	Document Review, Design & Development, Phone Support, Electrical Consultations	\$175/hr.	N/A
Remote CAD Services	Engineering design support for high level, cabinet, network and electrical drawings	\$85/hr.	N/A
Fabrication	Procurement, Construction, Assembly of SCADA and network equipment	\$75/hr.	N/A
On-Site Training Services	Formal or in the field	\$165/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Travel time to & from site	Travel time to and from Site (minimum 8 hours, maximum 16 hours)	\$100/hr.	N/A
International Work Zones	Out of Country Field/Site Services: Any country outside of the U.S.A. Offshore/Hazardous Area Nor Cal Controls ES, Inc. reserves the right to refuse dispatch of its staff to any areas involved or threatened by warfare, and areas deemed unsafe by O.S.H.A. or the US State Department.	\$200/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Emergency Call Out Services	Call out support with less than 48 hours preparation	\$195/hr.	1.5 x base rate/Overtime 2 x base rate/Double Time
Retainer- Controls Engineer	Customer keeps NCC's staff on retainer to travel on immediate notice, for weekends and holidays not worked on site but on stand-by until work resumes- 100% of prevailing hourly rate for up to 12hrs/day	\$165/hr.	N/A
Retainer- I & C Technician	Customer keeps NCC's staff on retainer to travel on immediate notice, for weekends and holidays not worked on site but on stand-by until work resumes-100% of prevailing hourly rate for up to 12hrs/day	\$135/hr.	N/A

Training Manuals	\$435/per manual
Tools, Supplies or Equipment, Software, Hardware needed in particular for job	Invoiced at cost per receipt + 20% carrying fee if charged to NCC
Outside service to assist with Job	Invoiced at cost - per customer approval
Air Travel	Invoiced at cost per receipt Estimated per research (time and location) Economy- Round Trip- Point to Point air travel in excess of six (6) hours flying time per leg will be booked as business class- Charge Customer change fees if due to changes on their part. NCC reserves the right to recall its staff after 28 calendar days and send replacement staff. Travel charges and expenses for replacement staff shall be paid by customer.
Car Rental	Invoiced at cost per receipt
Hotel	Invoiced at cost per receipt
Luggage	Invoiced per actual receipt- estimated at \$25 per piece of luggage one way
Mileage	Invoice for actual miles driven to and from airport or jobsite- Estimate- 0.54 per mile per IRS 2016 (or per prevailing IRS Rate for year) Only when employee's own car used for work -from the point of origin of the seller's representative, plus return and any required local travel
Parking	Invoiced per actual receipt- Estimated @ \$20 per day
Meals	\$55 per day
Travel Expenses Misc. Gas, toll, transportation...	Invoiced per actual receipt
Telecommunications	Invoiced per actual receipt

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, Cardyn Lopez; VP
(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 NOR-CAL CONTROLS ES, 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.

Cardyn Lopez
(Signature of officer or agent)

Dated this 29 day of March, 2016.

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

EXHIBIT D

Acknowledgement of Agreement

This Acknowledgement confirms the intent of _____, a _____ ("Member") to participate in and utilize the Multi-Task Agreement to which this Exhibit is attached, including all other Exhibits attached hereto, between the Northern California Power Agency ("Agency") and _____ ("Consultant") effective _____, 20__ ("Agreement"). Member has reviewed the terms and conditions of the Agreement in detail and agrees to abide by them. It is understood and agreed that payments for Services by Consultant provided to Member shall be paid by Agency and funded by Member to Agency pursuant to a Support Services Program Agreement between Agency and Member. All invoices for Services for Member shall be addressed to Agency.

Further, Member agrees and acknowledges that the terms, conditions, and applicable Exhibits set forth in the Agreement will apply between Member and Consultant.

MEMBER

By: _____

Printed: _____

Title: _____

Date: _____

CONSULTANT

By: _____

Printed: _____

Title: _____

Date: _____



FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND NOR-CAL CONTROLS ES, INC.

This First Amendment (“Amendment”) to Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Nor-Cal Controls ES, Inc. (“Consultant”) (collectively referred to as “the Parties”) as of _____, 2018.

WHEREAS, the Parties entered into a Multi-Task Professional Services Agreement dated effective April 28, 2016, (the “Agreement”) for Consultant to provide control systems support services; 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 \$350,000.00 to a ‘NOT TO EXCEED amount of \$800,000.00; 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

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

Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED EIGHT HUNDRED THOUSAND** dollars (\$800,000.00) 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.

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: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

NOR-CAL CONTROLS ES, INC.

RANDY S. HOWARD, General Manager

CAROLYN LOPEZ, Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Bay Valve Service & Engineering, Inc. – Five Year Multi-Task General Services Agreement for valve related services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KDS</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 checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<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 18-94 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Bay Valve Service & Engineering, Inc. for valve related testing and 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.

BACKGROUND:

Valve related testing and 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.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$1,000,000.00 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.

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 Control Components, Inc. and MarTech, 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 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 General Services Agreement with Bay Valve Service & Engineering, Inc.

RESOLUTION 18-94

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH BAY VALVE
SERVICE & ENGINEERING, INC.**

(reference Staff Report 220:18)

WHEREAS, valve related 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, Bay Valve Service & Engineering, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Bay Valve Service & Engineering, 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 \$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 General Services Agreement with Bay Valve Service & Engineering, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for valve related 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BAY VALVE SERVICE & ENGINEERING, LLC**

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 Bay Valve Service & Engineering, LLC, a limited liability company with its office located at 4385 South 133rd Street, Tukwila, WA 98168 (“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 ONE MILLION** dollars (\$1,000,000.00) 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:

Bay Valve Service & Engineering, LLC
Attention: Brad Fowler
3948 Teal Court
Benicia, CA 94510

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

BAY VALVE SERVICE & ENGINEERING, LLC

Date _____

Date _____

RANDY S. HOWARD,
General Manager

BRAD FOWLER,
SW Regional Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Bay Valve Service & Engineering, LLC ("Contractor") shall provide valve related 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:

- Routine maintenance
- Outage/Field Service and Planning
- Testing

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:

Labor Rates

Rate Classification	2018/2019 Prevailing Wage Rates STT	2018/2019 Prevailing Wage Rates OT	2018/2019 Prevailing Wage Rates DT	Daily Expenses (Per Diem)
Project Supervisor or Electric Act Tech	\$165.00	\$208.00	\$260.00	\$45.00
Valve Technician / Mechanic	\$150.00	\$190.00	\$243.00	\$45.00

Expense Rates

Airfare	Cost Plus 25%
Hotel / Lodging	Cost Plus 25%

Rental Vehicle	Cost Plus 25%
Mileage	\$1.25 per mile

Rate Definitions

Straight Time (ST): The first eight (8) hours worked Monday through Friday, excluding US Federal holidays.

Over Time (OT): All hours worked past eight (8) hours Monday through Friday and all day Saturday.

Double Time (DT): All hours worked on Sundays, US Federal holidays, or any hours worked past twelve (12) hours Monday through Saturday.

Travel Time (TT): All travel hours will be billed at the applicable rate based on the day traveled.

Daily Expenses (Per Diem): All-inclusive fee to cover daily meals and incidentals related to travel.

Additional Labor & Expense Charges / Clarifications

- i. Additional skillsets not listed above (i.e. Certified NDT Technician, etc.) will be quoted as needed / required by a given work scope.
- ii. Any work sent from the field to be performed in a Bay Valve Service workshop will have a 2% environmental disposal fee will be added to the complete shop services invoice.

Labor Assumptions

- i. The minimum daily labor charge is 4 hours per the applicable published rate. Time increments will round up to the nearest 15 minutes.

- ii. Travel time and expenses will be charged from the home location to the destination location (i.e. home to airport to hotel, service shop to site to service shop, etc.).
- iii. All site required safety training will be billed at the applicable rate as listed in the current published rates.
- iv. **Where Prevailing Wage Rates are required by law, Prevailing Wage Rates will over-ride applicable rates and expenses as listed in this document and will be given upon request. All other rates, charges, and / or assumptions will remain.**

Equipment & Tooling Rates*

Bay Valve Service Semi Tractor	\$3.00 per mile
Mobile Shop Trailer / Safety Valve Trailer (48' or greater)	\$675.00 per day plus Tractor Rental, Trailer Consumables, and \$2.50 per mile
Service Truck	\$110.00 per day and \$1.25 per mile
Portable Boiler	\$750.00 per day
Lift Assist Device (EVT / AVK)	\$500.00 per day
HyTorc / RadTorque Wrench	\$550.00 per day
EFCO / Unislip Machine	Quoted based on requirement
Flange Facer	Quoted based on requirement

**Weekly / Monthly rates are available upon request.*

Equipment & Tooling Assumptions

- i. Additional equipment or tooling not listed above (i.e. diagnostic tools, crane, forklift, etc.) will be quoted as needed / required by a given work scope.

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.

NOT APPLICABLE

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: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Reliability Management Group – First Amendment to Two Year Multi-Task Consulting Services Agreement for miscellaneous consulting services. For use at the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members.

AGENDA CATEGORY: Consent

FROM:	Ken Speer 	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"/>
<i>If other, please specify</i>		

RECOMMENDATION:

Approval of Resolution 18-95 authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task Consulting Services Agreement with Reliability Management Group for miscellaneous consulting services related to warehouse operations and inventory management, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not to exceed amount from \$100,000 to \$500,000 and make this agreement available for use at any facilities owned or operated by NCPA, its Members, Southern California Public Power Authority (“SCPPA”), or SCPPA Members.

BACKGROUND:

Consulting services, including those related to warehouse operations and inventory management, is required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, Southern California Public Power Authority (“SCPPA”), or SCPPA Members.

NCPA entered into a two-year Multi-Task Consulting Services Agreement with Reliability Management Group effective September 4, 2018, for an amount not to exceed \$100,000 for use at NCPA’s Geothermal facility only. Members have expressed an interest in possibly utilizing this vendor through NCPA’s Support Services Program. This First Amendment will open the agreement up for use at all NCPA facilities, Members, SCPPA, and SCPPA Members, as well as increasing the not to exceed amount from \$100,000 to \$500,000 to ensure there are sufficient funds for use by NCPA and Members.

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 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,

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

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Consulting Services Agreement with Reliability Management Group
- First Amendment to the Multi-Task Consulting Services Agreement with Reliability Management Group

RESOLUTION 18-95

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
RELIABILITY MANAGEMENT GROUP

(reference Staff Report #221:18)

WHEREAS, consulting services, including those related to warehouse operations and inventory management, 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, Reliability Management Group is a provider of these services; and

WHEREAS, NCPA entered into a Multi-Task Consulting Services Agreement with Reliability Management Group, effective September 4, 2018, to provide such services as needed at the Geysers' Geothermal Plant Facility in an amount not to exceed \$100,000 over two years; and

WHEREAS, NCPA seeks to enter into a First Amendment to Multi-Task Consulting Services Agreement with Reliability Management Group, increasing the not to exceed amount from \$100,000 to \$500,000, and making this agreement available for use at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members; 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 Consulting Services Agreement with Reliability Management Group with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000, for consulting services, for use at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members.

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

Table with 4 columns: Agency Name, Vote, Abstained, Absent. Rows include 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.

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND RELIABILITY MANAGEMENT GROUP

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 Reliability Management Group, a corporation with its office located at 350 West Burnsville Parkway, Suite 465, Burnsville, MN 55337 ("Consultant") (together sometimes referred to as the "Parties") as of September 4, 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 two (2) 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 HUNDRED THOUSAND dollars (\$100,000)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Not Applicable

4.4 All Policies Requirements.

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

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

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

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

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

4.6 Consultant's Obligation. Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that 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 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 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:

Greg Fisher
Executive Vice President
350 West Burnsville Parkway, Suite 465
Burnsville, MN 55337

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

RELIABILITY MANAGEMENT GROUP

Date 9-4-18

Date 9/4/2018


KEN SPEER, Assistant General Manager


GREG FISHER, Executive Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form:

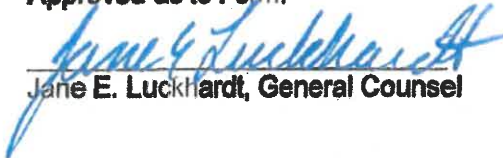

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF SERVICES

Reliability Management Group ("Consultant") shall provide consulting services related to Agency operations', including consulting services related to Agency warehouse operations and inventory management, and other necessary consulting services as requested by Northern California Power Agency ("Agency") at Geysers Geothermal Facility.

As directed by Agency, Consultant shall:

- Refine work management process, documentation and toolsets and supporting metrics
- Coach Agency personnel at all levels to improve process safety and regulatory compliance
- Provide process training for new NCPA staff
- Develop, modify, document, and implement processes related to warehouse operations, inventory control and procurement. This would include:
 - Process recommendation
 - Tool improvement and field usage
 - Supporting metrics
- Support the design and implementation strategies for all management processes and toolsets
- Provide additional services as requested by Agency

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. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

1. Nine Thousand Five Hundred Dollars (\$9,500) per week, plus expenses.
 - Expenses include airfare, lodging, ground transportation and daily supplemental per diem (\$65.00 per day). Copies of receipts shall be included with Consultant's invoices.
 - Agency shall endeavor to provide Consultant with a two (2) week notice prior to on-site professional support to allow Consultant time to secure the appropriate resources.

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 – Not Applicable

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.



**FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
RELIABILITY MANAGEMENT GROUP**

This First Amendment (“Amendment”) to Multi-Task Consulting Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Reliability Management Group (“Consultant”) (collectively referred to as “the Parties”) as of _____, 2018.

WHEREAS, the Parties entered into a Multi-Task Consulting Services Agreement dated effective September 4, 2018, (the “Agreement”) for Reliability Management Group to provide consulting services related to Agency operations, including warehouse operations, inventory management, and other services as requested by Agency at the Geysers Geothermal Facility; 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 \$100,000 to a “NOT TO EXCEED” amount of \$500,000; and

WHEREAS, the Agency now desires to amend the Description of Work set forth in Exhibit A to the Agreement to allow Consultant to provide Work at all NCPA facility locations, to Agency members, Southern California Public Power Authority (“SCPPA”) and/or SCPPA members on the terms and conditions set forth in the Agreement, as amended herein; 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 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.

The remainder of Section 2 of the Agreement is unchanged.

2. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
3. **Exhibit B – COMPENSATION SCHEDULE AND HOURLY FEES** is amended and restated to read in full as set forth in the attached Exhibit B.

4. **Exhibit C – CERTIFICATION Affidavit of Compliance for Contractors** is amended and restated to read in full as set forth in the attached Exhibit C.
5. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

Date: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

RELIABILITY MANAGEMENT GROUP

RANDY S. HOWARD, General Manager

GREG FISHER, Executive Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Reliability Management Group ("Consultant") shall provide consulting services related to Agency operations, including warehouse operations, inventory management, and other services as requested by Agency at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members.

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

- Refine work management process, documentation and toolsets and supporting metrics
- Coach Agency personnel at all levels to improve process safety and regulatory compliance
- Provide process training for new NCPA staff
- Develop, modify, document, and implement processes related to warehouse operations, inventory control and procurement. This would include:
 - Process recommendation
 - Tool improvement and field usage
 - Supporting metrics
- Support the design and implementation strategies for all management processes and toolsets
- Provide additional services as requested by Agency at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members.

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. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Nine Thousand Five Hundred Dollars (\$9,500) per week, plus expenses.

- Expenses include airfare, lodging, ground transportation and daily supplemental per diem (\$51.00 per day). Copies of receipts shall be included with Consultant's invoices.
- Agency shall endeavor to provide Consultant with a two (2) week notice prior to on-site professional support to allow Consultant time to secure the appropriate resources.

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 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 November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Capuano Engineering Company – 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 Generation Facilities.

AGENDA CATEGORY: Consent

FROM:	Ken Speer AS Assistant General Manager	METHOD OF SELECTION: 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"/>
		City of Ukiah <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, CDWR, Modesto, PWRPA, Turlock

RECOMMENDATION:

Approval of Resolution 18-96 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Capuano Engineering Company 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 \$1,000,000 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 \$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.

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 agreement with Rodney Bray for similar services, and 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:

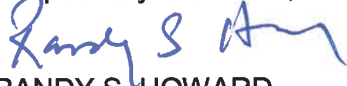
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on November 7, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on November 5, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Capuano Engineering Company

RESOLUTION 18-96

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
CAPUANO ENGINEERING COMPANY**

(reference Staff Report #222:18)

WHEREAS, assisting in the 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, Capuano Engineering Company is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Capuano Engineering Company to provide such services as needed at all NCPA Generation facility locations 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 Capuano Engineering Company with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND CAPUANO ENGINEERING COMPANY

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 Capuano Engineering Company, a corporation with its physical office located at 4701 Parktrail Drive, Santa Rosa, CA 95405 Mailing Address at 2777 Yulupa Avenue, No. 604, Santa Rosa, CA 95405 ("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 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. 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. 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:

Louis E. Capuano Jr.
President/CEO
Capuano Engineering Company
2777 Yulupa Avenue, No. 604
Santa Rosa, CA 95405

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. .

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

CAPUANO ENGINEERING COMPANY

Date_____

Date_____

RANDY S. HOWARD, General Manager

LOUIS E. CAPUANO JR., President/CEO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Capuano Engineering Company ("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:

<u>Professional</u>	<u>Hourly Rate</u>	<u>Daily Rate</u>
Senior Executive	\$187.50	\$1,500.00
Senior Drilling Engineer	\$175.00	\$1,400.00
Senior Project Manager	\$175.00	\$1,400.00
Drilling Operations Manager	\$187.50	\$1,500.00
Rig Site Manager	\$187.50	\$1,500.00
Drilling Engineer	\$175.00	\$1,400.00
Safety Specialist	\$125.00	\$1,000.00
Procurement & Logistics Representative	\$150.00	\$1,200.00
Administrative Services	\$100.00	\$800.00
<u>Reimbursable</u>	<u>Rate</u>	
Telephone /Facsimile – Local	No Cost	
Telephone –Domestic Long Distance	No Cost	
Telephone – International Long Distance	Actual Cost plus 15%	
Overnight Delivery	Actual Cost plus 15%	
<u>Travel (Door to Door)</u>	<u>Rate</u>	
Meals	Actual Cost plus 15 %	
Living accommodations	Actual Cost plus 15 %	
Rental car, taxis, fuel and other miscellaneous travel	Actual Cost plus 15 %	
Mileage	At IRS Rate	
Air travel. (Coach Class for domestic flights.)	Actual Cost plus 15 %	
<u>Third Party Services Billed Through Capuano Engineering Consultants</u>	<u>Rate</u>	
Services	Actual Cost plus 15 %	
Procurement of Equipment	Actual Cost plus 15 %	

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: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Westgate Petroleum Company, Inc. – First Amendment to Five-Year Agreement for the Purchase of Equipment, Materials and Supplies for delivery of fuel and other miscellaneous petroleum products. For use at the Geyser’s Geothermal Plant Facility.

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

RECOMMENDATION:

Approval of Resolution 18-97 authorizing the General Manager or his designee to enter into a First Amendment to the Agreement for the Purchase of Equipment, Materials and Supplies with Westgate Petroleum Company, Inc. for delivery of fuel and other miscellaneous petroleum products, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall increase the not to exceed amount from \$1,350,000 to \$2,350,000, for use at the Geyser's Geothermal Plant Facility.

BACKGROUND:

Providing delivery of fuel and miscellaneous petroleum products are required from time to time at the NCPA Geyser's Geothermal Plant Facility

NCPA entered into a five-year Agreement for the Purchase of Equipment, Materials and Supplies with Westgate Petroleum Company, Inc. effective March 31, 2017 for an amount not to exceed \$1,350,000. The Agency continues to utilize this vendor frequently, and anticipates potentially utilizing this vendor for the upcoming Well Workover Project. The Agency would like to increase the not to exceed amount of this agreement from \$1,350,000 to \$2,350,000 to ensure there are sufficient funds available in the event this vendor is used for upcoming projects. This agreement is still available for use only at the Geyser's Geothermal Plant Facility.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$2,350,000, 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 currently soliciting Nick Barbieri Trucking, LLC dba Redwood Coast Fuels 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 November 7, 2018, and was recommended for Commission approval on Consent Calendar.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Agreement for the Purchase of Equipment, Materials and Supplies with Westgate Petroleum Company, Inc.
- First Amendment to Agreement for the Purchase of Equipment, Materials and Supplies with Westgate Petroleum Company, Inc.

RESOLUTION 18-97

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO AGREEMENT FOR THE PURCHASE OF EQUIPMENT,
MATERIALS AND SUPPLIES WITH WESTGATE PETROLEUM COMPANY, INC.**

(reference Staff Report #223:18)

WHEREAS, delivery of fuels, oils, lubricants, and other miscellaneous petroleum products are periodically required at the Geyser's Geothermal Plant Facility; and

WHEREAS, Westgate Petroleum Company, Inc. is a provider of these services; and

WHEREAS, NCPA entered into an Agreement for the Purchase of Equipment, Materials And Supplies with Westgate Petroleum Company, Inc. effective March 31, 2017 to provide such services as needed at the Geyser's Geothermal Plant Facility, in an amount not to exceed \$1,350,000 over five years; and

WHEREAS, NCPA seeks to enter into a First Amendment to the Agreement for the Purchase of Equipment, Materials And Supplies with Westgate Petroleum Company, Inc. to provide such services as needed by the Geyser's Geothermal Plant Facility, increasing the not to exceed amount from \$1,350,000 to \$2,350,000 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 First Amendment to the Agreement for Purchase of Equipment, Materials And Supplies with Westgate Petroleum Company, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$2,350,000 for delivery of fuel, oils, lubricants, and other miscellaneous petroleum products for use at the Geyser's Geothermal Plant Facility.

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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
WESTGATE PETROLEUM COMPANY, INC.
(Single Task)**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is entered into on 3.31, 2017 (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, ("Agency"), a public joint powers agency, with offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 and Westgate Petroleum Company, Inc., ("Supplier"), whose principal office is located at 3740 Highland Springs Road, Lakeport, CA 95453 (together sometimes referred to as the "Parties").

Section 1. SCOPE. In accordance with the terms and conditions set forth in this Agreement, Supplier agrees to periodically deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to Agency's Project Site, DDP, located at 12000 Socrates Mine Road, Middletown, CA 95461. Supplier shall be responsible at its sole expense for delivering the Goods to Agency's Project Site and title shall not pass until the Agency accepts delivery at this Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

Section 2. TERM OF AGREEMENT. This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A.

Section 3. COMPENSATION. Agency hereby agrees to pay Supplier for the Goods an amount not to exceed ONE MILLION THREE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$1,350,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges as described in Exhibit B.

3.1 Invoices. Supplier shall have ninety (90) days after a given delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement for such delivery. Supplier shall include the number of the Purchase Order which authorized the delivery of Goods for which Supplier is seeking payment. In the event Supplier fails to invoice Agency for all amounts due within such ninety (90) day period, Supplier waives its right to collect payment from Agency for such amounts. All invoices shall be submitted to:

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

3.2 Payment. Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.

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

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

- 4.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including pollution liability, and the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 4.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability and pollution 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 Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsements or exclusions for failure to supply, erroneous, wrongful or misdelivery or pollution liability limiting the coverage shall be included or attached.
- 4.4 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.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the pollution liability, automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.
- 4.5.3 Waiver of Subrogation.** Supplier agrees to waive subrogation which any insurer of Supplier may acquire from Supplier by virtue of the payment of any loss. Supplier agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.
- 4.5.4 Self-Insured Retention.** Supplier shall declare the amount of the self-insured retention to the Agency; the amount shall be not more than \$100,000.
- 4.6 Pollution Liability Insurance.** Supplier shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

Section 5. WARRANTY. In addition to any and all warranties provided or implied by law or public policy, or any other warranties provided by Supplier, Supplier warrants that all Goods are free from defects in design and workmanship; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and free from defects; are suitably safe and sufficient for the purpose for which they are normally used; and are not subject to any liens or encumbrances. Supplier shall provide all Goods in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof, unless Supplier's warranty is for greater than one (1) year, in which case Supplier's warranty shall be applied), the Goods provided by Supplier under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Supplier shall, upon any reasonable written notice from Agency, replace the same to Agency's satisfaction.

Section 6. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.

- 6.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Supplier 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, Supplier acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

6.2 Scope. Supplier 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 Supplier, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency.

6.3 Transfer of Title. Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications. Should Supplier be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

Section 7. MISCELLANEOUS PROVISIONS.

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

7.2 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.

7.3 Compliance with Applicable Law. Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.

7.4 Construction of Agreement. The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.

- 7.5 **Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 7.6 **Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 7.7 **Governing Law.** This Agreement and all matters pertaining to it shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 7.8 **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.
- 7.9 **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.
- 7.10 **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.
- 7.11 **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.
- 7.12 **Conflict of Interest.** Supplier may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Supplier in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Supplier 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.*
- 7.13 **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.
- 7.14 **Notices.** Any written notice to Supplier shall be sent to:

Westgate Petroleum Company, Inc.
3740 Highland Springs Road
Lakeport, CA 95453

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:

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

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

- 7.15.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 7.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 7.15.3** 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.
- 7.15.4** 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.
- 7.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 7.15.6** 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.*

- 7.16 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Supplier's Proposal, the Exhibits shall control.
- 7.17 **Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 7.18 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit D.
- 7.19 **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.

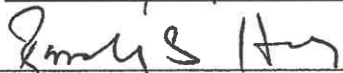
The Parties have executed this Agreement as of the date signed by the Agency.


NORTHERN CALIFORNIA POWER AGENCY

WESTGATE PETROLEUM COMPANY, INC.


Date 3/31/17

Date 2/17/17


RANDY S. HOWARD, General Manager


CLAUDE BROWN, Manager

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Assistant General Counsel

EXHIBIT A

PURCHASE LIST / SCOPE OF WORK

WESTGATE PETROLEUM COMPANY, INC. ("Contractor") shall deliver Fuel to the NORTHERN CALIFORNIA POWER AGENCY ("Agency") Geothermal Facility Storage Tanks and deliver Oils, Lubricants, and other miscellaneous petroleum products, to the Agency as requested, in accordance with the following specifications:

1. **Definitions.** For the purposes of this Agreement,
 - a. "Fuel" shall include Regular Unleaded Gasoline, Clear Diesel Fuel and Dyed Diesel Fuel unless otherwise specified by Agency in writing, and shall include Oils, Lubricants, and other miscellaneous petroleum products, as requested; and
 - b. "Geothermal Facility Storage Tanks" shall mean the tanks located at both Agency power plants and the tanks located at Agency's Steam Field Shop area.
2. **Contractor shall:**
 - a. Deliver Fuel upon the request of Agency in a manner consistent with Agency direction regarding specific Fuel quantity and delivery location;
 - b. Provide delivery of Fuel within twenty-four (24) hours of Agency request, but under no circumstances shall Contractor fail to deliver Fuel within forty-eight (48) hours of Agency's request.
 - c. Be responsible for the safe delivery of Fuel to the location designated by Agency, in a manner consistent with all applicable environmental, health and safety regulations;
 - d. Promptly inform Agency concerning any spill, leak or other problem involving any delivery of Fuel pursuant to this Agreement and take all necessary steps pursuant to applicable environmental, health and safety laws or regulations to prevent, mitigate, contain, clean up or otherwise address all such spills, leaks or other problems;
 - e. Ensure that any and all Contractor employees and subcontractors use appropriate personal protective equipment ("PPE") in the performance of work pursuant to this Agreement and as otherwise directed by the Agency;
 - f. Make all deliveries using Contractor-owned vehicles or contracted carriers, which are all owned, hired, leased, rented or otherwise used by Contractor in a manner that ensures they are covered under the Contractors' provided automobile insurance plans;
 - g. Ensure that all Contractor vehicles are labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any and all jurisdiction having control over said delivery truck operations; and
 - h. Deliver Fuel to Agency in accordance with any additional specifications set forth by Agency.
3. **Agency shall:**
 - a. Endeavor to request Fuel delivery from Contractor between twenty-four (24) hours and forty-eight (48) hours before Agency needs Fuel delivered, with the exception of an occasional emergency

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all goods, shall not exceed \$1,350,000.

1. Terms used under Compensation Schedule and Hourly Fees shall have the same meaning as the terms set forth in the Agreement and Exhibit A - Scope of Work.
2. Agency shall only compensate Contractor for Completed Deliveries:
 - a. A "Completed Delivery" means:
 - i. Contractor has delivered the full quantity of Fuel that Agency requested to the final location designated by Agency; and
 - ii. Contractor has delivered the full quantity of Fuel that Agency requested within the time specified by Agency; but not to exceed forty-eight (48) hours after Contractor was notified of Agency's request.
3. Compensation shall be calculated for each Completed Delivery using unbranded Oil Price Information Service ("OPIS") Average Rack Prices for the product, as follows:
 - a. Contractor shall use the San Francisco Daily Unbranded OPIS Average to calculate compensation.
 - i. In making the calculation set forth in Section 3(a) under Compensation Schedule and Hourly Fees, Contractor shall use the OPIS prices for the date the delivery is Completed; and
 - ii. Contractor shall not aggregate Completed Deliveries in response to multiple Agency requests to complete the calculation set forth in Section 3(a) under Compensation Schedule and Hourly Fees.
 - b. Contractor may add no more than \$0.249 cents per gallon to the cost of each Completed Delivery to cover Contractor costs related to labor, fees, taxes or other expenses.
4. Agency shall not provide Contractor with any additional compensation for labor costs, taxes, fees or other expenses related to the performance of work under this Agreement, beyond that set forth in Section 3 of Compensation Schedule.

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 – Not Applicable

CERTIFICATION

Affidavit of Compliance for Suppliers

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

(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:

(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.



FIRST AMENDMENT TO AGREEMENT FOR THE PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND WESTGATE PETROLEUM COMPANY, INC.

This First Amendment (“Amendment”) to the Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency (“Agency”) and Westgate Petroleum Company, Inc. (“Supplier” or “Contractor”) (collectively referred to as “the Parties”) as of _____, 2018.

WHEREAS, the Parties entered into a 5-year Agreement for the Purchase of Equipment, Materials And Supplies, dated effective March 31, 2017, (the “Agreement”) for Supplier to deliver fuel to NCPA Geothermal Facility Storage Tanks and deliver oils, lubricants, and other miscellaneous petroleum products as requested; 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 \$1,350,000 to a ‘NOT TO EXCEED amount of \$2,350,000; and

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

NOW, THEREFORE, the Parties agree as follows:

- 1. **Section 3 – Compensation** of the Agreement is amended and restated to read as follows:

Agency hereby agrees to pay Supplier for the Goods an amount not to exceed TWO MILLION THREE HUNDRED FIFTY THOUSAND dollars (\$2,350,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges as described in Exhibit B.

The remainder of Section 3 of the Agreement is unchanged.

- 2. **Exhibit B – COMPENSATION SCHEDULE AND HOURLY FEES** is amended and restated to read in full as set forth in attached Exhibit B.
- 3. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

Date: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

WESTGATE PETROLEUM COMPANY, INC.

RANDY S. HOWARD, General Manager

CLAUDE BROWN, Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all Goods, shall not exceed \$2,350,000.

1. Terms used under Compensation Schedule and Hourly Fees shall have the same meaning as the terms set forth in the Agreement and Exhibit A - Scope of Work.
2. Agency shall only compensate Supplier for Completed Deliveries.
 - a. A "Completed Delivery" means:
 - i. Supplier has delivered the full quantity of Fuel that Agency requested to the final location designated by Agency; and
 - ii. Supplier has delivered the full quantity of Fuel that Agency requested within the time specified by Agency; but not to exceed forty-eight (48) hours after Supplier was notified of Agency's request.
3. Compensation shall be calculated for each Completed Delivery using unbranded Oil Price Information Service ("OPIS") Average Rack Prices for the product, as follows:
 - a. Supplier shall use the San Francisco Daily Unbranded OPIS Average to calculate compensation.
 - i. In making the calculation set forth in Section 3(a) under Compensation Schedule and Hourly Fees, Supplier shall use the OPIS prices for the date the delivery is Completed; and
 - ii. Supplier shall not aggregate Completed Deliveries in response to multiple Agency requests to complete the calculation set forth in Section 3(a) under Compensation Schedule and Hourly Fees.
 - b. Supplier may add no more than \$0.249 cents per gallon to the cost of each Completed Delivery to cover Supplier's costs related to labor, fees, taxes or other expenses.
4. Agency shall not provide Supplier with any additional compensation for labor costs, taxes, fees or other expenses related to the performance of work under this Agreement, beyond that set forth in Section 3 of Compensation Schedule.

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



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Bay Cities Pyrotector, Inc. – Public Works Agreement for CT1 Fire System Upgrade; Applicable to the following projects: CT1 Alameda and CT1 Lodi Facilities

AGENDA CATEGORY: Consent

FROM: Ken Speer <i>KDS</i>	METHOD OF SELECTION:
Assistant General Manager	<i>Public Works Bid</i>
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"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>	City of Ukiah <input checked="" type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input checked="" type="checkbox"/>
City of Biggs <input checked="" type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input checked="" type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input checked="" type="checkbox"/>	City of Santa Clara <input checked="" type="checkbox"/>	Other <input type="checkbox"/>

If other, please specify

RECOMMENDATION:

Approval of Resolution 18-98 authorizing the General Manager or his designee to enter into a Public Works Agreement with Bay Cities Pyrotector, Inc. for CT1 fire system upgrade services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$328,684.47, for use at the NCPA CT1 Alameda and CT1 Lodi facilities.

BACKGROUND:

CT1 Alameda and Lodi units use the original fire extinguishing system constructed in 1985. The system utilizes halon gas to displace the oxygen from the combustible compartments of the unit. The system components are no longer supported and parts are not available. Staff has extended the life of the system using best practices in the operation and maintenance. If the system fails staff may not have the necessary resources to repair the system and return the unit to service.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$328,684.47, 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:

A formal Request for Proposal (RFP) for this public works project was issued on February 20, 2018. The bid opening was on March 15, 2018. Bids were received from Bay Cities Pyrotector, Inc. in the amount of \$328,684.47, and Sabah International in the amount of \$934,572.00. After review of the bids received, it was decided to move forward with Bay Cities Pyrotector, Inc.

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 May 2, 2018, and was recommended for Commission approval on Consent Calendar.

Respectfully submitted,

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

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Public Works Agreement with Bay Cities Pyrotecator, Inc.

RESOLUTION 18-98

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A PUBLIC WORKS AGREEMENT WITH BAY CITIES PYROTECTOR, INC.**

(reference Staff Report 224:18)

WHEREAS, fire system upgrades are required at the CT1 facilities owned and/or operated by Northern California Power Agency (NCPA); and

WHEREAS, Bay Cities Pyrotector, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Public Works Agreement with Bay Cities Pyrotector, Inc. to provide such services at the NCPA CT1 Alameda and CT1 Lodi facilities in an amount not to exceed \$328,684.47; 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 Public Works Agreement with Bay Cities Pyrotector, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$328,684.47 for fire system upgrade services for use at the CT1 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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY

AGREEMENT

This contract ("Contract" or "Agreement") is entered into this _____ day of _____, 2018, by and between the Northern California Power Agency, a joint powers public agency organized and existing under the laws of the State of California (hereinafter referred to as "NCPA") and Bay Cities Pyrotector, Inc., a **California Corporation**, with offices located at 1315 67th Street, Emeryville, CA 94608, (hereinafter referred to as "Contractor"), collectively referred to as the "Parties"),

WHEREAS, NCPA intends to have constructed the CT1 Facilities Fire System Upgrade ("Project") located at **NCPA's CT1 Facilities (CT1 Lodi facility located at 2131 W. Turner Road in Lodi and CT1 Alameda facility located at 2500 Main Street in Alameda)** (hereinafter referred to as the "Project"), and the work required by this Contract is an integral part of this Project; and

WHEREAS, on _____, at its regularly scheduled meeting, the NCPA Commission has approved and authorized this Project by Resolution No. _____; and

WHEREAS, both Parties have a desire to perform the work described herein;

NOW THEREFORE, IT IS AGREED THAT:

SECTION 1. SCOPE OF WORK

Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, materials, transportation and utility services and incidentals necessary to fully perform and complete, in a good workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers, and in strict accordance with the Contract Documents (as defined below), including without limitation the drawings and technical specifications and plans included therein, the Work of:

**Northern California Power Agency
Project Description: CT1 Facilities Fire System Upgrade
NCPA Bid No.: CTS0203**

It is understood and agreed that such tools, equipment, apparatus, facilities, labor, materials, transportation and utility services and incidentals shall be furnished, and the Work performed and completed, in accordance with the Contract Documents and subject to the approval of NCPA and NCPA's duly authorized representatives.

SECTION 2. TIME OF COMPLETION; LIQUIDATED DAMAGES

Contractor hereby agrees to commence work at the CT1 Lodi site in February 2019 and at the CT1 Alameda site in May 2019 or as discussed and agreed upon by NCPA and Contractor. The Contractor will complete the work at each specific location within **30 consecutive business days** commencing after the date of NCPA's Notice to Proceed for work at each facility location.

This Contract is being awarded in reliance upon the completion date set forth in the Contract Documents and the dates established by schedules set forth and released by NCPA. NCPA will hold the Contractor responsible and accountable for all damages suffered by NCPA as a consequence of the Contractor's failure to meet the schedule dates, or to complete the work at the time specified, except for such excusable delays as listed in the Contract Documents.

It is agreed by the parties to this Agreement that in the case in which portion of the work called for under Contract Documents are not completed within the times specified, damages will be sustained by NCPA, and it is and will be impractical and extremely difficult to ascertain the actual damages which NCPA will sustain in the event of and by reason of such delay.

SECTION 3. CONTRACT PRICE

NCPA will pay Contractor in current funds as full consideration for the full and complete performance of this Agreement the sum of:

THREE HUNDRED TWENTY-EIGHT THOUSAND SIX HUNDRED EIGHTY-FOUR DOLLARS AND 47/100 (\$328,684.47), being Contractor's bid amount, subject to subsequent contract change order(s), for furnishing all materials and for doing all the Work contemplated under this Agreement; for all loss or damages arising out of the nature of the Work, until the Work is accepted by the NCPA; for all expenses incurred by or in consequences of the suspension or discontinuance of the Work; and for well and faithfully completing the Work, the whole thereof, in the manner and in accordance with the Contract Documents therefore and the requirements of NCPA under them.

SECTION 4. BONDS

Prior to execution of this Agreement, Contractor shall obtain a one hundred percent (100%) Performance Bond, a one hundred percent (100%) Payment (Labor and Materials) Bond, and a ten percent (10%) Maintenance Bond each in the form included in the Contract Documents.

SECTION 5. INSURANCE

Before beginning any work under this Contract, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below against claims that may arise from or in connection with the performance of the work hereunder by Contractor and its agents, representatives, employees, and subcontractors. Contractor shall maintain the insurance policies required by this section throughout the term of this Contract. The cost of such insurance shall be included in the Contractor's price. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to NCPA. Verification of the Contractor's required insurance shall be submitted and made part of this Contract prior to execution. The existence of insurance shall not relieve or decrease the liability of Contractor under the Contract Documents.

5.1. Workers' Compensation. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than One Million Dollars (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of NCPA. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against NCPA and its officers, officials, employees, and volunteers for loss arising from work performed under this Contract.

5.2. Commercial General Insurance.

5.2.1. General requirements. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Contract in an amount not less than one million dollars (\$1,000,000) and two million dollars

(\$2,000,000.00), per occurrence, combined single limit coverage for risks associated with the work contemplated by this Contract. If a Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Contract or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily injury, personal injury, including death resulting therefrom, completed operations and products liability; broad form property damage liability; coverage for the XCU hazards of explosion, collapse, and underground, and contractual liability as to the obligations assumed by the Contractor under the Contract Documents.

5.2.2. Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (current edition) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. No endorsement shall be attached limiting the coverage.

5.3 Automobile Liability Insurance.

5.3.1. General requirements. Contractor, at its own cost and expense, shall maintain automobile liability insurance for the term of this Contract in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000.00), per occurrence, combined single limit coverage for risks associated with the work contemplated by this Contract. If an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Contract or the general aggregate limit shall be at least twice the required occurrence limit.

5.3.2. Minimum scope of coverage. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (current edition) symbol 1. No endorsement shall be attached limiting the coverage.

5.4 All Policies Requirements.

5.4.1. Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Best's rating of no less than A:VII.

5.4.2. Verification of Coverage. Prior to beginning any work under this Contract, Contractor shall furnish NCPA with endorsements (as to insurance referenced in Sections 5.2, 5.3 and 5.5) and certificates, with complete certified copies of all policies (if requested by NCPA), evidencing to NCPA's reasonable satisfaction, compliance with Section 5 herein. All endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

5.4.3. Notice of Reduction in or Cancellation of Coverage. Contractor shall provide at least thirty (30) days prior written notice of any material changes to the insurance specified herein, including suspension, cancellation, termination, limitation, reduction in scope or amount. NCPA's receipt of such notice shall not constitute NCPA's acceptance of such material change.

5.4.4. Additional Insured; Primary Insurance. An endorsement at least as broad as Insurance Services Office form number CG 20 10 (current edition) shall be

attached to policies referenced in Sections 5.2, 5.3 and 5.5, stating that NCPA and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to such policies. The coverage shall contain no special limitations on the scope of protection afforded to NCPA or its officers, employees, agents, or volunteers.

Each endorsement shall state that coverage is primary insurance with respect to NCPA and its officers, officials, employees, agents and volunteers, and that no insurance or self-insurance maintained by NCPA shall be called upon to contribute to a loss under the coverage.

- 5.4.5. Deductibles and Self-Insured Retentions.** Contractor shall disclose to and obtain the written approval of NCPA for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Contract.

During the period covered by this Contract, only upon the prior express written authorization of NCPA, Contractor may increase such deductibles or self-insured retentions with respect to NCPA, its officers, employees, agents, and volunteers. NCPA may condition approval of an increase in deductible or self-insured retention levels with a requirement that Contractor procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 5.4.6. Subcontractors.** Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- 5.4.7. Variation.** NCPA may approve a variation in writing in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that NCPA's interests are otherwise fully protected.
- 5.4.8. Reporting.** The endorsements shall also specify that any failure or delay to comply with reporting or other provisions of the policies shall not affect coverage provided to NCPA, its officers, officials, employees, agents or volunteers.
- 5.4.9. Occurrence-basis for Coverage.** The endorsements shall also specify that coverage is on an occurrence or an accident basis, and not on a claims-made basis.

5.5 Builder's Risk. Contractor shall obtain and maintain at its own expense a builder's risk and fire insurance policy, special form including extended coverage and vandalism, and malicious mischief endorsements. The policy shall name NCPA and the Contractor as insureds. This insurance shall be in the amount of 100% of the Contract Price, and may be increased at NCPA's request to reflect change orders. In the event of partial or total destruction by fire of any or all of the Work at any time prior to completion and NCPA's acceptance of the Work, the Contractor shall promptly reconstruct all Work so destroyed or injured at the Contractor's sole cost and expense and at no cost to NCPA.

5.6 Remedies. In addition to any other remedies NCPA may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, NCPA may, at its sole option exercise any of the following remedies, which

are alternatives to other remedies NCPA may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Contract;
- Order Contractor to stop work under this Contract or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Contract.

SECTION 6. INDEPENDENT CONTRACTOR

6.1. Independent Contractor. At all times during the term of this Contract, Contractor shall be an independent contractor and shall not be an employee of NCPA. NCPA shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Contract. Notwithstanding any other NCPA, 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 Contract 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 NCPA, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of NCPA and entitlement to any contribution to be paid by NCPA for employer contributions and/or employee contributions for PERS benefits.

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

SECTION 7. REGISTRATION

During the term of this Agreement, Contractor warrants that it is currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5. Contractor further warrants that any subcontractors, who are subject to Public Contract Code section 4104, are registered and qualified to perform public work consistent with Labor Code section 1725.5

SECTION 8. LAW, VENUE, AND CONFLICTS OF INTEREST

8.1. This Agreement has been executed and delivered in the State of California, and the validity, enforceability and interpretation of any of the provisions of the Contract Documents, including this Agreement, shall be determined and governed by the laws of the State of California, without regard to the choice of law doctrine.

8.2. The duties and obligations of the parties created hereunder are performable in Placer County and in that County where the NCPA Project is located. Either Placer County or the County where the Project Facility is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

8.3. Contractor may serve other clients, but none whose activities within the corporate limits of NCPA 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 Sections 81000 *et seq.*

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

8.5. Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of NCPA. If Contractor was an employee, agent, appointee, or official of NCPA in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Contract. Contractor understands that, if this Contract is made in violation of Government Code Sections 1090 *et seq.*, the entire Contract is void and Contractor will not be entitled to any compensation for services performed pursuant to this Contract, including reimbursement of expenses, and Contractor will be required to reimburse NCPA for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code Section 1090 and, if applicable, will be disqualified from holding public office in the State of California.

SECTION 9. CHANGE ORDERS

It is agreed that the Project Manager is the sole person authorized to execute change orders necessary to the prosecution of the Work, unless NCPA otherwise notifies Contractor in writing.

SECTION 10. EXTRA WORK

Contractor hereby agrees that it will not proceed with any extra work unless it has been authorized in writing to do so by the Project Manager prior to the commencement of such extra work.

SECTION 11 PROGRESS PAYMENTS

11.01 The Contractor shall submit to NCPA's designated representative at least 10 days before the first and/or third Monday of the month, for NCPA's approval, a request for payment. Each progress payment to the Contractor by NCPA shall be in payment for only that work performed by the Contractor during the period immediately preceding the Contractor's current request for payment.

11.02 If requested by NCPA, the Contractor shall submit time sheets to NCPA daily for approval and signature. The daily time sheets shall clearly delineate the number of worker-hours and equipment hours worked in each given area of work. If NCPA makes this request, then only those time sheets signed by NCPA will be honored for payment.

11.04 Work performed at the request of NCPA, which is outside the scope of work and unit prices as defined in these Contract Documents, shall be itemized separately, , and the total cost figures for the work shall be entered on the billing form under "Other Work".

11.05 Subject to Section 12 of the General Conditions, after approval by NCPA, progress payments will be made to the Contractor in the amount of ninety five percent (95%) of the approved billing. Progress payments will be made within 30 days after NCPA receives the Contractor's Request for Payment. NCPA's Progress Payment shall not constitute approval or acceptance of the Work performed.

SECTION 12. FINAL PAYMENT

12.01 Final payment will not be made to the Contractor until it has furnished evidence satisfactory to NCPA, of the Contractor's payment or provision for payment of all bills for material, labor, services, etc., incurred in connection with the performance of the Work; and at NCPA's option the written consent of the Contractor's surety to release final payment.

12.02 Final payment will further be contingent on approval of, and acknowledgment by, NCPA that the Contractor has completed all tasks and complied with all conditions of the Contract Documents. Upon approval by NCPA, the final payment will be made to the Contractor. NCPA may withhold from final payment, to the extent allowed by applicable law, amounts which in NCPA's opinion are determined to be reasonable and necessary to provide security against any losses, damages, expense, and liability covered by the Indemnification provision in the Contract Documents, and claims filed or reasonable evidence indicating probably filing of claims, damages to NCPA or third parties, or other lawful bases for withholding final payment.

12.03 Final payment by NCPA, and acceptance of it by the Contractor, shall not constitute a waiver by NCPA, to any rights with respect to the Contractor's continuing obligations under the Contract Documents.

SECTION 13. DISPUTES

13.1. All questions of fact, and any and all disputes with references thereto, arising out of the performance of this Contract, or changes therein, or extra work in connection therewith, shall be submitted in writing to NCPA. NCPA will then make the final decision, which when made in writing shall be final and conclusive on the parties hereto.

13.2. Prior to initiating litigation in a court of competent jurisdiction, both Contractor and NCPA shall undergo alternative dispute procedures as outlined in Public Contract Code Sections 20104 *et seq.* The parties also expressly agree that the Alternative Dispute Resolution procedures outlined in Public Contract Code Sections 20104 *et seq.* shall apply to all claims, including those that exceed \$375,000, and that such procedures are incorporated as though fully set forth in this Contract.

13.3 Notwithstanding Sections 13.1 and 13.2, procedures for the Contractor to make claims for: (1) an extension of time, including relief from damages or penalties for delay; (2) payment by NCPA of money or damages arising from work done by, or on behalf of, the Contractor, where the underlying contract does not expressly provide for payment or payment to which the Contractor is not otherwise entitled, or (3) the payment of an amount disputed by NCPA are set forth in Section 10.03 of the General Conditions.

SECTION 14. PREVAILING WAGES

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 fixed 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. In accordance with California Labor Code Section 1773, NCPA 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. In accordance with California Labor Code Section 1773.2, 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 the Contractor must comply with all provisions of the Contract Documents and 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 NCPA 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.

SECTION 15. GUARANTEE OF WORK

Contractor hereby agrees that it will post a Maintenance Bond in the form included in the Contract Documents after final inspection by NCPA and completion of required corrections and/or repairs. Such Maintenance Bond shall guarantee Contractor's work for the period of one year after the date of recording of NCPA's Notice of Completion of the Work.

SECTION 16. RELEASE

Upon payment of undisputed amounts under this Agreement and if requested by NCPA, Contractor shall execute a Release in the form provided by NCPA. Such Release shall not apply to disputed contract claims in amounts specifically excluded by Contractor from the operation of the Release.

SECTION 17. BINDING AGREEMENT; ASSIGNMENT

Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract Documents shall inure to the benefit of and shall be binding upon the Contractor and NCPA and their respective successors and permitted assigns.

The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of all sureties on all bonds required by this agreement, including but not limited to the Payment (Labor and Materials) Bond, and NCPA.

SECTION 18. CONTRACT DOCUMENTS

The full, complete and exclusive contract between the parties hereto shall consist of the following identified documents (the "**Contract Documents**"): (1) The "**Bid Documents**," consisting of the Notice Inviting Bids, Instructions to Bidders, Bidder's Check List, Bid Form, Bid Bond, Designation of Subcontractors, Non-Collusion Declaration, Agreement, Workers' Compensation Insurance Certification, Performance Bond, Payment (Labor and Materials) Bond, Maintenance Bond, Escrow Agreement for Security Deposits in Lieu of Retention, General Conditions, Supplementary Conditions, and Technical Specifications and Plans, if any, and any Addenda, and (2) any Change Orders, Field Orders, or NCPA's directives issued pursuant to and in accordance with this Agreement.

SECTION 19. INDEMNIFICATION AND ATTORNEY'S FEES

Contractor shall at its own cost, defend, hold harmless, and indemnify NCPA, its governing board, officials, commission members, officers, directors, employees, agents, and successors in interest ("Indemnitees") from and against any and all liability, damages, losses, claims, demands, actions, costs including attorney's fees and expenses ("Liabilities"), on account of injury to or death of persons or damage to any property (including property of NCPA) or delay or damage to another contractor resulting from or arising out of or in any way connected with the performance by the Contractor of this Agreement, and Contractor will reimburse Indemnitees for all Liabilities incurred by Indemnitees in consequence of any claims, demands, and causes of action which may be brought against Indemnitees arising out of the performance by the Contractor of this Agreement. However, notwithstanding, nothing in this section or the Contract Documents generally shall be construed to require the Contractor to indemnify the Indemnitees for their sole negligence, willful misconduct, or for defects in design furnished by Indemnitees. This section and the Contract Documents shall be construed consistent with Civil Code section 2782 so as to provide the maximum indemnification permitted by applicable law to Indemnitees.

This indemnification shall be in addition to any other indemnification provisions contained in the Contract Documents.

SECTION 20. NO IMPLIED WAIVER OF BREACH

The waiver of any breach of a specific provision of this Contract does not constitute a waiver of any other breach of that term or any other term of this Contract.

SECTION 21. SUCCESSORS AND ASSIGNS

The provisions of this Contract shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

SECTION 22. USE OF RECYCLED PRODUCTS

Contractor shall endeavor to prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

SECTION 23. NONDISCRIMINATION AND EQUAL OPPORTUNITY

Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Contract. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Contract, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the immediately foregoing paragraph, verbatim, of this Subsection in any subcontract approved by the Contract Administrator or this Contract.

Contractor shall indemnify, defend, and hold harmless NCPA with respect to any alleged violation of this Section.

SECTION 24. ENTIRE AGREEMENT

The Contract Documents constitute the entire Agreement between the parties, and supersede any prior agreement between the parties, oral or written, including NCPA's award of the contract to Contractor, unless such agreement is expressly incorporated herein. NCPA makes no representations or warranties, express or implied, not specified in the Contract Documents.

SECTION 25. EXECUTION OF OTHER DOCUMENTS

The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract Documents.

SECTION 26. EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

SECTION 27. SEVERABILITY

If any provision of the Contract Documents shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 28. AMENDMENTS

The terms of the Contract Documents shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.

SECTION 29. WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm, to an officer or director of the corporation, or to a manager of the LLC for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party who gives the notice.

Any written notice to Contractor shall be sent to:

Bay Cities Pyrotecator, Inc.
1315 67th Street
Emeryville, CA 94608

Any written notice to NCPA shall be sent to:

Northern California Power Agency
Attn: Jeremy Lawson, Project Manager
P.O. Box 1478
Lodi, CA 95241

and

Northern California Power Agency
Attn: General Manager
651 Commerce Drive
Roseville, CA 95678

With a copy to:
General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

SECTION 29. TERMINATION OF AGREEMENT

NCPA may terminate the Agreement as provided in the Contract Documents. The Contractor shall receive payment for all work performed to the date of termination in accordance with the provisions of the Contract Document.

SECTION 30. MONITORING BY DEPARTMENT OF INDUSTRIAL RELATIONS

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

IN WITNESS WHEREOF, the Northern California Power Agency has authorized the execution of this Agreement by its General Manager has caused this Agreement to be duly executed.

NORTHERN CALIFORNIA POWER AGENCY

ATTEST

By _____
RANDY S. HOWARD, General Manager

By _____
Assistant Secretary of the Commission

Date: _____

APPROVED AS TO FORM

By _____
JANE E. LUCKHARDT
NCPA General Counsel

CONTRACTOR:

(Name - Type or Print)

By _____
Signature (if a partnership, all partners must sign)

Official Title

Business Address

License No./Classification/Expiration Date

CORPORATE CERTIFICATE

I, _____, hereby certify that I am the Secretary of the Corporation named as Contractor in the foregoing Agreement; that _____ who signed the Agreement on behalf of the Contractor, was then _____ of such Corporation; that the Agreement was duly signed for and in behalf of such Corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal)

(Secretary)



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Hibbard Inshore, LLC General Services Agreement for a remotely operated vehicle inspection of the Collierville power tunnel; Applicable to the following projects: NCPA Hydroelectric Facility

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>FDS</i>	METHOD OF SELECTION:
	Assistant General Manager	<i>Competitive Pricing Process</i>
Division:	Generation Services	
Department:	Hydroelectric	

IMPACTED MEMBERS:

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

If other, please specify

RECOMMENDATION:

Approval of Resolution 18-99 authorizing the General Manager or his designee to enter into a General Services Agreement and to issue Purchase Orders to Hibbard Inshore, LLC., for remote operated vehicle inspection of the Collierville power tunnel, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$400,000 for use at the NCPA Hydroelectric Facility.

BACKGROUND:

Inspection of the Collierville Power Tunnel (CPT) is recommended once every ten years to maintain safe and reliable operation. The last inspection was conducted in 2008. Remote operated vehicles are required to inspect the tunnel in order to minimize the outage period of the Collierville Powerhouse and avoid the potential of tunnel damage induced by dewatering that would be required for a manned entry. Recent advancements in remote operated vehicle technology can facilitate a complete, and relatively fast, inspection of the tunnel. Inspection results will be utilized to detect any problems within the tunnel and to develop a baseline condition assessment.

FISCAL IMPACT:

Total cost of the project is anticipated to be \$296,381, but it is recommended that an approximately 35% contingency be included in the authorization in consideration of unknowns such as the actual condition of the tunnel and the potential for interference from items such as abandoned construction cables. This project was included in the current fiscal year budget, with \$250,000 directly allocated for this purpose. The FY19 budget also includes \$170,000 for dam and structure maintenance. Cost allocation will be based on project participation percentages.

SELECTION PROCESS:

Hibbard Inshore is recommended for Commission approval as a result of formal bidding done in accordance with NCPA's procurement policies and procedures. The Request for Proposal was released on September 10, 2018 to six (6) specialized and qualified firms. Four (4) firms attended the mandatory pre-bid job walk. Three (3) responses were received and evaluated based on the below key items:

- Quality of the inspection process and team
- Usefulness of the report and mapping
- Best value including overall cost and least impact to hydropower generation
- Flexibility in scheduling

Hibbard Inshore, LLC is recommended to provide these services because it provided the best value and overall lowest costs to the Agency. See Table 1 following.

Table 1: Proposal Summary Comparison

Inspection Option	ASI			Hibbard			C.H. Fenstermaker		
	Limited	Partial	Complete	Limited	Partial	Complete	Limited	Partial	Complete
Time to Complete	5d	7d	8d	2d	4d	3d	3d	5d	10d
Cancellation charges	Yes			No			Yes		
Rock Trap Sampling	No	\$7,800		\$16,278			\$5,500		
Base Bid	\$138,247	\$245,528	\$394,380	\$98,215	\$167,711	\$280,103	\$160,200	\$241,750	\$574,300
Recommended Award			\$402,180			\$296,381			\$579,800

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. These inspection activities are further covered by *Class 1: Existing Facilities* and *Class 9: Inspections* Categorical Exemptions as described in Section 15301 of the State CEQA guidelines. No environmental review is necessary.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on November 7, 2018, and was recommended for Commission approval on Consent Calendar.

Respectfully submitted,

RANDY S. HOWARD
 General Manager

Attachments (2):

- Resolution
- General Services Agreement with Hibbard Inshore, LLC.

RESOLUTION 18-99

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN AGREEMENT WITH
HIBBARD INSHORE, LLC FOR INSPECTION OF THE COLLIERVILLE POWER TUNNEL**

(reference Staff Report #225:18)

WHEREAS, the Northern California Power Agency (NCPA) operates and maintains on behalf of the project owners Hydroelectric Facilities; and

WHEREAS, the Hydroelectric Facilities Collierville Power Tunnel is typically inspected once every 10 years by a remotely operated vehicle (ROV) to maintain safe and reliable operation; and

WHEREAS, NCPA has conducted a competitive bidding process to locate a qualified and responsive bidder; and

WHEREAS, the bidding process is now complete and NCPA would like to award the contract to Hibbard Inshore LLC as the lowest bidder; 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. These maintenance and inspection activities are further covered by Class 1: Existing Facilities and Class 9: Inspections Categorical Exemptions as described in Section 15301 of the State CEQA guidelines. 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 General Services Agreement with Hibbard Inshore, LLC with any non-substantial changes as approved by the NCPA General Counsel, and to issue purchase orders which shall not exceed \$400,000 for a remote operated vehicle inspection of the Collierville Power Tunnel for use at the NCPA Hydroelectric facility.

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	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
HIBBARD INSHORE LLC
[Single Task]**

This 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 Hibbard Inshore LLC, a limited liability company, with its office located at 2285 N. Opdyke Road, Suite A, Auburn Hills, MI 48326 ("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 shall provide to Agency the services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work"), 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 Contractor completes the Work, or no later than December 31, 2020, 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 **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.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED FOUR HUNDRED THOUSAND DOLLARS (\$400,000)** 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 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; and
- 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 written authorization from the Contract Administrator.

2.5 Timing for Submittal of Final Invoice. Contractor shall have ninety (90) days after completion of its Work to submit its final invoice. 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 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.

4.2.4 Marine General Liability Insurance. Contractor shall maintain marine general liability insurance for the term of this Agreement, 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. Coverage should be on "an occurrence" basis covering comprehensive Marine Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

4.3 **Professional Liability Insurance.** Intentionally omitted.

4.4 **Additional Insurance.**

4.4.1 **Maritime Pollution Liability.** Contractor shall maintain Maritime Pollution liability insurance for the term of this Agreement. The policy shall provide a minimum limit of \$1,000,000 with a \$10,000 deductible per occurrence.

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 **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.

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.

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. Not applicable.

7.5 Registration with DIR. Not applicable.

7.6 Prevailing Wage Rates. Not applicable.

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 and Change Orders. The Parties may amend this Agreement only by a writing signed by all the Parties. The Parties may agree to a change order, modifying the duration of the Agreement or the not-to-exceed compensation referenced in Section 2 hereof, by a writing signed by the Contractor and the Contract Administrator.

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, Contractors, 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 Agency's operations and the operations of 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. Agency will not 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. Agency may assume that anything left on the Project site an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no 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 Agency owned equipment and property provided by Agency 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 Agency site programs.

- 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 to include diesel fuel used for trucks owned or leased by the Contractor.

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:

Jay Hibbard, President
Hibbard Inshore, LLC
2285 N. Opdyke Road, Suite A
Auburn Hills, MI 48326

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 Luckhardt
NCPA 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, and Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's Proposal, the Exhibits 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.

///

///

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

NORTHERN CALIFORNIA POWER AGENCY

HIBBARD INSHORE, LLC.

Date _____

Date _____

RANDY HOWARD, General Manager

JAY HIBBARD, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Hibbard Inshore, LLC. ("Contractor") shall provide the following services as requested by the Northern California Power Agency ("Agency") Hydroelectric Facility including:

- Conduct a remote operated vehicle inspection of Collierville Power Tunnel as stipulated in the Request for Proposals for Collierville Power Tunnel ROV Inspection and Contractor's Proposal, specifically under "Option 3 (High Flow)".

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:

See, Hibbard Inshore ROV Inspection Proposal #518202 (Option 3) For the Collierville Power Tunnel ROV Inspection, dated October 3, 2018.

Option 3 High Flow Mobilization				\$103,279.00
	Sabertooth	39370	18	
Option 3 High Flow	Sabertooth	39370	60	
	Sabertooth	39370	90	\$176,824.00
Optional Task Characterization of Rock Trap Materials	Mohican or Mojave Depending on Primary Option Selected		90, 60, or 18	\$16,278.00



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Approve Three Multi-task Agreements to provide EM&V and Technical Advisory Services

AGENDA CATEGORY: Consent

FROM:	Jane Cirrincione Assistant General Manager	METHOD OF SELECTION:	<i>Other</i>
Division:	Legislative & Regulatory Affairs	<i>If other, please describe:</i>	
Department:	Legislative & Regulatory	Request for Proposal	

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 18-104 authorizing the General Manager or his designee to enter into three separate multi-task agreements to provide EM&V and Technical Advisory Services to NCPA, NCPA Members, as well as members of the Southern California Public Power Authority, with any non-substantial changes recommended and approved by the NCPA General Counsel, with:

- ADM Associates, in an amount not-to-exceed \$800,000
- Cadmus Group LLC, in an amount not-to-exceed \$800,000, and
- Energy and Resources Solution, in an amount not-to-exceed \$800,000.

BACKGROUND:

NCPA members and other California publicly-owned utilities are required by Section 9505(d) of the California Public Utilities Code to “make available to its customers and to the Energy Commission the results of an independent evaluation that measures and verifies the energy efficiency savings and the reduction in energy demand achieved by its energy efficiency savings and the reduction in energy demand achieved by its energy efficiency and demand reduction programs.” NCPA members include URL links to their completed EM&V reports in their annual energy efficiency filing to the California Energy Commission. NCPA’s website serves as the central repository for all public power EM&V reports in the state.

In support of this requirement, on August 30, 2018, NCPA issued a Request for Proposal (LR1802) seeking proposals from qualified firms to provide the following categories of demand-side management services:

- Evaluation, Measurement & Verification (EM&V) — provided on an as-needed basis to evaluate the actual amount of energy saved by a particular energy efficiency project, and;
- Technical Advisory Services — provided on an as-needed basis related to utility DSM programs. Such services include but are not limited to: Measurement and Verification of Measures, program impact and process evaluation, site inspections to verify installed energy efficiency measures, rebate application review, energy saving estimate review, research and development of measures and energy savings, and free-ridership analysis.

The technical advisory services are intended to leverage the capabilities, knowledge, and experience of the vendors to assess and provide recommendations to improve the effectiveness of NCPA member DSM programs, which include energy efficiency, energy conservation, demand reduction, building electrification, and demand response programs.

Program services provided under these contracts may include services that are provided directly to NCPA or, as requested by NCPA, to NCPA members, the Southern California Public Power Authority, or SCPPA members.

FISCAL IMPACT:

No fiscal impact to NCPA. The total not-to-exceed cost of the three agreements is \$2,400,000 (or \$800,000 for each agreement), an amount that is not included in the current fiscal year budget. Funds will be made available by each NCPA and SCPA member that requests services from any of the three vendors, on a pass-through basis, in conjunction with the NCPA Shared Services Agreement.

SELECTION PROCESS:

Three vendors were selected as a result of Formal Bidding done in accordance with NCPA's procurement policies and procedures. A Request for Proposal was posted on the NCPA website from August 30, 2018 to September 20, 2018. A total of six responses were received and evaluated based on: 1) The quality and completeness of the proposal; 2) Knowledge, experience and skills to provide the requested services; 3) Experience of staff to be assigned to the project, based on prior engagements of similar scope and complexity; 4) Competitive rates for the requested services; 5) Demonstrated strong project management, and; 6) Customer references. The selection process was completed by NCPA along with the active oversight and guidance from the NCPA Customer Programs' Demand Management Working Group.

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 is scheduled to be reviewed by the Legislative and Regulatory Affairs Committee on November 28, 2018.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments:

- Resolution 18-104
- LR-VEN-2008-008: ADM Associates (Not-to-Exceed \$800,000)
- LR-VEN-2008-009: Cadmus Group LLC (Not-to-Exceed \$800,000)
- LR-VEN-2008-010: Energy and Resources Solution (Not-to-Exceed \$800,000)

RESOLUTION 18-104

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY TO ENTER INTO THREE SEPARATE MULTI-TASK AGREEMENTS TO PROVIDE EM&V AND TECHNICAL ADVISORY SERVICES

(reference Staff Report #230:18)

WHEREAS, pursuant to California Public Utilities Code Section 9505(d), NCPA members and other California publicly-owned utilities are required to “make available to its customers and to the Energy Commission the results of any independent evaluation that measures and verifies the energy efficiency savings and the reduction in energy demand achieved by its energy efficiency savings and the reduction in energy demand achieved by its energy efficiency and demand reduction programs”; and

WHEREAS, in support of this requirement, on August 30, 2018, NCPA issued a Request for Proposal (LR1802) seeking proposals from qualified firms to provide Evaluation, Measurement & Verification (EM&V) and technical advisory services on an as-needed basis related to utility DSM programs.

WHEREAS, a total of six responses were received and evaluated based on: 1) the quality and completeness of the proposal, 2) knowledge, experience and skills to provide the requested services, 3) experience of staff to be assigned to the project, based on prior engagements of similar scope and complexity, 4) competitive rates for the requested services, 5) demonstrated strong project management, and 6) customer references.

WHEREAS, three vendors were selected as a result of the Request for Proposal, in accordance with NCPA’s procurement policies and procedures.

WHEREAS, services provided under these Agreements may include services that are provided directly to NCPA, NCPA members, the Southern California Public Power Authority, or SCPA members.

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 adopts the recommendation to enter into three separate multi-task agreements to provide EM&V and Technical Advisory Services with:

- ADM Associates, in an amount not-to-exceed \$800,000
- Cadmus Group LLC, in an amount not-to-exceed \$800,000, and
- Energy and Resources Solution, in an amount not-to-exceed \$800,000.

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	_____	_____	_____

 ROGER FRITH
 CHAIR

ATTEST: _____
 CARY A. PADGETT
 ASSISTANT SECRETARY

**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ADM ASSOCIATES, 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 ADM Associates, a corporation, with its office located at 3239 Ramos Circle, Sacramento, California 95827 ("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 three (3) years 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** EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 All Policies Requirements.

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

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

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

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

4.4.5 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. Not applicable.

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 Jane Cirrincione, Assistant General Manager, or 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:

Taghi Alereza
CEO
ADM Associates, Inc.
3239 Ramos Circle
Sacramento, CA 95827

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

ADM ASSOCIATES, INC.

Date _____

Date _____

RANDY S. HOWARD
GENERAL MANAGER

TAGHI ALEREZA
CEO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Consultant will perform the following tasks under the Terms and Conditions of this Agreement:

- (1) ***Evaluation, Measurement & Verification (“EM&V”)***: EM&V of the cost-effectiveness and energy savings attributed to DSM programs, based on a wide array of DSM programs and measures based on accepted engineering standards and protocols. These protocols include the 2006 California Energy Efficiency Evaluation Protocols developed by the California Public Utilities Commission and the 2016 International Performance Measurement and Verification Protocol Core Concepts.

- (2) ***Technical Advisory Services***: Technical advisory services, provided on an as needed basis, related to DSM programs. Technical advisory services include, but are not limited to:
 - a. Measurement and verification (“M&V”) of measures
 - b. Program impact and process evaluation
 - c. Site inspections to verify installed energy efficiency measures
 - d. Rebate application review
 - e. Energy saving estimate review
 - f. Research and development of measures and energy savings
 - g. Free-ridership analysis

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, Compensation, of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

<i>Title</i>	<i>Hourly Rate</i>
Principal	\$ 235.00
Director	\$ 185.00
Senior Engineer	\$ 145.00
Senior Analyst	\$ 145.00
Project Manager	\$ 120.00
Engineer II	\$ 120.00
Analyst II	\$ 120.00
Analyst	\$ 100.00
Engineer	\$ 100.00
Call Center Supervisor	\$ 80.00
Technician	\$ 80.00
Assistant	\$ 60.00

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.

**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
CADMUS GROUP 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 Cadmus Group LLC, a corporation, with its office located at 720 SW Washington, Suite 400, Portland, Oregon 97205 ("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 three (3) years 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 EIGHT HUNDRED THOUSAND DOLLARS (\$800,000)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 All Policies Requirements.

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

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

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

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

4.4.5 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.** Not applicable.

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.** Except for Consultant's pre-existing information and materials, 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 Jane Cirrincione, Assistant General Manager, or 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:

Allen Lee, Ph.D.
Executive Director
Cadmus, Energy Sector
720 SW Washington, Suite 400
Portland, OR 97205

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

CADMUS GROUP LLC

Date _____

Date _____

RANDY S. HOWARD
GENERAL MANAGER

ALLEN LEE
EXECUTIVE DIRECTOR

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Consultant will perform the following tasks under the Terms and Conditions of this Agreement:

- (1) **Evaluation, Measurement & Verification (“EM&V”)**: EM&V of the cost-effectiveness and energy savings attributed to DSM programs, based on a wide array of DSM programs and measures based on accepted engineering standards and protocols. These protocols include the 2006 California Energy Efficiency Evaluation Protocols developed by the California Public Utilities Commission and the 2016 International Performance Measurement and Verification Protocol Core Concepts.

- (2) **Technical Advisory Services**: Technical advisory services, provided on an as needed basis, related to DSM programs. Technical advisory services include, but are not limited to:
 - a. Measurement and verification (“M&V”) of measures
 - b. Program impact and process evaluation
 - c. Site inspections to verify installed energy efficiency measures
 - d. Rebate application review
 - e. Energy saving estimate review
 - f. Research and development of measures and energy savings
 - g. Free-ridership analysis

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, Compensation, of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Bill Title	FY19 Bill Rate
Senior Vice President	\$340
Vice President	\$310
Executive Director	\$310
Principal	\$290
Senior Associate II	\$245
Senior Associate I	\$210
Associate II	\$190
Associate I	\$180
Senior Analyst II	\$165
Senior Analyst I	\$155
Analyst II	\$135
Analyst	\$115
Research Analyst	\$115
Technical Editor	\$125
Intern	\$75
Engineering Technician IV	\$135
Engineering Technician III	\$115
Engineering Technician II	\$85
Engineering Technician I	\$65
Administrative	\$75

Upon the giving of 30 days' written notice to Agency, Consultant's rates may be subject to an annual escalation factor of not more than 3%.

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 Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ENERGY & RESOURCE SOLUTIONS**

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 Energy & Resource Solutions, a corporation, with its office located at 120 Water Street, Suite 350, North Andover, Massachusetts 01845 ("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 three (3) years 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 EIGHT HUNDRED THOUSAND DOLLARS (\$800,000)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 All Policies Requirements.

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

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

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

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

4.4.5 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. Not applicable.

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 Jane Cirrincione, Assistant General Manager, or 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:

Gary Epstein
President
Energy & Resource Solutions
120 Water Street, Suite 350
North Andover, MA 01845

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

ENERGY & RESOURCE SOLUTIONS

Date _____

Date _____

RANDY S. HOWARD
GENERAL MANAGER

GARY EPSTEIN
PRESIDENT

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Consultant will perform the following tasks under the Terms and Conditions of this Agreement:

- (1) ***Evaluation, Measurement & Verification (“EM&V”)***: EM&V of the cost-effectiveness and energy savings attributed to DSM programs, based on a wide array of DSM programs and measures based on accepted engineering standards and protocols. These protocols include the 2006 California Energy Efficiency Evaluation Protocols developed by the California Public Utilities Commission and the 2016 International Performance Measurement and Verification Protocol Core Concepts.

- (2) ***Technical Advisory Services***: Technical advisory services, provided on an as needed basis, related to DSM programs. Technical advisory services include, but are not limited to:
 - a. Measurement and verification (“M&V”) of measures
 - b. Program impact and process evaluation
 - c. Site inspections to verify installed energy efficiency measures
 - d. Rebate application review
 - e. Energy saving estimate review
 - f. Research and development of measures and energy savings
 - g. Free-ridership analysis

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, Compensation, of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Job Classification Category	Hourly Rate (2018)	Hourly Rate (2019)	Hourly Rate (2020)
Officer/Principal Consultant	\$255	\$260	\$265
Senior Director	\$240	\$245	\$250
Director	\$220	\$225	\$230
Associate Director	\$205	\$210	\$215
Senior Engineer/Consultant	\$180	\$185	\$190
Project Engineer II, Project Consultant II	\$165	\$170	\$175
Project Engineer I, Project Consultant I	\$150	\$155	\$160
Energy Analyst/Coordinator	\$135	\$140	\$145
Administrative	\$105	\$110	\$115
Administrative Support	\$90	\$95	\$100

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 Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.



Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Review and Approve Investment Policy Guidelines and Delegate Investment Duties to the Treasurer-Controller

AGENDA CATEGORY: Consent

FROM:	Monty Hanks <i>MH</i> Assistant General Manager/CFO	METHOD OF SELECTION:	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

If other, please specify

RECOMMENDATION:

It is recommended the NCPA Commission approve Resolution 18-110. The resolution includes an annual review of NCPA's Investment Policy No. 200-100 and a recommendation of no changes to the current policy. In addition, the resolution also confirms delegation to the Treasurer-Controller the authority to invest, or to reinvest funds of the Agency, or to sell or exchange securities so purchased. The Treasurer-Controller assumes full responsibility for investment transactions until the authority is revoked or expires, and shall make a report each month of those transactions to the Commission.

BACKGROUND:

The Agency sets forth its objectives, risk preference, authorized investments and other investment related priorities in its Investment Policy. The Investment Policy serves as a guide for setting and achieving investment goals, defines rules, and reduces exposure to liability and loss. While it has long been deemed good investment practice to have a written policy, it is considered a standard of best practice for government agencies to have a written policy and review it annually. Staff has reviewed the Investment Policy against the Government Code and recommends no changes or updates are necessary.

The Treasurer-Controller under authority granted by Commission Resolution No. 83-103, dated December 22, 1983, may invest monies of this Agency as provided in Section 53600 et. seq. of the Government Code. Government Code section 53607 provides that:

“The authority of the legislative body to invest or reinvest funds of a local agency, or to sell or exchange securities so purchased may be delegated for a period of one year by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the authority is revoked or expires, and shall make a report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.”

Hence, a formal delegation of investment duties to the Treasurer-Controller is required annually.

FISCAL IMPACT:

There is no direct dollar impact to this proposed policy. The resolution approves the Agency policy surrounding investments and delegates authority to the Treasurer-Controller for the investment activities of 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.

COMMITTEE REVIEW:

The recommendation was reviewed by the Finance Committee on November 13, 2018 and was recommended for Commission approval by unanimous vote.

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:

- Resolution 18-110
- Administrative Policy No. 200-100, Investment Policy and Guidelines

RESOLUTION 18-110

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY REVIEW AND APPROVE INVESTMENT POLICY GUIDELINES AND DELEGATE INVESTMENT DUTIES TO THE TREASURER-CONTROLLER

(reference Staff Report #238:18)

WHEREAS, Chapter 4 of the California Government Code, section 53600 et, seq., deals with the financial affairs of local government agencies, including cities and sets forth the objectives, risk preference, authorized investments and other investment related priorities in its Investment Policy; and

WHEREAS, the Northern California Power Agency Joint Powers Agreement specifies the laws regulating general law cities as being the law that applies to the Agency; and

WHEREAS, it is considered good investment practice to have a written policy, it is considered a standard of best practice to have the policy reviewed annually; and

WHEREAS, staff has performed a review of the Investment Policy against the State Code and has determined no changes or updates are needed to the current policy; and

WHEREAS, Government Code section 53607 provides that “the authority of the legislative body to invest or reinvest funds of a local agency, or to sell or exchange securities so purchased may be delegated for a period of one year by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the authority is revoked or expires, and shall make a report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year”; and

WHEREAS, the Commission desires to confirm the authority of the Treasurer-Controller to invest or reinvest funds of the Agency, or to sell or exchange securities so purchased in compliance with Government Code section 53600 et. seq.; 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 adopts a resolution approving the annual review of the Investment Policy and confirms that the duly appointed Treasurer-Controller of the Northern California Power Agency is delegated the authority to invest, or to reinvest funds of the Agency, or to sell or exchange securities so purchased. The Treasurer-Controller assumes full responsibility for investment transactions until such authority is revoked or expires, and shall make a report each month of those transactions to the Commission.

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	_____	_____	_____

 ROGER FRITH
 CHAIR

ATTEST: _____
 CARY A. PADGETT
 ASSISTANT SECRETARY



	POLICIES & PROCEDURES MANUAL	No. 200-100	Effective: 9-1993 Updated 0811- 20187
		Owner: Acctg. & Finance	
SUBJECT:	Investment Policy and Guidelines	APPROVED: RANDY S. HOWARD, GENERAL MANAGER	

TABLE OF CONTENTS

Policy	1
Purpose and Scope.....	1
Reference.....	1
Responsibility	1
Prudence, Indemnification and Ethics	2
General Objectives.....	2
Portfolio Risk Management	3
Authorized Investment Securities.....	4
Authorized Financial Institutions and Dealers	6
Delegation	6
Internal Control.....	6
Safekeeping and Collateralization	7
Reporting Requirements	7
Investment Operations Guidelines	7
Attachments:	
1. Glossary of Investment Terms	
2. Investment Fund Objectives	
3. Table of Authorized Investments	
4. Table of Bond Indenture Permitted Investments	
5. Credit Rating Comparison	

	Investment Policy and Guidelines	No. 200-100	Page 1 of 7
		Owner: Acctg. & Finance	Effective: 9-1993 Updated 811- 20172018

POLICY

It is the policy of the Agency to secure, protect and manage the funds of Agency and invest surplus funds in a manner which will:

- comply with applicable California state laws and bond indenture provisions;
- ensure safety of the principal;
- provide an appropriate level of liquidity so that money is available when reasonably expected to be required for payment of obligations; and,
- attain a market yield with no undue risks taken to maximize income at the expense of safety, liquidity, or investment quality.

PURPOSE AND SCOPE

The purpose of this policy is to establish general guidelines for the management of cash and investments of the Agency. The policy pertains to all financial assets of the Agency and any other funds under the control of the Treasurer-Controller and concerns the deposit, investment, maintenance, and safekeeping of all such assets.

Proceeds of debt issuance and other indentured funds shall be invested in accordance with the Agency’s general investment philosophy as set forth in this policy; however, such monies are to be invested in accordance with permitted investment provisions of their specific bond indentures. See attachment 4.

This Policy does not apply to any pension moneys or deferred compensation funds.

REFERENCE

- California Government Code Section 53600 et seq.
- Joint Powers Agreement, Article II, Section 4.5 (as amended)
- NCPA Resolution No. 12-72, Authorized Officers for Transactions with the State of California Local Agency Investment Fund (LAIF)
- NCPA Resolution No. 83-103, Establishing the position of Treasurer-Controller

RESPONSIBILITY

The Treasurer-Controller is responsible for establishing proper safeguards, controls, and procedures to maintain Agency funds in a lawful, rational, and prudent manner. The Treasurer-Controller is responsible for the development of the overall investment policy as well as for the development and ongoing administration of the various portfolio strategies, tactics, performance monitoring and monthly reporting to the Commission.

The Assistant General Manager/Chief Financial Officer (CFO) is responsible for overseeing the development and implementation of investment policy review and approval of the portfolio investment strategies, and policy compliance.



PRUDENCE, PERSONAL RESPONSIBILITY, AND ETHICS

Prudence: Management of Agency’s investments is governed by the Prudent Investor Standard as set forth in California Government Code Section 53600.3:

“...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”


Personal Responsibility: The Treasurer-Controller and other authorized persons responsible for managing Agency funds, acting in accordance with the Investment Policy and exercising due diligence, will be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided appropriate action is taken to control adverse developments.

Ethics: The Treasurer-Controller and other authorized persons involved in the investment process (1) will refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions and (2) shall not accept honoraria, gifts or gratuities from any advisor, broker, dealer, banker, or other person with whom the Agency conducts business, which has an aggregate value in excess of \$50.00 in any 12-month period.

GENERAL OBJECTIVES

The overriding objectives of the investment program are to preserve principal, provide sufficient liquidity, and achieve a reasonable rate of return. The specific objectives for the program are ranked in order of importance:

1. **Safety:** Safety of principal is the foremost objective of the investment program. Investments will be undertaken in a manner that seeks to ensure the preservation of capital.
2. **Liquidity:** The investment portfolio will remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
3. **Return on Investments:** The investment portfolio will be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles taking into account the investment risk constraints for safety and liquidity needs.

	Investment Policy and Guidelines	No. 200-100	Page 3 of 7
		Owner: Acctg. & Finance	Effective: 9-1993 Updated 811- 20172018

PORTFOLIO RISK MANAGEMENT

Factors that can lead to an unexpected financial loss can be broadly grouped into the following categories; credit risk, market risk, and liquidity risk.

Mitigating credit risk in the portfolio: Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt. Agency will mitigate credit risk by adopting the following strategies:


1. Diversify the investment portfolio to mitigate losses due to failure of individual issues or issuers;
2. Limit the amount of the total portfolio that may be invested in securities of a particular type and any single issuer. Authorized investment limitations under this policy are shown in Attachment 3; and,
3. If securities owned by the Agency are downgraded by at least one Nationally Recognized Statistical Rating Organization (NRSRO) to a level below the quality required by this Investment Policy, it will be the Agency's policy to review and document the credit situation and make a determination as to whether to sell or retain such securities in the portfolio.
 - a. The Treasurer-Controller will use discretion in determining whether to sell or hold the security based on its maturity, the economic outlook for the issuer, and other relevant factors.
 - b. If a decision is made to retain a downgraded security in the portfolio, its presence in the portfolio will be monitored and reported monthly to the governing board.

Mitigating market risk in the portfolio: Market risk, also referred to as interest rate risk, is the risk that the portfolio value will fluctuate due to changes in interest rates. The Agency recognizes that, over time, longer-term portfolios have the potential to achieve higher returns. On the other hand, longer-term portfolios have higher volatility when marked-to-market. The Agency will mitigate interest rate risk by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes. The Agency, therefore, shall adopt the following strategies to control and mitigate its exposure to market risk:

1. The Agency will maintain working capital reserves for budgeted operating expenditures in short-term investments to provide sufficient liquidity for expected disbursements;
2. The maximum time from investment to maturity of individual securities in the portfolio will be five years, except as otherwise stated in this policy.

Mitigating liquidity risk in the portfolio: Liquidity risk is the inability to convert a security to cash on a given date prior to maturity. It refers to the inability to sell a security for its cost and therefore it may have to be sold at a loss. The Agency shall employ the following strategies to control and mitigate its exposure to liquidity risk:

1. To the extent possible, match investment maturities with anticipated cash demands.
2. Since all possible cash demands cannot be anticipated, maintain portfolios largely of securities with active secondary or resale markets.
3. The Agency will maintain working capital reserves for budgeted operating expenditures in short-term investments to provide sufficient liquidity for expected disbursements.

	Investment Policy and Guidelines	No. 200-100	Page 4 of 7
		Owner: Acctg. & Finance	Effective: 9-1993 Updated 811- 20172018

AUTHORIZED INVESTMENT SECURITIES

All investments will be made in accordance with Sections 53600 *et seq.* of the Government Code of the State of California and as described within this Investment Policy. Authorized investments under this policy are shown in Attachment 3.

AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS

The Treasurer-Controller shall establish a list of approved brokers, dealers, banks and direct issuers of commercial paper to provide investment services to the Agency. The Agency shall conduct security transactions only with approved institutions and firms.

To be eligible for approval all broker/dealer firms must qualify under SEC Rule 15C3-1 (Uniform Net Capital Rule), must be registered with the Financial Industry Regulatory Authority (FINRA) and must be licensed to do business in the State of California and institutions shall have one or more of the following attributes:

- be recognized as a primary government dealer as designated by the Federal Reserve Bank;
- be a regional broker/dealer headquartered in the State of California; or
- be a national or state chartered bank which is a member of the FDIC; or
- be a direct issuer of securities eligible for purchase by the Agency.


Deposits will be made only in qualified public depositories within the state of California as established by State law. Deposits will be insured by the Federal Deposit Insurance Corporation, or, to the extent the amount exceeds the insured maximum, will be collateralized in accordance with State law.

A pool of qualified financial institutions and dealers will be maintained by the Treasurer-Controller using criteria based upon capitalization, credit worthiness, experience, reference checks and services offered. Selection of financial institutions and broker/dealers authorized to engage in transactions with the Agency will be at the sole discretion of the Agency.

INTERNAL CONTROL AND ACCOUNTING

Authority to manage Agency's investment program is derived from the California Government Code Sections 53600 *et seq.* Management responsibility for the investment program is delegated to the Treasurer-Controller by Agency Commission Resolution No. 83-103. Pursuant to Government Code section 53607 such delegation may be granted for a period of one-year and must be renewed annually. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer-Controller or his/her designee.

The Treasurer-Controller shall establish and maintain a system of internal controls, designed to: ensure adherence to this investment policy, the prevention and detection of errors and fraud, the accuracy and completeness of accounting records and the timely preparation of reliable financial information.

	Investment Policy and Guidelines	No. 200-100	Page 5 of 7
		Owner: Acctg. & Finance	Effective: 9-1993 Updated 811- 20172018

The Agency maintains its records on the basis of Plant/Program account groups, each of which may include one or more investment funds. All investment transactions shall be recorded in the various funds of the Agency in accordance with Generally Accepted Accounting Principles as promulgated by the Government Accounting Standards Board.

SAFEKEEPING AND COLLATERALIZATION

All security transactions, including collateral for repurchase agreements, entered into by the Agency shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held in the name of the Agency by a third party custodian designated by the Treasurer-Controller and evidenced by trade confirmations and safekeeping holdings report.

Collateralization will be required on two types of investments: certificates of deposit and repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, a minimum collateralization level measured at specified times is required.

REPORTING REQUIREMENTS

Monthly Reports: A monthly report will be provided to the Commission by the Treasurer-Controller. The report shall state compliance of the investment portfolio to the investment policy and a statement that the Agency has adequate cash flow and investment maturities to meet next month’s cash requirements and such other information as may be required by State law.

The report will disclose, at a minimum, the following information:


1. An asset listing showing par value, cost adjusted for amortization of premiums and accretion of discounts and market value of each security, type of investment, issuer, and interest rate;
2. The Treasurer-Controller’s report shall also provide:
 - a. an analysis of investment maturities;
 - b. a summary of cash and investment activity; and,
 - c. an analysis of interest rates/yields with a comparison to benchmark interest rates.

Annually: The Treasurer-Controller shall annually submit to the Commission a statement of Investment Policy and any recommended changes to the policy.

INVESTMENT OPERATIONS GUIDELINES

The following general operating guidelines shall be used in performing all investment functions:

- All investments will be made in the name of the Northern California Power Agency.
- All investments will be made in compliance with the NCPA Investment Fund Objectives (Attachment 2) and the NCPA Table of Authorized Investments (Attachment 3) unless otherwise required by bond indenture.
- Investments or collateral for all outside trustee accounts must be delivered to the trustee.
- Investments or collateral for all accounts held by NCPA will be delivered to and held in the safekeeping of an authorized financial institution.
- All investment transactions will be recorded in the accounts of the Agency in accordance with Generally Accepted Accounting Principles as promulgated by the Government Accounting Standards Board.

	Investment Policy and Guidelines	No. 200-100	Page 6 of 7
		Owner: Acctg. & Finance	Effective: 9-1993 Updated 811- 20172018

- All accrued interest on purchased securities will be charged to the appropriate interest income account.
- Funds deposited in banks or savings and loan associations must be held under a written contract between the Agency and the institution, which requires collateralization as prescribed by law and/or this investment policy.
- Whenever practical Agency cash is to be consolidated and invested on a pooled concept basis. Interest earnings are allocated monthly according to monthly weighted average balance for each fund.
- Unless otherwise restricted, all holdings will be of sufficient size and held in issues which are actively traded to facilitate transactions at a minimum cost and accurate market valuation.
- Passive management portfolio strategies are preferred for all operating projects or other Agency programs, unless otherwise prohibited or restricted.
- When practicable, competitive bidding will be utilized for all investment and reinvestment activities not involving escrowed or other funds covered by a separate contract or agreement.

Prohibited investment vehicles and practices:

1. Notwithstanding that any such investment is permitted under State Law, any investment not specifically described herein is prohibited, including, but not limited to derivatives, futures and options.
2. In accordance with California Government Code Section 53601.6, investment in inverse floaters, range notes, or mortgage derived interest-only strips is prohibited.
3. Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.
4. Trading securities for the sole purpose of speculating, whether on the future direction of interest rates or otherwise, is prohibited.
5. Purchasing or selling securities on margin is prohibited.
6. The use of reverse repurchase agreements, securities lending or any other form of borrowing or leverage is prohibited.
7. The purchase of foreign currency denominated securities is prohibited.

ATTACHMENTS

- Attachment 1 - Glossary
- Attachment 2 - Investment Fund Objectives
- Attachment 3 - Table of Authorized Investments
- Attachment 4 - Table of Bond Indenture Permitted Investments
- Attachment 5 – Credit Rating Comparison

VERSION HISTORY

No.	Explanation	Date	Author
7	Annual review, no changes	11/18	MH/SA
6	Minor language clean-up; updates to the Permitted Investments; and changes to the Investment Fund Objectives	8/17	MH
5	Revised a resolution reference Updated maximum investment permitted by LAIF Added Authorized Financial Institution	11/16	SA
4	Annual review, no changes	11/15	SA
3	Annual review, no changes	11/14	KWW
2	Combined prior policies 200-97 and 200-98; updated to include more information on allowable investments, delegations, authorized financial institutions, and operations practices, Includes expanded attachments and glossary.	11/13	KWW
1	Updated	9/95	DBL
0	Original Policy	9/93	DBL

GLOSSARY OF INVESTMENT TERMS

Agencies - Shorthand market terminology for any obligation issued by a *government sponsored enterprise (GSE)*, or a *federally related institution*. Most obligations of GSEs **are not guaranteed** by the full faith and credit of the US government. Examples are:

- FFCB. The Federal Farm Credit Bank System provides credit and liquidity in the agricultural industry. FFCB issues discount notes and bonds.
- FHLB. The Federal Home Loan Bank provides credit and liquidity in the housing market. FHLB issues discount notes and bonds.
- FHLMC. Like FHLB, the Federal Home Loan Mortgage Corporation provides credit and liquidity in the housing market. FHLMC, also called “Freddie Mac” issues discount notes, bonds and mortgage pass-through securities.
- FNMA. Like FHLB and Freddie Mac, the Federal National Mortgage Association was established to provide credit and liquidity in the housing market. FNMA, also known as “Fannie Mae,” issues discount notes, bonds and mortgage pass-through securities.

Certain GSE obligations **are guaranteed** by the full faith and credit of the US government. An example is:

- GNMA. The Government National Mortgage Association, known as “Ginnie Mae,” issues mortgage pass-through securities.

Callable - A callable security gives the issuer the option to call it from the investor prior to its maturity. The main cause of a call is a decline in interest rates. If interest rates decline since an issuer issues securities, it will likely call its current securities and reissue them at a lower rate of interest. Callable securities have reinvestment risk as the investor may receive its principal back when interest rates are lower than when the investment was initially made.

Certificate of Deposit (CD) - A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs may be marketable.

Collateral - Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public monies.

Commercial paper - Short-term unsecured debt of corporations.

Coupon - The rate of return at which interest is paid on a bond.

Current yield - The annual income from an investment divided by the current market value. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

Dealer - A dealer acts as a principal in security transactions, selling securities from and buying securities for his own position

Delivery vs. payment (DVP) - A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

Demand Deposit – Sometimes referred to as a sight or on call deposit, can be withdrawn at any time (on demand) without notice or penalty; e.g., deposits into checking or savings accounts.

Derivative - Any security that has principal and/or interest payments which are subject to uncertainty (but not for reasons of default or credit risk) as to timing and/or amount, or any security which represents a component of another security which has been separated from other components (“Stripped” coupons and principal). A derivative is also defined as a financial

instrument the value of which is totally or partially derived from the value of another instrument, interest rate or index.

Discount - The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as T-bills and banker's acceptances, are known as **discount securities**. They sell at a discount from par, and return the par value to the investor at maturity without additional interest. Other securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

Diversification - Dividing investment funds among a variety of investments to avoid excessive exposure to any one source of risk.

Duration - The weighted average time to maturity of a bond where the weights are the present values of the future cash flows. Duration measures the price sensitivity of a bond to changes in interest rates. (See modified duration).

Federal funds rate - The rate of interest charged by banks for short-term loans to other banks. The Federal Reserve Bank through open-market operations establishes it.

Financial Industry Regulatory Authority (FINRA) - A self-regulatory organization for brokerage firms doing business in the United States. FINRA operates under the supervision of the SEC. The organization's objectives are to protect investors and ensure market integrity.

Liquidity - refers to the requirement that some portion of cash assets be invested in securities readily convertible into cash without loss of capital.

Make whole call - A type of call provision on a bond allowing the issuer to pay off remaining debt early. The issuer has to make a lump sum payment derived from a formula based on the net present value (NPV) of future coupon payments that will not be paid because of the call. Investors will be compensated, or "made whole."

Market value - The price at which a security can be traded.

Mark to market - The process of posting current market values for securities in a portfolio.

Maturity - The final date upon which the principal of a security becomes due and payable.

Money market - The market in which short term debt instruments (Tbills, discount notes, commercial paper and banker's acceptances) are issued and traded.

Nationally Recognized Statistical Rating Organization (NSRSO) - Is a credit rating agency (CRA) that issues credit ratings that the U.S. Securities and Exchange Commission (SEC) permits other financial firms to use for certain regulatory purposes. The largest NSROs are Moody's, Standard and Poor's and Fitch.

Portfolio Re-Optimization - Refers to the process wherein investment broker(s) re-evaluate a given dedicated investment portfolio using sophisticated computer programs based on the updated program or project estimated cash flows. This is usually done to increase or protect the portfolio's overall rate of return as a result of changing liability amounts or dates, changing market or credit risk condition, or a change in investment policy restrictions, etc.

Portfolio Strategy – Determining investment practices to best achieve the investors' primary goals. Strategies may be either passive or active. Passive strategies include: buy and hold, which includes the laddering of maturities; and bullet structure, which is designed to invest to a particular date or portfolio horizon; and benchmarking, which is done to mirror a particular segment of the market. Active strategies employ additional risk to take advantage of conditions in the fixed income markets that change as economic and financial conditions change.

Premium - The difference between the par value of a bond and the cost of the bond, when the cost is above par.

Primary Dealer - a firm that buys government securities directly from a government, with the intention of reselling them to others, thus acting as a market maker of government securities. The government may regulate the behavior and numbers of its primary dealers and impose conditions of entry.

Repurchase agreement (RP, Repo) - Short term purchases of securities with a simultaneous agreement to sell the securities back at a higher price. From the seller's point of view, the same transaction is a **reverse repurchase agreement**.

Risk - refers to the degree of probability of incurring a monetary loss as a result of investing in a particular security. Three general kinds of investment risks are:

- *Credit Risk* - risk that an issuer of a security cannot meet its obligations.
- *Market Risk* - risk from fluctuations in the market prices for individual securities over a period of time.
- *Liquidity Risk* - risk of an inability to sell a security at its fair market value.

Safety - refers to the varying degrees and types of risks associated with different types of investment securities and individual issues. Safety is a matter of degree, not an absolute.

Safekeeping - A service to bank customers whereby securities are held by the bank (as custodian) in the customer's name.

Total rate of return - A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending value; it includes interest earnings, realized and unrealized gains, and losses in the portfolio.

U.S. Treasury obligations - Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk, and are the benchmark for interest rates on all other securities in the US and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

Treasury bills - All securities issued with initial maturities of one year or less are issued as discounted instruments, and are called Treasury bills. The Treasury currently issues three- and six-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth out cash flows.

Treasury notes - All securities issued with initial maturities of two to ten years are called Treasury notes, and pay interest semi-annually.

Treasury bonds - All securities issued with initial maturities greater than ten years are called Treasury bonds. Like Treasury notes, they pay interest semi-annually.

Uniform Net Capital Rule - An SEC rule that requires broker-dealers to maintain sufficient liquidity to protect securities customers, counterparties, and creditors. Broker-dealers must maintain net capital (net worth adjusted by certain deductions for illiquid assets and reserves against possible market losses on securities positions) such that the liabilities incurred by the broker-dealer (aggregate indebtedness) do not exceed certain specified levels.

Volatility - The rate at which security prices change with changes in general economic conditions or the general level of interest rates.

Yield to Maturity - The annualized internal rate of return on an investment which equates the expected cash flows from the investment to its cost.

INVESTMENT FUND OBJECTIVES

Fund Type	Primary Investment Objective	Maximum Term of Investment ¹
Bond Financed Project Funds: ²		
Construction Fund (Geo)	C	1 year
Construction Revolving Acct (LEC)	A	90 days
Debt Service Fund	C	1 year
Debt Service Reserve	B, D	15 years
Reserve Fund	B, C, D	5 years
Rebate Fund	C	5 years
O&M Reserve (LEC)	A, B, D	5 years
Revenue Fund	A, B, C	1 year
Additional Operating Funds:		
Operating Account	A, C	5 years
General Operating Reserve	A, B, C	5 years
SCPA Balancing Account	A, B	5 years
Capital Development Account (Hydro)	A, C	5 years
Decommissioning Account (Geo)	C, D	10 years

Notes:

- A. Provide liquidity
- B. Provide reserves against uncertain liabilities
- C. Match prescribed cash flow
- D. Maximize long-term return on investment

- ¹ Investments shall mature not later than such times as shall be necessary to provide monies when reasonably expected to be needed for payments to be made from such fund.
- ² Proceeds of debt issuance and other funds held under a bond indenture shall be invested in accordance with the Agency's general investment philosophy as set forth in this policy; however, such moneys are to be invested in accordance with permitted investment provisions of their specific bond indentures.

TABLE OF PERMITTED INVESTMENTS

Type of Investment	Maximum % of Portfolio	Rating Requirement	Maximum Maturity	Other Restrictions
US Treasury Securities	100%	n/a		
Federal Agencies	100%	n/a		
Local Agency Investment Fund (LAIF)	Up to maximum permitted by LAIF, currently \$65,000,000	n/a	n/a	n/a
Medium-term Corporate Notes	30%	By a NRSRO; A or its equivalent or better	5 years	
California Asset Management Program (CAMP)	100%	n/a	n/a	n/a
Time Deposits (Non-negotiable CDs)	20%	By a NRSRO; Long-term of A or short-term of A-1 or better	5 years	No more than 5% per issuer
Negotiable CDs	30%	By a NRSRO; Long-term of A or short-term of A-1 or better	5 years	No more than 5% per issuer
Bankers Acceptances	40%	By a NRSRO; Long-term of A or short-term of A-1 or better	180 days	No more than 5% per issuer
Commercial Paper	40%	By a NRSRO; Long-term of A or short-term of A-1 or better	270 days	Assets >\$500MM No more than 5% per issuer
Money Market Funds	20%	By a NRSRO; Highest ranking or highest letter/numerical rating		Must be registered with SEC; Assets > \$500MM; No more than 5% per fund
Repurchase Agreements	100%		1 year	Collateral of at least 102% of market value required
Municipal Bonds	10%	By a NRSRO; Highest ranking or highest letter/numerical rating		Fully secured as to principal and interest by an escrow consisting of cash or direct obligations of the US government

TABLE OF BOND INDENTURE PERMITTED INVESTMENTS

Project	Geo/Hydro ²			Cap Facilities/LEC ³		
	Debt Service Acct.	Debt Service Reserve Acct.	All Other	Debt Service Acct.	Debt Service Reserve Acct.	All Other
Securities ¹						
Direct obligations of the United States of America.	x	x	x	x	x	x
Bonds issued or guaranteed by federal Agencies, which are backed by the full faith and credit of the United States of America.	x	x	x	x	x	x
Bonds issued or guaranteed by federal Agencies, which are not backed by the full faith and credit of the United States of America.	x	x	x	x	x	x
New Housing Authority bonds or notes of public agencies or municipalities secured by a pledge of annual contributions to be paid by the United States or agency thereof.	x	x	x			x
Direct and general obligations of the State of California or political subdivision rated A or higher.	x		x			
General obligation of any state rated A2 or higher.						x
Time deposits, FDIC insured or collateralized.			x			x
Repurchase agreements, insured or collateralized.			x			x
Money Market Funds rated AAAM G or AAAM or better.						x
Commercial Paper rated P-1 or A1+.						x
UD dollar denominated deposit accounts, federal funds or bankers' acceptances with ratings of A-1, A-1+ or P-1.						x
Prefunded municipal obligations rated highest rating category by S&P or Moody's, based on an irrevocable escrow.						x
Investment Agreements & GICS, supported by opinion of counsel.				x	x	x
California LAIF.						x
Shares in a California common law trust which invests exclusively in investment permitted under CA Code section 56635.						x
Any other form of investment.						x

¹ Investment types are detailed in each project bond Indenture of Trust. Generally, investment securities include those listed above, if and to the extent the same are legal for investment of Agency funds. The securities, as listed above, are summarized and may have additional limitations as to specific issuers, ratings, term of investment, or other requirements.

² The Geothermal Project bond indenture dated November 1, 1983 and the Hydroelectric Project bond indenture dated March 1, 1985 have the same definition for investment securities.

³ The Capital Facilities Project bond indenture dated January 1, 2010 and the Lodi Energy Center Issues One and Two, dated June 1, 2010 have the same definition for investment securities.

CREDIT RATINGS COMPARISON

Description	Moody's		Standard & Poors		Fitch		
	Long-term	Short-term	Long-term	Short-term	Long-term	Short-term	
Prime:							
Extremely Strong	Aaa	P-1	AAA	A-1+	AAA	F1+	
High Grade:							
Very Strong	Aa1		AA+		AA+		
	Aa2		AA		AA		
	Aa3		AA-	AA-			
Upper Medium Grade:							
Strong	A1	P-2	A+	A-1	A+	F1	
	A2		A		A		
	A3		A-		A-		
Lower Medium Grade:							
Adequate	Baa1	P-2	BBB+	A-2	BBB+	F2	
	Baa2						
	Baa3	P-3	BBB	A-3	BBB	F3	
			BBB-		BBB-		
Non-investment Grade speculative:							
Vulnerable	Ba1	Not Prime	BB+	B	BB+	B	
	Ba2		BB		BB		
	Ba2		BB-		BB-		

Credit ratings are opinions about credit risk published by a rating agency. They express opinions about the ability and willingness of an issuer, such as a corporation, state or city government, to meet its financial obligations in accordance with the terms of those obligations. Credit ratings are also opinions about the credit quality of an issue, such as a bond or other debt obligation, and the relative likelihood that it may default.

The Agency shall not invest in any security rated less than single A.



Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: FY 2018 Annual Billing Settlements

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:

Adopt, authorize and approve Resolution 18-111 and the attachments thereto regarding the FY 2017-2018 Annual Billing Settlements.

BACKGROUND:

The attached FY 2018 Annual Billing Settlements Summary shows a comparison of Actual Costs and Final Billing Settlements (i.e., Collections vs. Actual).

This year's Net Refund of Excess Collections due to participants at fiscal year-end was \$7.0 million or 1.9% of Collections to date. The sources of these refunds were as follows: (1) Net Generation & Transmission operating costs of \$4.2 million; (2) Management Services costs of \$2.2 million; and (3) Pass-Through Costs and Interest and Other Income of \$0.6 million.

The Utility Directors have reviewed a draft of the FY 2018 Annual Billing Settlements Summary and supporting data, which is currently available on the Agency's Data Portal. Supporting data includes the final re-run of the All Resources Bill to reflect the final settlement amounts, explanations of the primary refund drivers, and schedules reflecting annual costs, collections, and resulting over/under collections by month.

Fuel, CAISO charges and energy and ancillary services sales do not play a material role in the annual settlements process as those items are adjusted monthly in the Agency's All Resources Bill when the actual costs for these categories are invoiced by NCPA.

FISCAL IMPACT:

Upon approval by Agency Commission the Amount of \$4,122,701 will be distributed to participants. NCPA member refund amounts will be deposited into their respective General Operating Reserve accounts, and non-members will either receive a debit or credit miscellaneous billing in early December with payment due by the end of December. Biggs, Gridley, Healdsburg, Plumas Sierra, Roseville, Santa Clara, and Ukiah directed that their proportionate refunds totaling \$2,851,910 for the Hydro and Geo projects be deposited into the Hydro Capital Development (\$1,052,176) and Geo Maintenance (\$1,799,734) Reserves and used to fund the McKay's Reservoir Clean out and Well Replacement/Workover Projects, respectively.

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

Attachments: Resolution 18-111
Billing Settlements summaries

SR: 239:18

RESOLUTION 18-111

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE FY 2017-2018 ANNUAL BILLING SETTLEMENTS**

(reference Staff Report #239:18)

WHEREAS, the Northern California Power Agency, (Agency) FY 2017-2018 Annual Billing Settlements has been closed, reconciled, and finalized; and

WHEREAS, the independent audit of the Agency's financial statements has been completed; and

WHEREAS, the Agency's generating, transmission, energy contract resources, and other programs are billed monthly throughout the fiscal year on an estimated basis; and

WHEREAS, the Agency's monthly billings to participants for FY 2017-2018 have been re-run using the finalized FY 2017-2018 Annual Billing costs; and

WHEREAS, these processes have resulted in a final billing cost settlement for each program as summarized in the attached; and

WHEREAS, the Utility Directors reviewed the detailed support for the FY 2017-2018 Annual Billing Settlements Summary, the related Project and Program Cost Summary Reports, and the re-run of the monthly All Resources Bills and have found all to be satisfactory; 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 adopts the FY 2017-2018 Annual Billing Settlements, as summarized in the attachments hereto; and, does hereby direct that the net refund of \$4,122,701 due to participants be distributed; and

FURTHERMORE, the Commission hereby directs that the members' net refunds of \$2,851,910 for Biggs, Gridley, Healdsburg, Plumas Sierra, Roseville, Santa Clara, and Ukiah for the Hydro and Geo projects be deposited into the Hydro Capital Development (\$1,052,176) and Geo Maintenance (\$1,799,734) Reserves. The funds are to be used for the McKay's Reservoir Clean-out and Well Replacement/Workover Projects.

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	_____	_____	_____

 ROGER FRITH
 CHAIR

ATTEST: _____
 CARY A. PADGETT
 ASSISTANT SECRETARY

**Northern California Power Agency
FY 2018 Billing Settlement Summary - By Participant and Customers**

	Collections	Actual Costs	Refund (Charge)	Hydro Cap Dev Reserve Deposit	Geo Maintenance Reserve Deposit	Total Hydro & GEO Reserve Deposits	Net Refund (Charge)
Summary all Participants and Customers	\$ 368,201,575	\$ 361,226,964	\$ 6,974,611	\$ 1,052,176	\$ 1,799,734	\$ 2,851,910	\$ 4,122,701
Summary By Participant							
Alameda	\$ 28,311,169	\$ 27,558,158	\$ 753,011	\$ -	\$ -	\$ -	\$ 753,011
BART	30,098,613	29,789,513	309,100	-	-	-	309,100
Biggs	1,127,087	1,089,714	37,373	-	6,617	6,617	30,756
Gridley	3,077,211	3,023,067	54,144	-	9,803	9,803	44,341
Healdsburg	6,114,366	5,979,949	134,417	22,418	107,192	129,610	4,807
Lodi	39,885,855	39,163,171	722,684	-	-	-	722,684
Lompoc	10,541,619	10,341,752	199,867	-	-	-	199,867
Palo Alto	84,021,224	83,008,214	1,013,010	-	-	-	1,013,010
Plumas Sierra	7,270,751	7,140,142	130,609	35,986	20,454	56,440	74,169
Port of Oakland	6,611,340	6,524,725	86,615	-	-	-	86,615
Redding	793,073	679,230	113,843	-	-	-	113,843
Roseville	6,335,391	5,696,498	638,893	162,060	229,892	391,952	246,941
Santa Clara	123,000,465	120,588,402	2,412,063	788,274	1,261,973	2,050,247	361,816
Shasta Lake	157,322	131,817	25,505	-	-	-	25,505
Truckee-Donner	142,461	113,969	28,492	-	-	-	28,492
Ukiah	8,102,352	7,872,321	230,031	43,438	163,803	207,241	22,790
Other Project Participants:							
TID	434,966	229,568	205,398	-	-	-	205,398
Azusa	790,206	784,579	5,627	-	-	-	5,627
California Department of Water Resources	8,728,942	8,814,617	(85,675)	-	-	-	(85,675)
MID	(212,214)	(166,437)	(45,777)	-	-	-	(45,777)
Power & Water Resources Pooling Authority	2,792,239	2,786,858	5,381	-	-	-	5,381
Total - Participants	368,124,438	361,149,827	6,974,611	1,052,176	1,799,734	2,851,910	4,122,701
Summary By Customer ^(A)							
East Bay Community Energy	540,319	540,319	-	-	-	-	-
Pioneer Community Energy	(463,182)	(463,182)	-	-	-	-	-
Total - Customers	77,137	77,137	-	-	-	-	-
Total	\$ 368,201,575	\$ 361,226,964	\$ 6,974,611	\$ 1,052,176	\$ 1,799,734	\$ 2,851,910	\$ 4,122,701
			1.9%				1.1%

(A) - Merced Irrigation District (MEID) and Placer County Water Agency (PCWA) were billed outside of the All Resources Bill and therefore not included in FY 2018 settlement. MEID and PCWA are included in FY 2019 All Resources Bill.

Source: ASU FY2018 Summary (by Participant)

**Northern California Power Agency
FY 2018 Billing Settlement Summary -- Explanation Overview**

General Comment

Billing settlements is the process of comparing actual participant and third party collections to actual cost requirements. Participant collections are based on a combination of actual costs and the approved Annual Budget. NCPA Plant collections are based on budgeted fixed and variable costs. Fixed costs are collected ratably over the fiscal year, and variable costs are collected based on budgeted generation MWh. Management Services revenue requirements are generally collected ratably over the fiscal year.

ISO charges and energy and ancillary services revenues do not play a material role, if any in the annual billing settlement process. Similarly Third Party energy purchases and sales, are settled up concurrently with ISO processes in the All Resources Bill.

The result of the year-end settlements analysis is a refund of \$6,974,611, or 1.9% which is the net of total collections of \$368,201,575 less costs of \$361,226,964. The refund is primarily comprised of lower net costs for Generation Resources and Management Services as follows:

Generation Resources

Generation Resources accounts for \$4.2 million or approximately 60.4% of the total refunded amount. The primary driver for the variance was the net decrease in actual costs from those billed to participants as outlined below.

<u>Refund (in 000's)</u>	
\$	(2,315) Routine O&M costs higher than collections primarily due to higher operating costs resulting from increased LEC generating output.
	1,663 Postponement of certain O&M and capital projects.
	358 Final actual allocated Generation Services costs were lower than projected due to vacant positions and reduced use of outside services.
	(194) A&G costs higher than projected primarily driven by increased higher plants allocation base.
	1,690 Lower debt service costs resulting from Hydro interest rate swap and Hydro and LEC refundings at lower rates.
	676 Other costs, primarily lower property and liability insurance premiums.
	1,795 Higher interest income & miscellaneous income collected during the year.
	3,479 Reimbursements from FEMA and insurance related to December 2015 Flooding - Adit 4 and Beaver Creek.
	(4,383) Costs of repairs to Adit 4 and Beaver Creek at Hydroelectric Plant resulting from the December 2015 flooding.
	1,445 LEC O&M Reserve refund credited to Participants in year end settlements.
<u>\$</u>	<u>4,214</u>

Management Services

Management Services accounts for \$2.2 million or approximately 31.7% of the total refunded amount. Billing requirements are generally collected ratably over the fiscal year. Variance drivers are listed below:

<u>Refund (in 000's)</u>	
\$	623 Salaries and Benefits were less than projected primarily due to unfilled positions.
	814 Legal and Other Outside Services were lower than estimated.
	170 Judicial Action activities related to Tariffs and Rates were lower than anticipated.
	358 A&G costs less than projected primarily driven by lower salaries & benefits due to vacant positions and lower contract services as we continue to perform more work in-house.
	247 Travel, Hardware, Software, Supplies, Network and Data Services costs were less than projected.
<u>\$</u>	<u>2,212</u>

Pass Through Costs

Pass Through Costs were overfunded by \$127 thousand, or 1.8% of the total refunded amount. The overfunded amount represents primarily excess collection of BAMx and Other Projects costs.

Third Party Revenues

Third Party Revenue was higher than anticipated by \$0.42 million, or 6.0% of the total refunded amount; the increase was primarily driven by higher interest and Power Management Service Revenue.

NCPA Fiscal Year 2018 Settlement Summary - Actual Cost for Northern California Power Agency

IDENTIFIER	ALA	AZU	BART	BIG	COWR	EBCE	GRI	HEA	LOD	LOM	MD	PAL	PCE	PLU	POR	PWR	Total \$
GENERATION RESOURCES																	
NCPA Plants																	
Hydroelectric	\$ 2,386,055	\$	\$	\$	\$	\$	\$ 364,884	\$ 2,484,710	\$ 551,093	\$	\$ 5,491,759	\$	\$ 404,833	\$	\$	\$	\$ 23,711,971
Geothermal	\$ 303,658	\$	\$ 3,875	\$	\$	\$ 6,062	\$ 66,077	\$ 187,802	\$ 66,207	\$	\$	\$ 12,660	\$	\$	\$	\$	\$ 1,788,037
Combustion Turbine No. 1	\$ 790,613	\$	\$ 6,843	\$	\$	\$ 8,605	\$ 143,404	\$ 393,832	\$ 143,404	\$	\$	\$ 44,671	\$	\$	\$	\$	\$ 2,234,477
Combustion Turbine No. 2 (BTIG)	\$ 1,165,547	\$	\$	\$	\$	\$	\$ 2,464,688	\$ 333,732	\$	\$	\$	\$	\$	\$	\$	\$	\$ 6,212,083
LEC	\$ 783,443	\$ 1,856,413	\$ 44,512	\$ 8,800,866	\$ 399,372	\$ 341,459	\$ 1,500,170	\$ 52,495	\$ -1,171,489	\$	\$	\$ 221,275	\$ 2,785,771	\$	\$	\$	\$ 24,035,714
Member & Customer Resources & Contracts	\$ 7,599,348	\$	\$	\$	\$	\$	\$ 1,233,422	\$	\$ 43,676,796	\$ 81,290	\$ 2,778,531	\$	\$	\$	\$	\$	\$ 55,402,807
Contracts - Gas	\$	\$	\$ 49,444	\$	\$ 2,427,271	\$ 190,255	\$ 1,743,354	\$ 735,193	\$	\$	\$	\$	\$	\$	\$	\$	\$ 4,742,550
NCPA Contracts	\$ 437,516	\$ 14,877,571	\$ 47,897	\$	\$ 343,180	\$ 154,041	\$ 9,700,370	\$ 1,089,236	\$	\$ 11,198,751	\$ 91,717	\$	\$	\$	\$	\$	\$ 33,940,103
Market Purchases	\$ 97,528	\$ 8,068,984	\$ 10,121	\$	\$ 9,543	\$ 31,415	\$ 169,527	\$ 330,478	\$	\$ 3,951,408	\$ 446,784	\$ 48,824	\$	\$	\$	\$	\$ 13,985,852
Western Resource	\$ -403,556	\$	\$ -84,359	\$	\$ -218,492	\$ -85,993	\$ -225,734	\$ -110,809	\$	\$ -4,000,558	\$	\$ -716,871	\$ -174,742	\$	\$	\$	\$ -5,121,649
Net ISO Load Aggregation	\$ 8,647,067	\$ 1,845,173	\$ 538,049	\$	\$ 817,814	\$ 1,328,961	\$ 2,796,789	\$ 11,566,143	\$ 3,997,690	\$ 19,805,090	\$ 828,978	\$ 3,713,138	\$ 1,139,592	\$	\$	\$	\$ 31,741,748
Net Capacity Pool	\$ -27,282	\$	\$	\$	\$ 2,308	\$ -3,331	\$ 31,698	\$ -10,187	\$	\$ 5,893	\$	\$	\$	\$	\$	\$	\$ 920
Load Following Costs	\$ 72,248	\$	\$ 14,386	\$	\$ 37,385	\$ 26,822	\$ 102,687	\$ 26,784	\$	\$ 141,234	\$	\$ 40,381	\$ 55,786	\$	\$	\$	\$ 41,650
GHG Allowance Purchases	\$ 37,445	\$	\$ 21,851	\$	\$ 65,865	\$ 77,509	\$ 1,145,130	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 1,394,460
PS&I - NCPA Solar Project 1	\$ 14,000	\$	\$	\$	\$	\$	\$ 10,500	\$ 5,625	\$	\$	\$	\$	\$ 7,000	\$	\$	\$	\$ 105,128
Subtotal Generation Resources	\$ 21,117,229	\$ 783,443	\$ 19,086,140	\$ 850,719	\$ 8,800,866	\$ 817,814	\$ 2,225,070	\$ 4,113,844	\$ 28,583,624	\$ 6,924,575	\$ -1,171,489	\$ 65,451,543	\$ 12,106,979	\$ 3,933,689	\$ 3,844,991	\$ 2,785,771	\$ 68,708,145
TRANSMISSION																	
Independent System Operator	\$ 7,362,885	\$ 8,875,131	\$ 329,035	\$	\$ 6,575,527	\$ 1,713,876	\$ 3,397,838	\$ 2,985,599	\$	\$ 20,322,122	\$	\$ 2,771,265	\$ 2,055,930	\$	\$	\$	\$ 45,140,755
Wholesale Access Costs	\$ 437,712	\$ 8,622,032	\$ 11,767	\$	\$ 154,412	\$ 38,494	\$ 93,213	\$ 532,505	\$ 156,651	\$	\$ 1,185,059	\$ 514,498	\$ 175,533	\$ 124,798	\$	\$	\$ 4,881,995
ISO Other Costs/Credits	\$ 44,426	\$ 4,822,373	\$ -14,471	\$	\$ 22,881	\$ -16,451	\$ -87,096	\$ -388,869	\$ -82,758	\$	\$ 514,717	\$ -1,051,540	\$ -6,792	\$ -74,046	\$	\$	\$ 21,337
ISO Avoided Costs	\$	\$ -4,455,556	\$	\$	\$ 4,455,556	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ -4,086
ISO [Manual] Adjustments	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Subtotal Transmission	\$ 7,875,024	\$ 9,873,961	\$ 330,331	\$	\$ 177,292	\$ 743,128	\$ 1,720,024	\$ 9,596,474	\$ 3,059,419	\$	\$ 21,921,898	\$ -537,045	\$ 2,940,007	\$ 2,116,382	\$	\$	\$ 21,421
MANAGEMENT SERVICES																	
Legislative & Regulatory	\$ 60,071	\$	\$ 37,521	\$	\$ 38,784	\$ 41,637	\$ 65,323	\$ 45,439	\$	\$ 98,785	\$	\$ 46,712	\$ 42,206	\$	\$ 87,981	\$ 117,360	\$ 271,059
Legislative Representation	\$ 25,227	\$	\$ 15,757	\$	\$ 16,287	\$ 17,486	\$ 27,433	\$ 19,082	\$	\$ 41,485	\$	\$ 19,617	\$ 17,724	\$	\$ 36,048	\$ 49,286	\$ 20,791
Regulatory Representation	\$ 13,468	\$ 5,435	\$ 3,298	\$	\$ 7,382	\$ 2,808	\$ 6,357	\$ 3,602	\$	\$ 137,437	\$	\$ 19,634	\$ 6,754	\$	\$ 91,101	\$ 94,189	\$ 107,226
Western Representation	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Member Support Services	\$ 51,625	\$ 2,220	\$ 55,177	\$ 2,393	\$ 26,694	\$ 5,161	\$ 11,416	\$ 63,338	\$ 19,749	\$ 6,538	\$ 150,932	\$ 22,541	\$ 12,692	\$ 2,126	\$ 113,008	\$ 177,413	\$ 514,428
JPA Assessment	\$ 65,684	\$	\$ 223	\$ 6,739	\$	\$ 13,195	\$ 11,223	\$ 54,851	\$ 16,814	\$	\$ 274,310	\$	\$ 40,308	\$ 20,248	\$	\$ 134,473	\$ 97,611
Judicial Action	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Power Management	\$ 837,108	\$ 835,287	\$ 58,524	\$	\$ 70,578	\$ 146,043	\$ 929,413	\$ 249,589	\$	\$ 1,444,695	\$	\$ 271,970	\$ 317,250	\$	\$ 504,125	\$ 2,872,383	\$ 1,088,759
SCALD, Energy Risk Mgmt & Settlements	\$	\$ -818	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ -818
Green Power Project	\$ 10,816	\$ 11,787	\$ 10,801	\$	\$ 10,800	\$ 10,802	\$ 11,215	\$ 10,887	\$	\$	\$	\$	\$	\$	\$	\$	\$ 10,816
Market Power Purchase Project	\$	\$	\$ 7,411	\$	\$ 8,228	\$ 8,007	\$ 15,567	\$ 10,859	\$	\$	\$	\$	\$	\$	\$	\$	\$ 9,542
Gas Purchase Program	\$	\$	\$	\$	\$ 53,333	\$	\$	\$	\$	\$ 177,085	\$	\$	\$	\$	\$	\$	\$ 230,418
Power Management Service Fee	\$ 95,874	\$ 8,321	\$ 2,501	\$	\$ 1,464	\$ 6,031	\$	\$ 6,031	\$ 682	\$ 13,581	\$ 1,084	\$ 5,942	\$ 214,194	\$ 118,778	\$ 5,203	\$ 257,332	\$ 7,990
Support Services	\$ 100,517	\$ 144,811	\$ 13,834	\$	\$ 9,588	\$ 20,030	\$ 107,592	\$ 40,248	\$	\$ 194,924	\$	\$ 16,939	\$ 13,189	\$ 97,367	\$ 58,900	\$ 522,507	\$ 1,743
Pass-Thru Costs	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Miscellaneous / Other	\$	\$ 171,200	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 15,644
Working Capital Deposit Adjustment	\$ 1,260,692	\$ 2,220	\$ 1,031,423	\$ 156,779	\$ 26,694	\$ 53,333	\$ 181,463	\$ 275,483	\$ 1,281,119	\$ 4,222,277	\$ 9,220	\$ 2,341,808	\$ 178,169	\$ 445,863	\$ 644,236	\$ 2,126	\$ 679,666
Subtotal Management Services	\$ 30,282,848	\$ 785,663	\$ 29,991,544	\$ 1,137,829	\$ 8,827,890	\$ 1,048,439	\$ 3,149,856	\$ 6,109,350	\$ 39,801,217	\$ 10,408,271	\$ -162,269	\$ 89,715,250	\$ 11,748,104	\$ 7,317,359	\$ 6,605,609	\$ 2,787,897	\$ 123,419,330
TOTAL ANNUAL ACTUAL COST	\$ 30,282,848	\$ 785,663	\$ 29,991,544	\$ 1,137,829	\$ 8,827,890	\$ 1,048,439	\$ 3,149,856	\$ 6,109,350	\$ 39,801,217	\$ 10,408,271	\$ -162,269	\$ 89,715,250	\$ 11,748,104	\$ 7,317,359	\$ 6,605,609	\$ 2,787,897	\$ 123,419,330
LESS: THIRD PARTY REVENUE, CREDITS AND TRANSFERS																	
Market Sales	\$ -2,481,519	\$ -1,111,406	\$ -6,327	\$	\$ -10,630	\$ -17,003	\$ -77,205	\$ -12,358	\$	\$ -5,716,958	\$	\$ -13,914	\$ -15,621	\$	\$	\$	\$ -330,175
Ancillary Services Revenue	\$ -8,619	\$ -7,230	\$ -438	\$	\$ -1,950	\$ -871	\$ -2,144	\$ -12,091	\$ -3,351	\$ -19,999	\$ -8,780	\$ -2,937	\$ -2,023	\$	\$	\$	\$ -3,027
Interest and Other Income	\$ -14,001	\$ -33,254	\$ -527	\$	\$ -1,674	\$ -1,431	\$ -20,639	\$ -4,265	\$	\$ -91,845	\$	\$ -2,517	\$ -6,754	\$	\$ -4	\$ -12,108	\$ -1,777
Net transfer (to) from GOR	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
GHG Allowance Collections	\$ -37,445	\$	\$ -21,851	\$	\$ -65,865	\$ -77,509	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ -202,670
Other Credits to LEC	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
PM Service Revenue (Nextent)	\$ -99,448	\$ -1,084	\$ -46,914	\$ -4,022	\$ -13,043	\$ -5,787	\$ -10,694	\$ -66,311	\$ -17,895	\$ -4,171	\$ -102,801	\$ -19,947	\$ -22,514	\$ -1,039	\$ -48,603	\$ -293,478	\$ -27,157
PM Service Revenue (A&G)	\$ -9,145	\$ -3,228	\$ -378	\$	\$ -1,055	\$ -2,488	\$ -11,035	\$ -3,008	\$	\$ -5,850	\$ -1,376	\$ -585	\$ -426	\$ -6,158	\$ -34,108	\$ -24	\$ -155
Other Revenue Adjustments	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Member Load Following Revenue	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Displacement Revenue	\$ -84,610	\$	\$ -14,574	\$	\$ -40,660	\$ -16,164	\$ -50,515	\$ -23,842	\$	\$ -793,881	\$ -138,526	\$ -33,407	\$	\$	\$	\$	\$ -25,612
Subtotal Third Party Revenue, Credits and Transfers	\$ -2,694,637	\$ -1,084	\$ -202,032	\$ -48,115	\$ -13,043	\$ -508,120	\$ -128,592	\$ -129,401	\$ -238,046	\$ -64,519	\$ -4,171	\$ -6,707,036	\$ -12,211,285	\$ -177,217	\$ -80,884	\$ -1,039	\$ -52,763
NET ANNUAL ACTUAL COST	\$ 27,588,158	\$ 784,579	\$ 29,789,512	\$ 1,089,714	\$ 8,814,847	\$ 540,319	\$ 3,021,264	\$ 5,979,949	\$ 39,163,171	\$ 10,341,752	\$ -166,437	\$ 83,008,214	\$ -463,182	\$ 7,140,142	\$ 6,524,726	\$ 2,786,858	\$ 120,588,402

NCPA Fiscal Year 2018 Settlement Summary - Refund(Charge) for Northern California Power Agency

IDENTIFIER	ALA	AZU	BART	BIG	CDWR	EBCE	GRI	HEA	LOD	LOM	MID	PAL	PCE	PLU	POR	PWR	R	Total \$				
GENERATION RESOURCES																						
NCPA Plants																						
Hydroelectric	\$ 212,933	\$	\$	\$	\$	\$	\$	\$ 22,418	\$ 220,811	\$ 48,975	\$	\$ 488,042	\$ 35,986	\$	\$	\$	\$	\$ 2,022,937				
Geothermal	\$ 492,553	\$	\$ 6,617	\$	\$ 9,803	\$ 107,192	\$ 300,066	\$ 107,394	\$	\$	\$ 20,454	\$	\$	\$	\$ 229,892	\$ 1,261,974	\$ 184,548	\$ 163,803	\$ 2,884,295			
Combustion Turbine No. 1	\$ -175,855	\$	\$ -1,600	\$	\$	\$ -2,817	\$ -46,972	\$ -107,862	\$ -46,972	\$	\$	\$ -14,847	\$	\$	\$	\$	\$ -335,585	\$	\$ -73,209	\$ -805,520		
Combustion Turbine No. 2 (STIG)	\$ 32,311	\$	\$	\$	\$	\$	\$	\$ 67,173	\$ 6,944	\$	\$	\$	\$	\$	\$	\$ 63,631	\$	\$	\$ 170,058			
LEC	\$ 4,543	\$ 10,755	\$ 437	\$ -98,718	\$ 3,200	\$ 2,673	\$ 15,491	\$ 3,323	\$ -49,948	\$	\$ 1,285	\$ 4,342	\$	\$	\$ 41,978	\$	\$	\$ 2,921	\$ -57,716			
Member & Customer Resources & Contracts	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
NCPA Contracts - Gas	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
NCPA Contracts	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Market Purchases	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Western Resource	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Net ISO Load Aggregation	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Net Capacity Pool	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Load Following Costs	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
GHG Allowance Purchases	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
PS&I - NCPA Solar Project 1	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Subtotal Generation Resources	\$ 561,941	\$ 4,543	\$ 10,755	\$ 5,454	\$ -98,718	\$ 10,187	\$ 85,310	\$ 495,679	\$ 118,664	\$ -49,948	\$ 488,042	\$ 43,078	\$ 4,342	\$ 455,583	\$ 1,756,841	\$ 184,548	\$ 136,953	\$ 4,214,054				
TRANSMISSION																						
Independent System Operator																						
Wheeling Access Costs	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
ISO Load Costs	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
ISO Other Costs/Credits	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
ISO Avoided Costs	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
ISO (Manual) Adjustments	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Subtotal Transmission	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
MANAGEMENT SERVICES																						
Legislative & Regulatory																						
Legislative Representation	\$ 20,209	\$	\$ 13,437	\$	\$ 13,816	\$ 14,874	\$ 21,787	\$ 15,814	\$ 31,836	\$ 16,198	\$ 14,844	\$ 28,591	\$ 27,414	\$ 83,585	\$ 12,980	\$ 16,110	\$ 15,395	\$ 356,090				
Regulatory Representation	\$ 8,788	\$ 5,833	\$ 5,999	\$ 6,372	\$ 9,474	\$ 6,870	\$ 13,857	\$ 7,037	\$ 6,447	\$ 12,442	\$ 16,289	\$ 36,427	\$ 5,429	\$ 6,999	\$ 6,680	\$ 154,947						
Western Representation	\$ 10,315	\$ 4,163	\$ 2,527	\$ 5,654	\$ 2,150	\$ 4,868	\$ 2,759	\$ 105,291	\$ 15,037	\$ 5,173	\$ 69,773	\$ 41,503	\$ 82,120	\$ 6,588	\$ 4,748	\$ 2,957	\$ 365,596					
Member Support Services	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$				
JPA Assessment	\$ -46	\$ -49	\$ -3	\$ -5	\$ -11	\$ -55	\$ -18	\$ -121	\$ -20	\$ -11	\$ -100	\$ -157	\$ -456	\$ 1,085	\$ -19	\$ -15	\$ -1					
Judicial Action	\$ 21,818	\$ 593	\$ 1,070	\$ 1,764	\$ 3,948	\$ 22,483	\$ 5,911	\$ 44,813	\$ 7,393	\$ 4,835	\$ 10,276	\$ 23,082	\$ 1,006	\$ -1	\$ 7,705	\$ 156,694						
Power Management																						
SCALD, Energy Risk Mgmt & Settlements	\$ 124,940	\$ 82,694	\$ 7,542	\$ 11,807	\$ 20,057	\$ 139,874	\$ 35,380	\$ 199,476	\$ 37,727	\$ 41,849	\$ 58,998	\$ 280,453	\$ 19,843	\$ 50,906	\$ 1,091,626							
Green Power Project	\$ 17,727	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 17,727				
Market Power Purchase Project	\$ 439	\$ 28,645	\$ 22	\$ 65	\$ 11,217	\$ 1,819	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 523	\$ 40,730			
Gas Purchase Program	\$	\$ 365	\$ 1,779	\$ 1,396	\$ 14,476	\$ 6,331	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 4,052	\$ 28,389			
Power Management Service Fee	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Support Services	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Pass-Thru Costs	\$ -28,963	\$ 120,032	\$ -570	\$ 93	\$ -4,253	\$ -37,425	\$ -4,290	\$ 6,261	\$ -4,208	\$ 166	\$ 3,015	\$ 4,019	\$ 78,051	\$ -1	\$ 610	\$ -5,151	\$ 127,387					
Miscellaneous / Other	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Working Capital Deposit Adjustment	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Subtotal Management Services	\$ 157,498	\$ 251,805	\$ 30,223	\$ 40,907	\$ 44,396	\$ 186,699	\$ 70,556	\$ 401,363	\$ 79,164	\$ 73,303	\$ 113,721	\$ 168,342	\$ 563,262	\$ 25,481	\$ 20,850	\$ 28,447	\$ 83,058	\$ 2,339,095				
TOTAL ANNUAL ACTUAL COST	\$ 719,439	\$ 4,543	\$ 262,560	\$ 35,677	\$ -98,718	\$ 51,094	\$ 129,706	\$ 682,378	\$ 190,220	\$ -49,948	\$ 889,425	\$ 122,242	\$ 73,303	\$ 4,342	\$ 113,721	\$ 623,925	\$ 2,319,903	\$ 25,481	\$ 205,398	\$ 28,447	\$ 220,011	\$ 6,553,149
LESS: THIRD PARTY REVENUE, CREDITS AND TRANSFERS																						
Market Sales																						
Ancillary Services Revenue	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Interest and Other Income	\$ 14,001	\$ 33,254	\$ 527	\$ 1,674	\$ 1,431	\$ 20,889	\$ 4,265	\$ 91,845	\$ 2,517	\$ 8,754	\$ 4	\$ 12,106	\$	\$ 1,777	\$ 191,044							
Net Transfer (to) from GOR	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
GHG Allowance Collections	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Other Credits to LEC	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
PM Service Revenue (Hexant)	\$ 16,915	\$ 1,084	\$ 12,611	\$ 1,079	\$ 13,043	\$ 1,137	\$ 2,823	\$ 16,486	\$ 4,581	\$ 4,171	\$ 28,735	\$ 5,537	\$ 6,390	\$ 1,039	\$ 13,093	\$ 70,612	\$	\$ 7,240	\$ 207,376			
PM Service Revenue (A&G)	\$ 2,656	\$ 675	\$ 90	\$ 239	\$ 657	\$ 2,931	\$ 801	\$ 2,005	\$ 313	\$ 168	\$ 122	\$ 1,871	\$ 9,442	\$ 24	\$ 45	\$ 1,003	\$ 23,042					
Other Revenue Adjustments	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Member Load Following Revenue	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Displacement Revenue	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$			
Subtotal Third Party Revenue, Credits and Transfers	\$ 33,572	\$ 1,084	\$ 46,540	\$ 1,696	\$ 13,043	\$ 3,050	\$ 4,711	\$ 40,306	\$ 9,647	\$ 4,171	\$ 123,585	\$ 8,367	\$ 13,312	\$ 1,039	\$ 12	\$ 14,988	\$ 92,160	\$ 24	\$ 45	\$ 10,020	\$ 421,462	
NET ANNUAL ACTUAL COST	\$ 753,011	\$ 5,627	\$ 309,100	\$ 37,373	\$ -85,675	\$ 54,144	\$ 134,417	\$ 722,684	\$ 189,867	\$ -45,777	\$ 1,013,010	\$ 130,609	\$ 86,615	\$ 5,381	\$ 113,843	\$ 638,893	\$ 2,412,063	\$ 25,505	\$ 205,398	\$ 28,492	\$ 230,031	\$ 6,974,611



Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Approval of Major Insurance Renewals for the Policy Year of 2019

AGENDA CATEGORY: Consent

FROM:	Rui Dai <i>R.D.</i>	METHOD OF SELECTION:
	Risk Manager	N/A
Division:	Administrative Services	
Department:	Risk Management	

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:

NCPA staff recommends the Commission grant authority to the General Manager to negotiate and bind property damage, liability and workers' compensation coverages amounts as presented (or better) and a not-to-exceed proposed premiums of approximately \$2,420,178.

BACKGROUND:

The Agency utilizes the insurance brokerage services of Aon Risk Solutions, San Francisco, California to market and place the Agency's insurance programs. Each insurance policy and the related insurance market conditions are reviewed prior to the renewal date and remarketed as required to qualified insurers experienced in underwriting the applicable insurance risk. Current property and liability insurance coverage expires on December 15 and December 31, 2018, respectively.

This year NCPA, together with Aon, marketed NCPA's insurance programs to both existing and prospective underwriters, focused on presenting NCPA's proactive enterprise risk management approach and its rigorous loss prevention programs. The property insurance market had been soft for many years. It turned around a year ago, triggered by floods in Texas, hurricanes along the east coast, the devastation of Puerto Rico, and wildfires in California. NCPA management's commitment to loss prevention and the marketing effort successfully improved the insurance underwriters' confidence and knowledge of NCPA's business and risk profile.

Insurance Programs Renewal Proposal

Although NCPA and Aon are still in the process of negotiating better quotes, the not-to-exceed rates from the underwriters show 2019 renewal premium is \$1,577,676 for property damage coverage, \$597,699 for excess liability coverage, \$495,085 for LEC property damage coverage, \$589,752 for excess liability coverage, and \$244,803 for the Worker's Compensation coverage. Our broker continues pushing the markets for better rates.

See attached table for detailed rate comparison.

Highlights of the Program

- The insurance market conditions hardened a year ago after many years of soft markets
- On-going exposure to flooding, hurricanes, and west coast fires
- NCPA had four claims in the past three years: 2015 Geothermal wildfire and Adit 4 landslide, 2017 storm damage on Hydro Beaver Creek, and 2018 Alameda Unit 1 equipment failure
- It is a great accomplishment to secure less than 2% rate increase over 2018 level for 2019 property renewal
- 8.83% premium increase is mainly due to insured value increase, business interruption value increased by 26% and property value increased by 2.17%
- California wildfire has a significant impact on liability insurance market
- Some underwriters withdrew from California liability insurance market, many reduced capacities
- NCPA Excess liability program had 4 underwriters, one withdrew, left \$15 million gap
- Sought increased limits from existing underwriters and approached international markets to fill the gap
- Excess liability reduced \$5 million from \$80M to \$75M with the premium remaining approximately the same as 2018 rate

FISCAL IMPACT:

The total cost of the policy year 2019 insurance programs is about \$3,009,930 or 3.08% below calendar year 2019 budget (half of FY2018 and half of FY2019 budget) of \$3,105,664 for the underlined programs.

Funds are available in Property insurance and Liability insurance accounts to fund this program.

ENVIRONMENTAL ANALYSIS:

Insurance renewals do 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:

LEC PPC reviewed and recommended approval of the LEC insurance renewal proposal on November 5, 2018. The Facilities Committee reviewed and discussed the property and liability insurance renewal proposals on November 7, 2018 and supported staff's recommendation.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments:

- Resolution 18-112
- NCPA Insurance Premium Summary Policy Year 2019

RESOLUTION 18-112

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE MAJOR INSURANCE RENEWALS FOR THE POLICY YEAR OF
2019**

(reference Staff Report #240:18)

WHEREAS, the Northern California Power Agency (the Agency) is required by various of its contracts and agreements with its members and its generating and transmission project participants to provide for property, casualty and other insurance to protect its interests therein; and

WHEREAS, the Agency utilizes the insurance brokerage services of Aon Risk Solutions, San Francisco, California to market and place the Agency's insurance programs. Each insurance policy and the related insurance market conditions are reviewed prior to the renewal date and remarketed as required to qualified insurers experienced in underwriting the applicable insurance risk; and

WHEREAS, Aon Risk Insurance Services West Inc. successfully negotiated all the major insurance programs for another year at the same or enhanced sub-limits compared to expiring policies; and

WHEREAS, insurance renewals have been accomplished below the Insurance Program budget. The total 2019 renewal premium for property, liability and Worker's Compensation policies is a not-to-exceed amount of \$3,009,930, or 3.08% below Calendar year 2019 approved budget of \$3,105,664 for those programs; and

WHEREAS, LEC PPC reviewed and recommended approval of the LEC insurance renewal proposal on November 5, 2018. The Facilities Committee reviewed and supported NCPA insurance renewal proposal on November 7, 2018; 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 approves the proposed major insurance renewals and authorize the General Manager or his designee to bind the coverage at the proposed "not to exceed" premiums.

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	_____	_____	_____

 ROGER FRITH
 CHAIR

ATTEST: _____
 CARY A. PADGETT
 ASSISTANT SECRETARY

NCPA Insurance Premium Summary

	2018 Expiring	2019 Renewal	\$ Change	% Change	FY18/19 Budget	\$ Change	% Change
Property Damage							
Property Damage & Terrorism	\$1,110,177	\$1,150,000	\$39,823	3.59%			
Insurable Value	\$768,632,706	\$785,298,760	\$16,666,053	2.17%			
Rate per \$100	\$ 0.14	\$ 0.15	0.20%	1.39%			
Time Element (BI)	\$339,500	\$427,676	\$88,176	25.97%			
Time Element (BI) insurable value	\$63,559,089	\$80,066,831	\$16,507,742	25.97%			
Rate per \$100	\$0.53	\$0.53	\$0.00	0.00%			
Premium Total	<u>\$1,449,677</u>	<u>\$1,577,676</u>	<u>\$127,999</u>	8.83%	<u>\$1,612,479</u>	<u>\$ (34,803)</u>	-2.16%
Casualty							
Policy Limit \$80 million							
Premium Total	<u>\$537,518</u>	<u>\$597,699</u>	<u>\$60,181</u>	11.20%	<u>\$629,835</u>	<u>\$ (32,136)</u>	-5.10%
Total	<u>\$1,987,195</u>	<u>\$2,175,375</u>	<u>\$188,180</u>	9.47%	<u>\$2,242,314</u>	<u>\$ (66,939)</u>	-2.99%

Lodi Energy Center Insurance Premium Summary

	2018 Expiring	2019 Renewal	\$ Change	% Change	FY18/19 Budget	\$ Change	% Change
Property Damage							
Property Damage & Terrorism	\$ 464,819	\$ 495,085	\$ 30,266	6.51%			
Insurable Value	\$ 369,311,630	\$ 381,896,208	\$ 12,584,578	3.41%			
Rate per \$100	\$ 0.1259	\$ 0.1296	0.0038	3.00%			
Time Element (BI) Excl.	Not Purchased	Not Purchased					
Premium Total	<u>\$ 464,819</u>	<u>\$ 495,085</u>	<u>\$ 30,266</u>	6.51%	<u>\$ 555,650</u>	<u>\$ (60,565)</u>	-10.90%
Casualty							
\$35mm Excess Liability	\$ 92,785	\$94,667	\$ 1,882	2.03%			
Additional \$45 Liability	Not Purchased	Not Purchased					
Terrorism	Incl	Incl					
Premium Total	<u>\$ 92,785</u>	<u>\$ 94,667</u>	<u>\$ 1,882</u>	2.03%	<u>\$ 112,473</u>	<u>\$ (17,806)</u>	-15.83%
Total	<u>\$ 557,604</u>	<u>\$ 589,752</u>	<u>\$ 32,148</u>	5.77%	<u>\$ 668,123</u>	<u>\$ (78,371)</u>	-11.73%

WORKERS' COMPENSATION

WORKERS' COMPENSATION	2018 Expiring	2019 Renewal	\$ Change	% Change	FY18/19 Budget	\$ Change	% Change
Premium	\$218,658	\$244,803	\$ 26,145	11.96%			
Payroll	\$22,539,691	\$23,504,506	\$ 964,815	4.28%			
Terrorism	Incl	Incl					
TOTAL PREMIUM	\$218,658	\$244,803	\$ 26,145	11.96%	\$195,227	\$ 49,576	25.39%
GRAND TOTAL	\$2,763,457	\$3,009,930	\$246,473	8.92%	\$3,105,664	-\$95,734	-3.08%



Commission Staff Report

November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Sale or Disposal of Surplus Property

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:

Note and file report by all members for the disposal of 2 24V DC Isolators and 2 Sulzer Turbine Speed Indicators. These items were donated to the American Governor School for teaching purposes.

BACKGROUND:

The NCPA Policy for the Disposal or Destruction of Surplus Supplies, Materials, or Equipment requires that such disposal or destruction be reported to the NCPA Commission within 60 days of such action.

In accordance with that policy, the following disposal or destruction is hereby reported:

<u>Property Description</u>	<u>Quantity</u>	<u>*Method of Disposal</u>	<u>Net Cost From Disposal</u>
24V DC Isolators	2	D	\$ 0.00
Sulzer Turbine Speed Indicators	2	D	\$ 0.00
			\$
		Total	\$ 0.00

* Note: Public Sale (PS); Private Sale (P), Disposal – Net Scrap Value (S)

FISCAL IMPACT:

This report has no direct fiscal 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

Attachments:

- Declarations of Surplus



Date: 10/11/18

**DECLARATION OF SURPLUS
SUPPLIES, MATERIALS & EQUIPMENT**

QTY	U/M*	DESCRIPTION (Including All Applicable Model #'s, LCNs & VINs)	COND**	ESTIMATED VALUE		NCPA Property or Project #	SITE LOCATION
				UNIT	TOTAL		
1.	2	24V DC Isolators	A		0.00	2409	Murphys
2.	2	Sulzer Turbine Speed Indicators	A		0.00	2409	Murphys
3.							
4.							
5.							
6.							
7.							
8.							

JUSTIFICATION FOR SURPLUS/DISPOSAL:

Units are obsolete and have been upgraded. These specialized parts have no value to the general public.

PREPARED BY: Amber Summersett 10/11/18 *Amber 10/11/18*
 APPROVED BY: *[Signature]* ORG. CODE: 650
 (ASST. GEN. MANAGER)
 AUTHORIZATION TO PROCEED: *[Signature]* DATE: 10/18/18
 (GENERAL MANAGER)

RECOMMENDED DISPOSITION:
 NEGOTIATED (Private) SALE _____
 PUBLIC SALE: _____ SEALED BIDS _____ AUCTION _____
 DISPOSAL: XX SCRAP/RECYCLE VALUE _____ NO VALUE -- TRASH/JUNK
DISPOSITION JUSTIFICATION:

Recommend donation to American Governor school for teaching purposes.

** CONDITION: EXCELLENT (E), GOOD (G), AVERAGE (A), POOR (P), SCRAP (S)

ORIGINAL TO TREASURER-CONTROLLER

ATTACHMENT I

Amber Summersett

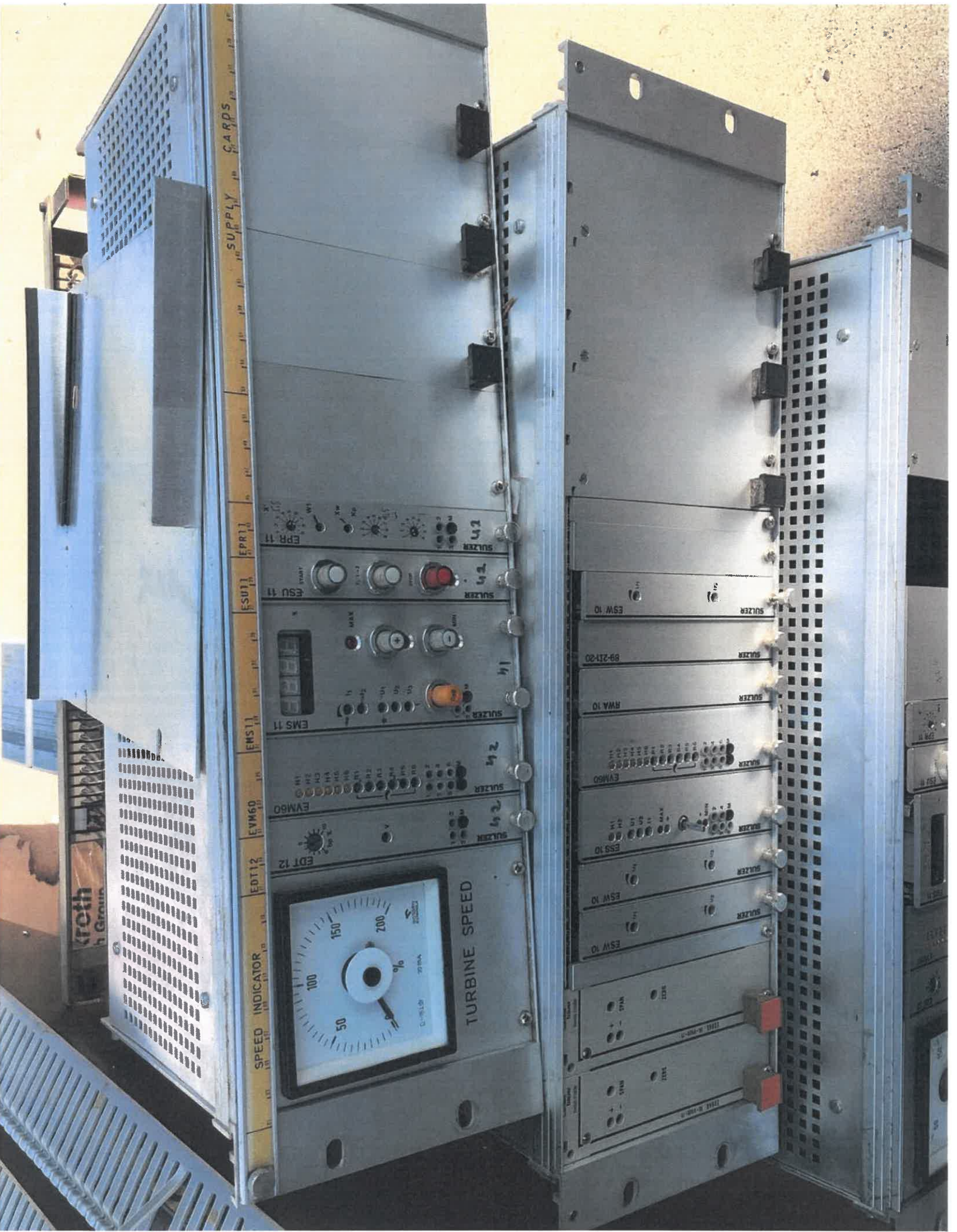
From: Sandy Rainey
Sent: Friday, June 15, 2018 6:07 AM
To: Adrian Chiley
Cc: Amber Summersett
Subject: Surplus NSM Gov Parts
Attachments: Contact.vcf; ATT00001.txt

Follow Up Flag: Follow up
Due By: Friday, July 27, 2018 8:00 AM
Flag Status: Flagged

FYI

Roger from American Governor, we can ask them to pay for shipping, wrap up a pallet or several large boxes with all the old Spicer Governor parts.

At Governor School, but **YES we will gladly take all that salvage stuff.** I'll call you tomorrow.



SUPPLY IN CARDS

SPEED INDICATOR

TURBINE SPEED

ESU 11
EPR 11
EMS 11
EVM60

ESW 10
RWA 10
EVM60
ESS 10
ESW 10
ESW 10

Croth Group



Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: P-Site Well Workovers Project; Applicable to the following project: NCPA Geothermal Facility

AGENDA CATEGORY: Discussion/Action

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	<i>Competitive Pricing Process</i>
Division:	Generation Services	
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 type="checkbox"/>	City of Ukiah <input checked="" type="checkbox"/>
City of Biggs	<input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>
City of Gridley	<input checked="" type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Healdsburg	<input checked="" type="checkbox"/>	City of Redding <input 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 type="checkbox"/>
	<i>If other, please specify</i>	Turlock

RECOMMENDATION:

Approval of Resolution 18-100 authorizing the Geothermal P-Site Well Workovers Project and delegating authority to the General Manager or his designee to award bids, enter into agreements, and issue purchase orders for the Project in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total not to exceed project cost of \$9 Million (subject to approval of \$3 Million in the FY2020 budget to complete the proposed work for all four wells).

BACKGROUND:

The P-Site well pad has a total of eight wells. Six of the wells produce 312 kph of steam or 40% of the steam production to NCPA's Plant #2. The remaining two wells, P-1 and P-9, are currently shut-in having been used in the past as water injection wells. At a depth of approximately 1,000 feet, there is a slip zone due to a change in the rock lithology. The slip zone is allowing the well pad to gradually slide downhill and as a result, slowly collapse the wellbore casing at that depth.

Staff recommended the workover of the two highest producing wells, P-4 and P-7 during the FY2019 budget process. Because of the problems identified in 2018, all of the wells on P-site have now been surveyed. The survey revealed increased casing damage on two additional wells. The new information indicates the need for additional workovers on the production well P-5 and injection well P-9. It appears that water injection into P-9 allowed accelerated external corrosion and casing deformation to occur on nearby production wells. This has not yet resulted in any significant loss of steam production, but losses will occur if the damage continues to progress.

The workover project proposes to abandon the injection well P-9 to prevent further damage to the nearby production wells. In addition to the abandonment of P-9, workovers of wells P-4, P-7, and P-5 are planned to repair casing damage.

Staff will be proposing an additional \$3 Million in the FY2020 budget to perform the extra maintenance on the wells. Staff is proposing to start work in late spring of 2019 and complete work on all four wells at one time. This will result in reduced mobilization and demobilization costs resulting in an overall lower cost for the entire project.

If the additional \$3 Million is not approved in the FY2020 budget, the project will move forward utilizing the \$6 Million approved in FY2019 budget. Staff estimates that \$6 Million will cover the cost for workovers for two production wells and possibly abandonment of P-9. The additional budget funds are needed for workover of the fourth well and to ensure there are sufficient funds to complete the project.

FISCAL IMPACT:

Total cost of the proposed workover project for all four wells is not to exceed \$9,000,000. This project was included in the current fiscal year budget in the amount of \$6 Million for work on two

wells. As noted, the additional \$3 Million dollars for the Project will be included in the proposed FY2020 budget. Cost allocation will be based on project participation percentages.

Economic results for the project are:

% IRR:	26%
Payback:	4 yrs.
NPV@ 5%:	\$19,641,941
Est. Annual Benefits:	\$1,410,668

SELECTION PROECESS:

In accordance with NCPA's procurement policies and procedures, NCPA will bid the needed work to carry out this Project. Bids will be solicited 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:

Work associated with this Project is categorically exempt under a Class 1 Exemption under CEQA guidelines 15301(b) and is therefore categorically exempt from CEQA. Class 1 is the "existing facilities" exemption which includes the repair, maintenance, or minor alteration of existing public structures, facilities, mechanical equipment, involving negligible or no expansion of use. All necessary Federal, State and County notifications will be made prior to commencing the work.

A Notice of Exemption was approved by the NCPA Commission on September 27, 2013, for this class of work and was filed in Lake County.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on November 7, 2018, and was recommended for Commission approval.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: (1)
• Resolution

RESOLUTION 18-100

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING P-SITE WELL WORKOVERS PROJECT AND DELEGATING AUTHORITY TO
THE GENERAL MANAGER TO AWARD BIDS, ENTER INTO AGREEMENTS, AND ISSUE
PURCHASE ORDERS FOR NOT TO EXCEED PROJECT COST OF \$9 MILLION**

(reference Staff Report #226:18)

WHEREAS, the Northern California Power Agency (NCPA) operates and maintains on behalf of the project owners a Geothermal Facility near Middletown, CA, consisting of two power plants and 80 steam production and injection wells; and

WHEREAS, the P-Site well pad has a total of eight wells. Surveys show that at a depth of approximately 1,000 feet, there is a slip zone due to a change in the rock lithology. The slip zone is allowing the well pad to gradually slide downhill and as a result, slowly collapse the wellbore casing at that depth; and

WHEREAS, the P-site workover project proposes to abandon the injection well P-9 to prevent further damage to the nearby production wells. In addition to the abandonment of P-9, workovers of wells P-4, P-7, and P-5 are planned to repair casing damage; and

WHEREAS, the NCPA Commission approved \$6,000,000 in the FY 2019 budget for workover of wells P-4 and P-7; and

WHEREAS, further investigation indicates that the abandonment of P-9 and workover of well P-5 are also warranted at this time; and

WHEREAS, a proposal will be included in the FY2020 budget for an additional \$3 Million to ensure there are sufficient funds to complete work on all four wells at one time. Work is anticipated to begin in late spring of 2019, resulting in reduced mobilization and demobilization costs resulting in an overall lower cost for the entire project; and

WHEREAS, if the additional \$3 Million is not approved in the FY2020 budget, the project will move forward utilizing the \$6 Million approved in FY2019 budget which is estimated to cover the cost for workovers for two production wells and possibly abandonment of P-9; and

WHEREAS, work associated with this Project is categorically exempt under a Class 1 Exemption under CEQA guidelines 15301(b) and is therefore categorically exempt from CEQA. Class 1 is the "existing facilities" exemption which includes the repair, maintenance, or minor alteration of existing public structures, facilities, mechanical equipment, involving negligible or no expansion of use. All necessary Federal, State and County notifications will be made prior to commencing the work. A Notice of Exemption was approved by the NCPA Commission on September 27, 2013, for this class of work and was filed in Lake County; and

NOW, THEREFORE BE IT RESOLVED, that the NCPA Commission authorizes the Geothermal P-Site Well Workovers Project and delegates authority to the General Manager or his designee to award bids, enter into agreements, and issue purchase orders for the Project in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total not to exceed project cost of \$9 Million (subject to approval of \$3 Million in the FY2020 budget to complete the proposed work for all four wells).

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	_____	_____	_____

 ROGER FRITH
 CHAIR

ATTEST: _____
 CARY A. PADGETT
 ASSISTANT SECRETARY



Agenda Item: 29

***Item 29 was pulled and deferred to the
January 17, 2019, Commission meeting.***



Commission Staff Report

Date: November 14, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: Bond, Disclosure and Special Tax Counsel Services - Approve the Selection of Norton Rose Fulbright US LLP and Nixon Peabody LLP to Provide Bond, Disclosure, and Special Tax Counsel Services and Authorize the General Manager to Execute Agreements for These Specialized Services

AGENDA CATEGORY: Discussion/Action

FROM:	Jane E. Luckhardt <i>JEL</i>	METHOD OF SELECTION:
	General Counsel	<i>Competitive Pricing Process</i>
Division:	Executive Services	
Department:	Legal	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<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:

Approve Resolution 18-105 authorizing the General Manager or his designee to enter into enabling Legal Services Agreements with Norton Rose Fulbright US LLP and Nixon Peabody LLP to provide Bond, Disclosure, and Special Tax Counsel services as requested, each agreement in an amount not-to-exceed \$1,000,000 over a five (5) year term, with any non-substantial changes as recommended and approved by the NCPA General Counsel.

BACKGROUND:

NCPA requires the services of experienced bond, disclosure and tax counsel firms to assist the Agency with the successful authorization, offering, and delivery of its debt financing program, and any other agreements, programs, or projects. Over the past many years, the Agency has conducted informal bidding to ensure that the rates charged for these services remained competitive.

FISCAL IMPACT:

The costs for bond, disclosure and tax counsel services are dependent on the Agency's authorization, issuance and sale of bonds and related activities. These services are typically included as costs of issuance funded with bond proceeds and are not included as part of the approved annual budget. According to the *NCPA Variable Rate Debt and Interest Rate Management Policy*, a target of 5% net present value (NPV) savings is desired before considering a bond refunding. The 5% NPV savings is net of costs of issuance, including bond, disclosure and tax counsel legal services.

SELECTION PROCESS:

The recommended law firms were selected as a result of formal bidding done in accordance with NCPA's procurement policies and procedures. On September 4, 2018, NCPA issued a Request for Proposals for Bond, Disclosure and Special Tax Counsel Services and provided it to 10 attorneys at eight qualified firms. Five firms submitted responses to the RFP by the October 5, 2018, submittal deadline. The responses were evaluated based on the following criteria: (1) quality and completeness of proposal; (2) knowledge, experience and skills to provide the requested services; (3) experience of staff to be assigned to the project, based on prior engagements of similar scope and complexity; (4) competitive rates for the requested services; and (5) client references.

After the initial evaluation, the committee determined to hold oral interviews with three firms. The firms interviewed were: Norton Rose Fulbright US LLP, Nixon Peabody LLP, and Orrick, Herrington, Sutcliffe LLP. The firms were all asked the same seven questions during the interviews.

The evaluation and selection committee determined that the selected firms are likely to provide the greatest overall value to the Agency. Having two enabling agreements in place will ensure that the Agency has options should a conflict arise.

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 was reviewed by the Finance Committee on November 13, 2018, and was recommended for Commission approval.

Respectfully submitted,

A handwritten signature in blue ink that reads "Randy S. Howard". The signature is written in a cursive, flowing style.

RANDY S. HOWARD
General Manager

Attachments: (3)

- Resolution
- Legal Services Agreement with Norton Rose Fulbright US LLP
- Legal Services Agreement with Nixon Peabody LLP

RESOLUTION 18-105

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING THE SELECTION OF NORTON ROSE FULBRIGHT US LLP AND NIXON PEABODY LLP TO PROVIDE BOND, DISCLOSURE, AND TAX COUNSEL SERVICES AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AGREEMENTS FOR THESE SERVICES

(reference Staff Report #231:18)

WHEREAS, NCPA requires the services of experienced bond, disclosure and tax counsel firms to assist the Agency with the successful authorization, offering, and delivery of its debt financing program, and any other agreements, programs, or projects; and

WHEREAS, on September 4, 2018, NCPA issued a Request for Proposals for Bond, Disclosure and Special Tax Counsel Services in accordance with the Agency’s procurement policies and procedures; and

WHEREAS, five firms submitted responses to the Request for Proposals and were evaluated based on criteria contained in the RFP; and

WHEREAS, the selected firms are likely to provide the greatest overall value to the Agency and ensure that the Agency has options should a conflict arise; 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 enabling Legal Services Agreements with Norton Rose Fulbright US LLP and Nixon Peabody LLP to provide Bond, Disclosure, and Special Tax Counsel services as requested, each agreement in an amount not-to-exceed \$1,000,000 over a five (5) year term, with any non-substantial changes as recommended and approved by the NCPA General Counsel.

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	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY

**LEGAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NORTON ROSE FULBRIGHT US LLP**

This agreement for legal services ("Agreement") is entered into on _____, 2018 (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, a public joint powers agency, with offices located at 651 Commerce Drive, Roseville, CA 95678, ("Agency") and NORTON ROSE FULBRIGHT US LLP, a limited liability partnership, with offices located at 555 California Street, Suite 3300, San Francisco, CA 94104 ("Attorneys"), (together sometimes referred to as the "Parties").

Section 1. SERVICES. In accordance with the terms and conditions set forth in this Agreement, Attorneys agree to perform all services described in the Scope of Work attached as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 **Term of Services.** This Agreement shall begin upon signature by all parties and shall end when Attorneys complete the work described in Exhibit A, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is longer, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.
- 1.2 **Standard of Performance.** Attorneys shall diligently perform all services required in connection with this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Attorneys are engaged in the geographical area in which Attorneys practice their profession.
- 1.3 **Assignment of Personnel.** Attorneys shall assign only competent personnel to perform services in connection with this Agreement.
- 1.4 **Termination.** Agency may cancel this Agreement at any time and without cause upon written notification to Attorneys. Attorneys may cancel this Agreement within the canons of legal ethics at any time and without cause upon written notification to Agency. In the event of termination, Attorneys shall be entitled to compensation for services satisfactorily completed as of the date of written notice of termination; Agency, however, may condition payment of such compensation upon Attorneys delivering to Agency appropriate documents and records identified in Section 8.1 of this Agreement.

Section 2. COMPENSATION. Agency hereby agrees to pay Attorneys an amount **NOT TO EXCEED** One Million dollars (\$1,000,000) for all work set forth in Exhibit A, in accordance with the Attorneys' fee schedule and reimbursable expenses which are attached as Exhibit B, and made a part of this Agreement. This dollar amount is not a guarantee that Agency will pay that full amount to Attorneys, but is merely a limit of potential Agency expenditures under this Agreement. In the event of a conflict between this Agreement and Attorneys' proposal regarding the amount of compensation, this Agreement shall prevail.

- 2.1 **Invoices.** Attorneys shall submit invoices 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.

- 2.2 Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred.
- 2.3 Hourly Fees / Reimbursable Expenses.** If applicable, fees for work performed by Attorneys on an hourly basis shall not exceed the amounts shown on the fee schedule attached to this Agreement as Exhibit B. Reimbursable expenses are specified in Exhibit B.
- 2.4 Payment of Taxes.** Attorneys are solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

Section 3. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Attorneys, at their own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the agreement.

- 3.1 Workers' Compensation.** If Attorneys employ any person, Attorneys shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Attorneys with limits of not less than one million dollars (\$1,000,000) per accident.
- 3.2 Commercial General and Automobile Liability Insurance.** Attorneys shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles. At the sole option of the Agency, the Agency shall be named as an additional insured and insurance shall provide primary coverage with respect to the Agency.
- 3.3 Professional Liability Insurance.** Attorneys shall maintain professional liability insurance appropriate to Attorneys' profession performing work in connection with this Agreement in an amount not less than fifty million dollars (\$50,000,000). Any deductible or self-insured retention shall not exceed two million dollars (\$2,000,000) 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, Attorneys 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.

3.4 All Policies Requirements.

3.4.1 Verification of coverage. Prior to beginning any work under this Agreement, and upon reasonable notice at any time during the term of this contract or for such longer period as provided in Section 3.3 hereof, Attorneys shall, at the sole option of the Agency, provide Agency with (1) certified Certification of Insurance that demonstrates compliance with all applicable insurance provisions contained herein; and (2) certified policy endorsements to the general liability policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement. .

Section 4. INDEMNIFICATION AND ATTORNEYS' RESPONSIBILITIES.

4.1 Attorneys shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, indemnify, defend and hold harmless the Agency and its officials, commissioners, officers, employees, agents 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 Attorneys. Attorneys will 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 5. STATUS OF ATTORNEYS.

5.1 Independent Contractor. At all times during the term of this Agreement, Attorneys shall be an independent contractor and shall not be an employee of Agency. Attorneys shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent.

Section 6. LEGAL REQUIREMENTS.

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

6.2 Compliance with Applicable Laws. Attorneys and any subcontractors shall comply with all laws applicable to the performance of the work in connection with this Agreement.

6.3 Licenses and Permits. Attorneys represents and warrants to Agency that Attorneys and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

6.4 Nondiscrimination and Equal Opportunity. In compliance with federal, state and local laws, Attorneys shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant

in, recipient of, or applicant for any services or programs provided by Attorneys under this Agreement.

Section 7. MODIFICATION.

- 7.1 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.2 Assignment and Subcontracting.** Attorneys may not assign this Agreement or any interest therein without the prior written approval of the Agency. Attorneys shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Agency.
- 7.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Attorneys shall survive the termination of this Agreement.
- 7.4 Options upon Breach by Attorneys.** If Attorneys materially breach any of the terms of this Agreement, Agency's remedies shall include, but not be limited to, the following:
- 7.4.1** Immediately terminate the Agreement; and
 - 7.4.2** Retain the reports, documents, and any other work products prepared for the Agency by Attorneys in accordance with this Agreement consistent with Attorneys' requirement to provide client files to Agency.

Section 8. KEEPING AND STATUS OF RECORDS.

- 8.1 Records Created as Part of Attorneys' Performance.** All reports, documents, and any other work products prepared for the Agency by Attorneys in accordance with this Agreement, in electronic or any other form, or obtain in accordance with this Agreement and that relate to the matters covered under the terms of this Agreement shall be the property of the Agency, provided that Attorneys may retain copies of any such work product and use it for training materials or as forms or reference materials in connection with representing other clients, without attribution to the Agency.
- 8.2 Attorneys' Records.** Attorneys shall maintain any and all records or 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 Attorneys to this Agreement.
- 8.3 Confidential Information and Disclosure.** During the term of this Agreement, either party (the "Disclosing Party") may disclose confidential, proprietary or trade secret information (the "Information"), to the other party (the "Receiving Party"). The Receiving Party shall hold the Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Information. Attorneys understand that

NCPA is a public agency and is subject to the laws that may compel it to disclose information about Attorneys' business.

Section 9. MISCELLANEOUS PROVISIONS.

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 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.
- 9.5 Contract Administration.** This Agreement shall be administered by Jane Luckhardt, General Counsel, or her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 9.6 Notices.** Any written notice to Attorneys shall be sent to:

Cecilia Dyba, Senior Counsel
Norton Rose Fulbright US LLP
555 California Street, Suite 3300
San Francisco, CA 94104

And to:

Eric Tashman, Partner
Norton Rose Fulbright US LLP
555 California Street, Suite 3000
San Francisco, CA 94104

Any written notice to Agency shall be sent to:

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

And to:

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

9.7 Professional Seal. Where applicable, the first page of a technical report shall be signed by the licensed professional responsible for the report.

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

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

Each party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority. If dispute remains unresolved after 15 days of good faith negotiations, the parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both parties. Mediation will begin within 30 days of the selection of this disinterested third party, and will end 15 days after commencement. The parties shall equally bear the costs of any third party in any alternative dispute resolution process.

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.*

9.10 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.

///

///

///

///

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

NORTHERN CALIFORNIA POWER AGENCY

NORTON ROSE FULBRIGHT US LLP

Randy S. Howard, General Manager

Eric D. Tashman, Partner

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Attorneys will provide as bond, disclosure, and task counsel services in connection with the successful authorization, offering, and delivery of the Agency's debt financing program, and any other agreements, programs, or projects.

Those services shall include but not be limited to the following:

Bond Counsel:

- ***Assist with Required Authorizations.*** Prepare and review documents necessary or appropriate for the authorization, issuance, sale and delivery of bonds, coordination of the authorization and execution of these documents. Draft and/or negotiate any legal documents necessary for the financing, including any necessary resolutions and other documents for the issuance and sale of bonds and furnishing instructions and advice in connection with these activities.
- ***Provide Required Legal Opinions.*** Render the bond counsel opinion regarding the validity and binding effect of the bonds, the source of payment and security for the bonds, and the excludability of interest on bonds from gross income for federal and/or state income tax purposes, and any other representations required to permit the offering and delivery of the obligations.
- ***Participate throughout Financing Process.*** Regularly attend meetings of the financing team from project inception through delivery of bonds; attend meetings as requested.
- ***Prepare Official Transcript.*** Prepare closing documents, including a closing memorandum, and furnishing copies of final transcripts to all requesting participants.
- ***Assist with Requests for Ratings and/or Credit Enhancements.*** The bond counsel may be called upon to participate in the solicitation of ratings and/or credit enhancements. In this process, the bond counsel will be expected to provide a description of the legal framework within which the obligations will be offered and clarification of any questions concerning the rights and responsibilities of the Issuer in the transaction.
- ***Review and Comment on Contracts/Agreements.*** The bond counsel will be expected to review and comment on other necessary documentation prepared by other parties. Such documentation shall include credit or liquidity facility agreements, investment and trust agreements, derivative instruments and bond purchase agreements.
- ***Other Matters.*** The bond counsel will review any legal issues related to the structure of the bond issue and/or the proposed sale, prepare any other documents necessary, including legal opinions, for issuance of bonds, and assist with any other legal matters relating to the financing that may be identified during the transaction, including investment of proceeds and reserves and compliance with federal arbitrage regulations.

- **Ongoing Advice.** Provide on-going advice and information to the Agency on the legal requirements and implications of the Agency's debt financing program, and any other agreements, programs, or projects.

Disclosure Counsel:

- Provide advice to the Agency staff and financing team on disclosure obligations
- Prepare the Preliminary and Final Official Statement
- Provide a "10b-5 Opinion" with respect to the preliminary and final official statements
- Review, as necessary, applicable law and pertinent documents
- Prepare the Continuing Disclosure Agreement and advise the Agency regarding compliance with such Agreement
- Participate, as requested, in meetings, informational meetings and discussions with the financing team
- Keep the Agency staff informed of rulings issued by federal and State regulatory agencies, such as the U.S. Securities and Exchange Commission and Municipal Securities Rulemaking Board that impact the Agency's disclosure practices

Special Tax Counsel:

As and to the extent requested by the Agency, advising the Agency on all aspects of Federal and State tax law with respect to both the delivery of the Agency's debt financing program and management of the Agency's outstanding debt. This includes: (1) rendering opinions described under "Bond Counsel" section of the "Required Scope of Work", (2) providing current and expert advice on the application of Federal and State tax law to the Agency's debt, agreements, programs, and projects, and (3) providing current and expert advice with respect to laws relating to arbitrage and arbitrage rebate. Advice is required at the time of any issuance and also periodically between any issuances with respect to portfolio management.

EXHIBIT B

ATTORNEY'S FEE SCHEDULE AND REIMBURSABLE EXPENSES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount set forth in Section 2, Compensation, of the Agreement. This dollar amount is not a guarantee that Agency will pay that full amount to Attorneys, but is merely a limit of potential Agency expenditures under this Agreement.

Bond, Disclosure and Special Tax Services

Fees for the attorney and paralegal services rendered hereunder for bond and disclosure counsel services will be based upon a "blended hourly rate" of \$675 for attorneys and \$300 for paralegals. Fees for attorneys providing special tax services shall be based upon a "blended hourly rate" of \$700. These blended rates will remain in effect through December 31, 2019. In connection with any bond issuance or any other engagement under this Agreement, Attorneys will provide to the Agency a budget estimate or a fixed price for the issuance or engagement, which may be evidenced by a letter supplementing this Agreement (a "fee letter supplement"). Upon execution of such fee letter supplement by Agency Counsel, each such fee letter supplement shall constitute a part of this Agreement.

Additional Costs/Expenses

In addition to fees, Attorneys bill for out-of-pocket expenses at actual cost. These expenses include: long distance telephone call charges; secretarial overtime; reproduction costs or document costs incurred on the Attorney's word processing equipment used to prepare documents, filing fees, printing charges, transcript preparation, travel costs, and like expenditures.

NOTE: As a public agency, NCPA shall not reimburse Attorneys for costs in excess of those permitted by the Internal Revenue Service.

**LEGAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NIXON PEABODY LLP**

This agreement for legal services ("Agreement") is entered into on _____, 2018 (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, a public joint powers agency, with offices located at 651 Commerce Drive, Roseville, CA 95678, ("Agency") and NIXON PEABODY LLP, a limited liability partnership, with offices located at One Embarcadero Center, 18th Floor, San Francisco, CA 94111 ("Attorneys"), (together sometimes referred to as the "Parties").

Section 1. SERVICES. In accordance with the terms and conditions set forth in this Agreement, Attorneys agree to perform all services described in the Scope of Work attached as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** This Agreement shall begin upon signature by all parties and shall end when Attorneys complete the work described in Exhibit A, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is longer, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.
- 1.2 Standard of Performance.** Attorneys shall diligently perform all services required in connection with this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Attorneys are engaged in the geographical area in which Attorneys practice their profession.
- 1.3 Assignment of Personnel.** Attorneys shall assign only competent personnel to perform services in connection with this Agreement.
- 1.4 Termination.** Agency may cancel this Agreement at any time and without cause upon written notification to Attorneys. In the event of termination, Attorneys shall be entitled to compensation for services satisfactorily completed as of the date of written notice of termination; Agency, however, may condition payment of such compensation upon Attorneys delivering to Agency appropriate documents and records identified in Section 8.1 of this Agreement.

Section 2. COMPENSATION. Agency hereby agrees to pay Attorneys an amount **NOT TO EXCEED** One Million dollars (\$1,000,000) for all work set forth in Exhibit A, in accordance with the Attorneys' fee schedule and reimbursable expenses which are attached as Exhibit B, and made a part of this Agreement. This dollar amount is not a guarantee that Agency will pay that full amount to Attorneys, but is merely a limit of potential Agency expenditures under this Agreement. In the event of a conflict between this Agreement and Attorneys' proposal regarding the amount of compensation, this Agreement shall prevail.

- 2.1 Invoices.** Attorneys shall submit invoices 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.
- 2.2 Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred.

- 2.3 Hourly Fees / Reimbursable Expenses.** If applicable, fees for work performed by Attorneys on an hourly basis shall not exceed the amounts shown on the fee schedule attached to this Agreement as Exhibit B. Reimbursable expenses are specified in Exhibit B.
- 2.4 Payment of Taxes.** Attorneys are solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

Section 3. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Attorneys, at their own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the agreement.

- 3.1 Workers' Compensation.** If Attorneys employ any person, Attorneys shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Attorneys with limits of not less than one million dollars (\$1,000,000) per accident.
- 3.2 Commercial General and Automobile Liability Insurance.** Attorneys shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles. At the sole option of the Agency, the Agency shall be named as an additional insured and insurance shall provide primary coverage with respect to the Agency.
- 3.3 Professional Liability Insurance.** Attorneys shall maintain professional liability insurance appropriate to Attorneys' profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and one million dollars (\$1,000,000) aggregate covering the Attorneys' errors and omissions. Such insurance shall be on a "claims-made" basis, subject to the following condition: the Attorneys may choose to maintain their policy 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.
- 3.4 All Policies Requirements.**
- 3.4.1 Verification of coverage.** Prior to beginning any work under this Agreement, Attorneys shall, at the sole option of the Agency, provide Agency with (1) certified Certification of Insurance that demonstrates compliance with all applicable insurance provisions contained herein; (2) certified policy endorsements to the general liability policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement; or (3) upon request by the Agency, complete certified copies

of all policies and/or complete certified copies of all endorsements that demonstrate compliance with this Section 3.

- 3.4.2 Notice of Reduction in or Cancellation of Coverage.** A confirmation of insurance letter must be attached to all insurance obtained in accordance with this Agreement stating the coverage and confirming that a 30-day notice will be provided to the Agency if the insurance provider cancel's the Attorneys' coverage.

Section 4. INDEMNIFICATION AND ATTORNEYS' RESPONSIBILITIES.

- 4.1** Attorneys shall defend, indemnify, and protect the Agency from all claims and damages which arise solely from Attorneys' negligence in the performance of legal services under this Agreement. This duty to defend, indemnify and protect shall not include any claim related to or arising from the negligence or willful misconduct of the Agency and nothing in this indemnity should be read to preclude or limit in any way a defense that would be available but for this provision. The obligations under this article shall survive for the period of time that a comparable negligence action in tort would survive under the applicable statute of limitations and no longer.

Section 5. STATUS OF ATTORNEYS.

- 5.1 Independent Contractor.** At all times during the term of this Agreement, Attorneys shall be an independent contractor and shall not be an employee of Agency. Attorneys shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent.

Section 6. LEGAL REQUIREMENTS.

- 6.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 Compliance with Applicable Laws.** Attorneys and any subcontractors shall comply with all laws applicable to the performance of the work in connection with this Agreement.
- 6.3 Licenses and Permits.** Attorneys represents and warrants to Agency that Attorneys and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.
- 6.4 Nondiscrimination and Equal Opportunity.** In compliance with federal, state and local laws, Attorneys shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Attorneys under this Agreement.

Section 7. MODIFICATION.

- 7.1 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.2 Assignment and Subcontracting.** Attorneys may not assign this Agreement or any interest therein without the prior written approval of the Agency. Attorneys shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Agency.
- 7.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Attorneys shall survive the termination of this Agreement.
- 7.4 Options upon Breach by Attorneys.** If Attorneys materially breach any of the terms of this Agreement, Agency's remedies shall include, but not be limited to, the following:
- 7.4.1** Immediately terminate the Agreement;
 - 7.4.2** Retain the reports, documents, and any other work products prepared for the Agency by Attorneys in accordance with this Agreement;
 - 7.4.3** Retain different Attorneys to complete the work described in Exhibit A not finished by Attorneys; or
 - 7.4.4** Charge Attorneys the difference between the costs to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that Agency would have paid Attorneys in accordance with Section 2 if Attorneys had completed the work.

Section 8. KEEPING AND STATUS OF RECORDS.

- 8.1 Records Created as Part of Attorneys' Performance.** All reports, documents, and any other work products prepared for the Agency by Attorneys in accordance with this Agreement, in electronic or any other form, or obtain in accordance with this Agreement and that relate to the matters covered under the terms of this Agreement shall be the property of the Agency.
- 8.2 Attorneys' Records.** Attorneys shall maintain any and all records or 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 Attorneys to this Agreement.
- 8.3 Confidential Information and Disclosure.** During the term of this Agreement, either party (the "Disclosing Party") may disclose confidential, proprietary or trade secret information (the "Information"), to the other party (the "Receiving Party"). The Receiving Party shall hold the Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Information. Attorneys understand that

NCPA is a public agency and is subject to the laws that may compel it to disclose information about Attorneys' business.

Section 9. MISCELLANEOUS PROVISIONS.

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 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.
- 9.5 Contract Administration.** This Agreement shall be administered by Jane Luckhardt, General Counsel, or her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 9.6 Notices.** Any written notice to Attorneys shall be sent to:

Mr. Graham Beck
Nixon Peabody LLP
One Embarcadero Center, 18th Floor
San Francisco, CA 94111

Mitchell Rapaport
799 oth Street NW, Suite 500
Washington, DC 20001-4501

Any written notice to Agency shall be sent to:

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

And to:

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

- 9.7 Professional Seal.** Where applicable, the first page of a technical report shall be signed by the licensed professional responsible for the report.
- 9.8 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Attorneys and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.9 Alternative Dispute Resolution.** If any dispute arises between the parties that cannot be settled after engaging in good faith negotiations, Agency and Attorneys agree to resolve the dispute in accordance with the following:

Each party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority. If dispute remains unresolved after 15 days of good faith negotiations, the parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both parties. Mediation will begin within 30 days of the selection of this disinterested third party, and will end 15 days after commencement. The parties shall equally bear the costs of any third party in any alternative dispute resolution process.

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.*

- 9.10 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.

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

NORTHERN CALIFORNIA POWER AGENCY

NIXON PEABODY LLP

Randy S. Howard, General Manager

Authorized Signatory

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by Agency, Attorneys will provide bond, disclosure, and special tax counsel services, including but not limited to the following:

Special Tax Counsel:

Advising the Agency on all aspects of Federal and State tax law with respect to both the delivery of the Agency's debt financing program and management of the Agency's outstanding debt. This includes: (1) rendering opinions described under "Bond Counsel" section of the "Required Scope of Work", (2) providing current and expert advice on the application of Federal and State tax law to the Agency's debt, agreements, programs, and projects, and (3) providing current and expert advice with respect to laws relating to arbitrage and arbitrage rebate. Advice is required at the time of any issuance and also periodically between any issuances with respect to portfolio management.

Bond Counsel:

- ***Assist with Required Authorizations.*** Prepare and review documents necessary or appropriate for the authorization, issuance, sale and delivery of bonds, coordination of the authorization and execution of these documents. Draft and/or negotiate any legal documents necessary for the financing, including any necessary resolutions and other documents for the issuance and sale of bonds and furnishing instructions and advice in connection with these activities.
- ***Provide Required Legal Opinions.*** Render the bond counsel opinion regarding the validity and binding effect of the bonds, the source of payment and security for the bonds, and the excludability of interest on bonds from gross income for federal and/or state income tax purposes, and any other representations required to permit the offering and delivery of the obligations.
- ***Participate throughout Financing Process.*** Regularly attend meetings of the financing team from project inception through delivery of bonds; attend meetings as requested.
- ***Prepare Official Transcript.*** Prepare closing documents, including a closing memorandum, and furnishing copies of final transcripts to all requesting participants.
- ***Assist with Requests for Ratings and/or Credit Enhancements.*** The bond counsel may be called upon to participate in the solicitation of ratings and/or credit enhancements. In this process, the bond counsel will be expected to provide a description of the legal framework within which the obligations will be offered and clarification of any questions concerning the rights and responsibilities of the Issuer in the transaction.
- ***Review and Comment on Contracts/Agreements.*** The bond counsel will be expected to review and comment on other necessary documentation prepared by other parties. Such documentation shall include credit or liquidity facility agreements, investment and trust agreements, and bond purchase agreements.

- **Other Matters.** The bond counsel will review any legal issues related to the structure of the bond issue and/or the proposed sale, prepare any other documents necessary, including legal opinions, for issuance of bonds, and assist with any other legal matters relating to the financing that may be identified during the transaction, including investment of proceeds and reserves and compliance with federal arbitrage regulations.
- **Ongoing Advice.** Provide on-going advice and information to the Agency on the legal requirements and implications of the Agency's debt financing program, and any other agreements, programs, or projects.

Disclosure Counsel:

- Provide advice to the Agency staff and financing team on disclosure obligations
- Prepare the Preliminary and Final Official Statement
- Provide a "10b-5 Opinion" with respect to the preliminary and final official statements
- Review, as necessary, applicable law and pertinent documents
- Prepare the Continuing Disclosure Agreement and advise the Agency regarding compliance with such Agreement
- Participate, as requested, in meetings, informational meetings and discussions with the financing team
- Keep the Agency staff informed of rulings issued by federal and State regulatory agencies, such as the U.S. Securities and Exchange Commission and Municipal Securities Rulemaking Board that impact the Agency's disclosure practices

EXHIBIT B

ATTORNEY'S FEE SCHEDULE AND REIMBURSEABLE EXPENSES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount set forth in Section 2, Compensation, of the Agreement. This dollar amount is not a guarantee that Agency will pay that full amount to Attorneys, but is merely a limit of potential Agency expenditures under this Agreement. The proposed discounted rates for 2018 and 2019 are as follows:

Team member	Title	Discounted Rate
Graham Beck	Partner	\$550
Mitch Rapaport	Partner	\$770
Liz Columbo	Partner	\$710
Danny Kim	Partner	\$605
Dan Deaton	Partner	\$665
Joel Swearingen	Associate	\$510
Dia Kirby	Associate	\$390
Stuart Clapp	Associate	\$330

In addition, Attorneys and Agency may agree to a fixed fee based upon quoted rates in the October 5, 2018 Response for Bond Counsel, Disclosure Counsel and Special Tax Counsel Services from Nixon Peabody.

Additional Costs/Expenses

In addition to fees, Attorneys bill for out-of-pocket expenses at actual cost that are not expected to exceed 5% of the fees for the transaction.

NOTE: As a public agency, NCPA shall not reimburse Attorneys for costs in excess of those permitted by the Internal Revenue Service.

**RESOLUTION NO. 18-86
RESOLUTION OF THE COMMISSION OF THE
NORTHERN CALIFORNIA POWER AGENCY**

COMMENDING

BOB LINGL

WHEREAS, Bob Lingl has diligently served the City of Lompoc, also known as the flower seed capital of the world, since 2008 as a City Council Member, Vice Mayor and Mayor, and was appointed to serve as a Commissioner to the Northern California Power Agency in 2011; and

WHEREAS, during his eight (8) year tenure as a NCPA Commissioner, Bob served in numerous leadership positions including Chair of the Commission, Officer of the Executive Committee and Chair of the Legislative and Regulatory Affairs Committee; and

WHEREAS, during his chairmanship, he played an important role in the approval of the Northern California Power Agency's sixteenth Member the City of Shasta Lake; and

WHEREAS, he lead the effort and was instrumental in the executive search team that ushered in NCPA's first in-house general counsel; and

WHEREAS, Bob lead the successful efforts in the purchase of Hometown Connections, Inc., which will provide the Members with streamlined procurement and access to broad range of quality vendors; and

WHEREAS, he was a strong presence and effectively advocated on behalf of the Northern California Power Agency on issues both in Sacramento and in Washington, D.C.; and

WHEREAS, under his chairmanship, successfully expanded services to non-Members, providing support to other public power communities while generating new revenue to support the Agency's Strategic Plan; and

WHEREAS, Bob brought a great dry wit to all Agency meetings, and always ensured that everyone celebrated on their birthday each year; and

NOW, THEREFORE BE IT RESOLVED by the Commission of the Northern California Power Agency, that this Agency, its members, and its employees recognize and commend Bob Lingl for his dedication and service to the public power community and to NCPA.

PASSED AND ADOPTED BY ACCLAMATION, on this 29th day of November 2018.

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**RESOLUTION NO. 18-87
RESOLUTION OF THE COMMISSION OF THE
NORTHERN CALIFORNIA POWER AGENCY**

COMMENDING

JOHN C. "ROCKY" ROUKEMA

WHEREAS, John C. "Rocky" Roukema has diligently served the City of Santa Clara, Silicon Valley Power (SVP) for over 39 years;

WHEREAS, John joined the City in 1980, and over time was directly responsible for managing all parts of the utility, and very ably guided SVP through some of the most challenging times our industry has faced during the California Electricity Crisis; and

WHEREAS, he is a past Chairman of the Transmission Agency of Northern California and the M-S-R Energy Authority, he served on the Board of Directors for the Central Valley Project Corporation and the California Municipal Utilities Association, and played a key role as a member of the American Public Power Association's CEO Task Force on Climate Change and the Legislative and Resolutions Committee. He currently oversees the California Independent System Operator Nominating Committee. (In short, John played a key role in TANC, MSR, CVPC, CMUA, APPA, CAISO and NCPA while running SVP); and

WHEREAS, as a representative of NCPA's largest member, John continually displayed a strong commitment to joint action and played a key role in forging consensus and working relationships that have been the foundation of NCPA's success; and

WHEREAS, thanks to John's detailed planning, and experience serving large high-profile customers, he provided the steady leadership needed to keep the lights on for Super Bowl 50 at Levi's Stadium; and

WHEREAS, Rocky isn't really his nickname...it's only what he's called by his friends at NCPA because he's always ready to jump in the ring and go several rounds on behalf of public power – a true heavyweight champion for the customers he serves; and

WHEREAS, John is an ambassador for his native state of Montana. Hailing from Billings, the "Star of the Big Sky Country," he is a proud Bobcat from Montana State University. True to his roots, he exchanged his Prius for a pick-up truck so big that CARB has taken recent action to outlaw it; and

WHEREAS, John will be dearly missed as a leader in the electricity industry, in the state and federal policy arenas and by the customers of the City of Santa Clara whom he so loyally served; and

NOW, THEREFORE BE IT RESOLVED by the Commission of the Northern California Power Agency, that this Agency, its members, and its employees are truly grateful for all John has done to support public power and the purpose of this Agency throughout his career, and sincerely congratulate him on the occasion of his retirement from the City of Santa Clara, Silicon Valley Power.

PASSED AND ADOPTED BY ACCLAMATION, on this 29th day of November 2018.

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**RESOLUTION NO. 18-113
RESOLUTION OF THE COMMISSION OF THE
NORTHERN CALIFORNIA POWER AGENCY**

COMMENDING

BONNIE GORE

WHEREAS, Bonnie Gore is an active member of her community and has honorably served the City of Roseville as a council member and Vice Mayor since 2012; and

WHEREAS, Bonnie is a recipient of the Athena Award by the Roseville Chamber of Commerce, which honors influential leaders who make significant and positive impacts in the community; and

WHEREAS, Bonnie was appointed to the NCPA Commission in 2016, and has served as the agency’s Legislative and Regulatory Affairs Committee’s Vice Chair throughout her time on the Commission; and,

WHEREAS, Bonnie has been a tireless advocate on behalf of NCPA’s policy positions both in Washington, D.C. and in Sacramento, working to secure state and federal policies that enhance and protect the interests of the electricity customers of public power systems; and

WHEREAS, she has been an outstanding contributor to NCPA’s efforts to bring the City of Shasta Lake in as a new member of NCPA, as well as the agency’s purchase of Hometown Connections, which will enhance the number of services that are accessible to our Members while capturing benefits from the collective buying power of public power agencies from across the country; and

WHEREAS, Bonnie is by far the best singer on the NCPA Commission and has thankfully carried all of us in singing Happy Birthday during our meetings; and

WHEREAS, she has been elected to serve as a member of the Placer County Board of Supervisors where she is certain to continue her dedication and leadership on behalf of the citizens she represents; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency, its Members, and its employees are grateful for all Bonnie Gore has done to support public power and joint action as part of the leadership of this organization.

PASSED AND ADOPTED BY ACCLAMATION, on this 29th day of November 2018.

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**RESOLUTION NO. 18-114
RESOLUTION OF THE COMMISSION OF THE
NORTHERN CALIFORNIA POWER AGENCY**

COMMENDING

DAN KENNEY

WHEREAS, Dan Kenney was a dedicated and tireless advocate for the state’s consumer-owned utilities as a Director for the Plumas-Sierra Rural Electric Cooperative from 2007-2018, and as a Commissioner of the Northern California Power Agency since 2008; and

WHEREAS, Dan served as the Chairman of the Plumas-Sierra Telecommunications Board of Directors where he led efforts to promote broadband service throughout the region. He secured needed grant funding to support this enterprise through an American Recovery and Reinvestment Act Fiber Optic Grant, and oversaw the expansion of the system to provide universal service throughout several counties; and

WHEREAS, Dan had a deep commitment to public service. In addition to his work to ensure reliable electricity and telecommunications service in his community, he also became a licensed EMT and volunteer fire fighter with the Long Valley Community Services District during his retirement. He went on to serve as fire chief, assistant fire chief, and as a member of the District’s Board of Directors; and

WHEREAS, he bravely and selflessly served his country – Dan was an officer in the US Navy, serving in the Eastern Sea Command under Admiral John S. McCain, and volunteered to serve in the Vietnam War during his last year of duty. After serving in the reserves, he retired at the rank of Lieutenant Commander; and

WHEREAS, he was an active member of the National Ski Patrol, a 20-year subscriber to the San Francisco Symphony and an NCAA All-American in Fencing as a student at Notre Dame University; and

WHEREAS, despite his many responsibilities in his community, Dan always found time to attend NCPA’s conferences and support the agency’s work on behalf of public power consumers. He was a strong voice for the interests of the state’s smaller rural utilities, and left a lasting impact on our agency as a member of the NCPA Bylaws Committee in 2013-2014; and

NOW, THEREFORE BE IT RESOLVED, the Northern California Power Agency expresses its very deep appreciation for the service of Commissioner Daniel Kenney. His lifelong commitment to volunteerism and improving the lives of others demonstrates the very best of what public power represents.

PASSED AND ADOPTED BY ACCLAMATION, on this 29th day of November 2018.

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



RESOLUTION NO. 18-115
RESOLUTION OF THE COMMISSION OF THE
NORTHERN CALIFORNIA POWER AGENCY

COMMENDING
PATRICK KOLSTAD

WHEREAS, Pat Kolstad has dedicated his professional career to public service in his community, including a long and successful career over 31 years with the Santa Clara Police Department, serving for 16 years as an elected city council member for the City of Santa Clara, and as a NCPA Commissioner where he served two terms as Chairman of the Commission, and headed the NCPA Legislative and Regulatory Affairs Committee; and

WHEREAS, Pat, in his role as a NCPA Commissioner and member of the Executive Committee, helped oversee the planning and construction of the Lodi Energy Center – one of the cleanest natural gas facilities in the U.S., designed to support the State of California’s renewable energy goals. This facility was the first NCPA plant that included non-NCPA members as project participants; and

WHEREAS, as Vice President and President of the Modesto-Santa Clara-Redding (MSR) Public Power Agency, Pat helped guide the agency toward clean energy options including participation in the Big Horn Wind Energy Project in 2016, and he played a central role in MSR’s divestiture from the San Juan Generating Station in northwest New Mexico which was one of the last coal-fired plants providing generation to California; and

WHEREAS, in 2007, represented NCPA at the United Nations Climate Change Conference in Bali, Indonesia which focused on garnering commitments to the Kyoto Protocol and encouraging developing countries to greenhouse gas reductions. At the Conference, Pat presented a paper entitled, “*On the Path to Provide Low Carbon Power,*” which helped educate policymakers about the greenhouse gas reduction efforts underway in the public power community; and

WHEREAS, Pat has been one of the strongest advocates on behalf of NCPA’s policy goals on during visits to Washington, D.C. for the annual American Public Power Association’s Legislative Rally and NCPA’s Federal Policy Conference; and

WHEREAS, he was instrumental in working as a locally elected official and as a private citizen to bring the NFL’s 49ers to the City of Santa Clara, and to build support for the construction of Levi’s Stadium, which opened in 2014. Levi’s Stadium is among the greenest and most sustainable venues in all of professional sports – and is the first National Football League stadium to be LEED Gold Certified; and

WHEREAS, during his tenure as an esteemed member of the City of Santa Clara City Council, he has been widely known as “America’s Friendliest Councilman”; and

WHEREAS, NCPA wishes Pat and Terri a happy retirement with all the other California expatriate retired police officers who are enjoying life after law enforcement in the Pacific Northwest; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency that this agency, its members, and its employees are truly grateful for Pat’s outstanding leadership and all he has done to support public power and the purpose of this Agency throughout his tenure, and sincerely congratulates him on the occasion of his retirement as a council member representing the City of Santa Clara and Silicon Valley Power.

PASSED AND ADOPTED BY ACCLAMATION, on this 29th day of November 2018.

 ROGER FRITH
 CHAIR

 ATTEST: CARY A. PADGETT
 ASSISTANT SECRETARY





Commission Staff Report

Date: November 15, 2018

COMMISSION MEETING DATE: November 29, 2018

SUBJECT: PG&E Natural Gas Negotiated Rate Contract Extension

AGENDA CATEGORY: Discussion/Action

FROM:	Ken Speer <i>KDS</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 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 18-101 authorizing the General Manager or his designee to negotiate and execute an extension of the gas transportation rate contract between NCPA and Pacific Gas and Electric Company, to remain in effect until the end of the current Gas Transportation Rate Case.

BACKGROUND:

On August 30, 2017, NCPA entered into an agreement with Pacific Gas and Electric. This agreement was negotiated as a result of the significant gas transportation rate increase by PG&E. The price increase by PG&E resulted in a significant decrease in LEC capacity factor. The negotiated rate reduced LEC's rate to PG&E. Because of the reduce rate, LEC has been operating at a significantly increased capacity factor and margins. In addition to the benefits to LEC, PG&E's earnings from LEC have been higher than they have ever been. This contract has been beneficial to both parties. The original term of the contract was to expire on December 31, 2018, whereby LEC would begin to use the new rate approved by the CPUC for the next rate period.

In September 2018, the CPUC hearings began for the new rate case. It became clear that the case would not be resolved by the contract expiration date. NCPA reached out to PG&E to see if the contract could be extended. PG&E agreed to extend the contract at the same rate. The contract expiration date has been revised to the effective date of the new rate case.

FISCAL IMPACT:

The reduced rate allows LEC to be more competitive in the market. This allows for a higher capacity factor and increased margins.

SELECTION PROCESS:

PG&E is the only provider for natural gas delivery in Lodi.

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 was approved by the Lodi Energy Center Project Participant Committee on November 5, 2018 and was recommended for Commission approval.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: (1)

- Resolution

RESOLUTION 18-101

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING AN EXTENSION TO THE CONTRACT FOR NEGOTIATED GAS RATE WITH
PACIFIC GAS AND ELECTRIC

(reference Staff Report #227:18)

WHEREAS, on August 30, 2017, NCPA entered into an agreement with Pacific Gas and Electric for a negotiated reduction in the gas transportation rate for Lodi Energy Center, with an original expiration date of December 31, 2018; and

WHEREAS, the reduced negotiated gas transportation rate has resulted in a significantly increased capacity factor and margins for the Lodi Energy Center plant; and

WHEREAS, In September 2018, the CPUC hearings for a new rate case began, and it has become clear that the new case will not be resolved by the original expiration date of the contract for the negotiated gas rate for the Lodi Energy Center; and

WHEREAS, NCPA now wishes to extend the contract for the negotiated rate until the resolution of the latest rate case, with the exact date TBD; and

WHEREAS, the proposed contract extension was presented and approved in the November 5, 2018 meeting of the LEC PPC; 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 negotiate and execute an extension of the gas transportation rate contract between NCPA and Pacific Gas and Electric, to remain in effect until the end of the current Gas Transportation Rate Case.

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

Table with 4 columns: Name, Vote, Abstained, Absent. Lists various agencies like 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.

ROGER FRITH
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



Agenda Item: 43

Commission Staff Report

COMMISSION MEETING DATE: November 29, 2018

AGENDA CATEGORY: Discussion/Action

Pursuant to Government Code Section 54957.6:
Conference with Labor Negotiators, and Government
Code Section 54957: Performance Evaluation:
Unrepresented Public Employee: Two (2) categories:
General Manager and **General Counsel** – this item is
being considered in Closed Session.

Contingent upon action taken during **Closed Session
Item 43**, the Staff Report, Resolution and Agreement will
be provided to the Full Commission in Open Session for
final consideration.



Agenda Item: 44

Commission Staff Report

COMMISSION MEETING DATE: November 29, 2018

AGENDA CATEGORY: Discussion/Action

Pursuant to Government Code Section 54957.6:
Conference with Labor Negotiators, and Government
Code Section 54957: Performance Evaluation:
Unrepresented Public Employee: Two (2) categories:
General Manager and **General Counsel** – this item is
being considered in Closed Session.

Contingent upon action taken during **Closed Session
Item 44**, the Staff Report, Resolution and Agreement will
be provided to the Full Commission in Open Session for
final consideration.



Agenda Item: 45

Commission Staff Report

COMMISSION MEETING DATE: November 29, 2018

AGENDA CATEGORY: Discussion/Action

Pursuant to Government Code Section 54957.6:
Conference with Labor Negotiators and Agency
representatives: General Manager Randy S. Howard,
Assistant General Manager Ken Speer, Assistant General
Manager Monty Hanks, and Human Resources Manager
Vicki Cichocki. Employee organization: IBEW 1245
(Geothermal and Combustion Turbines) – this item is
being considered in Closed Session.

Contingent upon action taken during **Closed Session
Item 45**, the Staff Report, Resolution and MOU will be
provided to the Full Commission in Open Session for final
consideration.



Agenda Item: 46

Commission Staff Report

COMMISSION MEETING DATE: November 29, 2018

AGENDA CATEGORY: Discussion/Action

Pursuant to Government Code Section 54957.6:
Conference with Labor Negotiators and Agency
representatives: General Manager Randy S. Howard,
Assistant General Manager Ken Speer, Assistant General
Manager Monty Hanks, and Human Resources Manager
Vicki Cichocki. Employee organization: Hydroelectric
Employees Association (HEA) – this item is being
considered in Closed Session.

Contingent upon action taken during **Closed Session
Item 46**, the Staff Report, Resolution and MOU will be
provided to the Full Commission in Open Session for final
consideration.