



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: March 23, 2017, NCPA Commission Meeting

Item #1 – Call Meeting to Order and Introductions

Chair Bob Lingl called the meeting to order at 9:30 am at NCPA's Roseville Office, 651 Commerce Drive, Roseville, California. A quorum was present. Introductions were made. Those in attendance are shown on the attached attendance list.

Item #2 – Approve Minutes of the February 23, 2017, Commission Meeting

Motion: A motion was made by Gary Plass and seconded by Mark Chandler to approve the Minutes of the February 23, 2017, Commission Meeting. The motion carried unanimously on a roll call vote of those members present.

PUBLIC FORUM

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

REPORTS AND COMMITTEE UPDATES

Item #3 – General Manager's Business Progress Report and Update

General Manager Randy Howard reported:

- Provided an update and brief overview of the retreat agenda from the Utility Directors' Retreat that was held this month.
- Gave an updated on NCPA's Support and Shared Services agreements and provided a copy of the monthly status report.
- Brief update on the revenue cost allocation for non members.
- Ken Speer provided an update on the status of the rotor valve vibration issue at the Geothermal facility.

Item #4 – Executive Committee

Committee Chair Bob Lingl reported that the Committee met twice since the last Commission meeting, and discussed the hiring of in-house general counsel, amendments to the Agency's Bylaws heard a report from the General Manager, and selected the location of the 2019 NCPA Annual Conference, which will be held at the Resort at Squaw Creek.

Item #5 – Facilities Committee

Assistant General Manager Dave Dockham reported the Committee met twice since the last Commission meeting. The Committee met and discussed items 12, 13, 14, and 15 on today's Agenda. The Committee recommended Commission approval of all items. The Committee also reviewed and discussed the proposed FY18 Power Management budget and recommended approval of the budget.

Item #6 – Finance Committee

Committee Chair Madeline Deaton noted that the Committee did not meet, but reported that an RFP for Audit Services was released with tentative interviews to be held in May. A Special Committee meeting will be held April 5 to review the FY18 Budget and long-term funding plan for NCPA's Employee Pension Program. The next regular scheduled meeting is on May 10.

Item #7 – Legal Committee

Acting General Counsel Ruthann Ziegler reported that the Committee did not meet.

Item #8 – Legislative & Regulatory Affairs Committee

Committee Chair Gary Plass noted that the Committee did not meet, but gave a brief update on the APPA's Legislative Rally and Winter Workshop that was held last month. The NCPA/NWPPA Federal Policy Conference in Washington, DC will be held on April 23-27 – online registration is open. The next regular scheduled Committee meeting is on April 19, which was moved from May 24.

Item #9 – Members' Announcements & Meeting Reporting

No member announcements.

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 Consent.

Motion: A motion was made by Gary Plass and seconded by Madeline Deaton to approve the Consent Calendar consisting of Items 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19. The motion carried by a majority of those members present on a roll call vote with the abstentions noted below for each item.
BART, Plumas-Sierra REC, Port of Oakland, and Truckee Donner were absent.

Item #10 – NCPA's Financials for the Months Ended February 28, 2017 – approval by all members.

Item #11 – Treasurer's Report for the Months Ended February 28, 2017 – accept by all members.

Item #12 – Resolution 17-17, Matheson Tri-Gas, Inc. – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members – approve resolution by members authorizing the General Manager or his or his designee to enter into a First Amendment to Multi-Task General Services Agreement with Matheson Tri-Gas, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Fiscal Impact: Total cost of the agreement is not-to-exceed \$750,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Item #13 – Resolution 17-18, Control Components, Inc. – Five Year Multi-Task General Services Agreement for Valve/Vent Maintenance and Inspection Services; Applicable to the following projects: All NCPA Generation Services Plant Locations, Members, SCPPA, and SCPPA Members – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc. for valve/vent maintenance and inspection services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

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

Item #14 – Resolution 17-19, Westgate Petroleum Company, Inc. – Five Year Agreement for Purchase of Equipment, Materials and Supplies for Fuel, Oil and Lubricant Products; Applicable to the Geothermal Facility – adopt resolution by all members authorizing the General Manager or his designee to enter into a five-year Agreement for Purchase of Equipment, Materials and Supplies of fuel, oils, lubricants and other miscellaneous petroleum products, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed an amount of \$1,350,000 over five years for use at the Geothermal facility.

Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$1,350,000 over five years to be used out of NCPA Geothermal approved budgets as services are rendered. Purchase Orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Item #15 – Resolution 17-20, K.W. Emerson, Inc. Public Works Agreement – Plant 2 Fire Suppression Service Line Replacement Project; Applicable to the following project: Geothermal Plant 2 – adopt resolution by all members authorizing the General Manager or his designee to enter into a public works agreement with K.W. Emerson, Inc. for a not to exceed amount of \$650,000 for the fire suppression service line replacement project at the NCPA Geothermal Plant 2 Facility and delegate to the NCPA General Manager authority to issue purchase orders against the contract to carry out this work.

Fiscal Impact: The cost for the base scope of work is \$571,002 as specified by the request for proposal. Contingency funds of \$78,998 (approximately 13.8%) are further requested to cover possible change orders and contingencies, so that the total cost to the project will not exceed \$650,000. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Item #16 – Resolution 17-21, Pacific Gas and Electric Company Standby Services Agreement – Updated Standby Services Agreement for the purchase of back feed power; Applicable to the Lodi Energy Center – adopt resolution by all members authorizing the General Manager or his designee to execute the updated Standby Services Agreement with Pacific Gas and Electric Company (PG&E) for the purchase of back feed power while the Lodi Energy Center (LEC) is offline. **Fiscal Impact:** There is no fiscal impact as a result of the contract change. LEC will continue purchasing power at the same rates that it currently does. Currently LEC expends approximately \$460,000 per year on standby power.
Alameda and Palo Alto abstained.

Item # 17 – Resolution 17-22, Lodi Energy Center Heat Recovery Steam Generator Outage Project – May 2017; Applicable to the Lodi Energy Center – adopt resolution by all members authorizing the General Manager or his designee to execute agreements and issue purchase orders for maintenance work related to the Lodi Energy Center (LEC) Heat Recovery Steam Generator Outage Project, for a total cost not to exceed \$720,145. **Fiscal Impact:**

HRSG Outage	Anticipated Cost
HRSG Work	\$527,062
Balance of Plant Work	73,059
Contingency	\$120,024
Total Cost	\$720,145

The budgetary funds to complete the HRSG Project include \$720,145 of pre-collected funds in the Maintenance Reserve for the Outage Project (Account # 265-009-005-610-044-002).
Alameda and Palo Alto abstained.

Commissioner Basil Wong arrived at 10:00 am.

DISCUSSION / ACTION ITEMS

Item #18 – Resolution 17-23, Approving the Amendment Two to the Amended and Restated Rules of Procedure (NCPA Bylaws) – adopt resolution by all members approving Amendment Two to the Amended and Restated Rules of Procedure (NCPA Bylaws) with the recommended changes in Section 9(a) Membership of Executive Committee.
Fiscal Impact: This report has no direct budget impact to the Agency.

General Manager Randy Howard provided a brief explanation of the proposed changes to the current Rules of Procedure.

Motion: A motion was made by Gary Plass and seconded by Bonnie Gore to adopt resolution approving Amendment Two to the Amended and Restated Rules of Procedure (NCPA Bylaws). The motion carried by a majority on a roll call vote of those members present.
BART, Plumas-Sierra and Truckee Donner were absent.

Alternate Commissioner Mike Brozo arrived at 10:15 am.

Item #19 moved to after Closed Session discussion.

CLOSED SESSION

Item #20 – 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.

Assistant General Counsel Ruthann Ziegler recused herself for Items 21a and 21b due to conflict of interest, as well non essential Agency staff left the meeting.

Item #21a – Conference with Labor Negotiators pursuant to Government Code section 54957.6: Agency representatives: NCPA Executive Committee Members, General Manager Randy S. Howard and Human Resources Manager Vicki Cichocki. Unrepresented Public Employee: in-house General Counsel.

Non voting Members left the meeting for Item 21b.

Item #21b – Appointment of Public Employee pursuant to Government Code Section 54957: Public Employee: in-house General Counsel.

RECONVENED TO OPEN SESSION

All meeting attendees rejoined the meeting.

REPORT FROM CLOSED SESSION

Item #20 – 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.

Item #21a – Conference with Labor Negotiators pursuant to Government Code section 54957.6: Agency representatives: NCPA Executive Committee Members, General Manager Randy S. Howard and Human Resources Manager Vicki Cichocki. Unrepresented Public Employee: in-house General Counsel.

Closed Session Disclosure: Chair Bob Lingl stated there was no reportable action taken on Items 20 and 21a.

Item #21b – Appointment of Public Employee pursuant to Government Code Section 54957: Public Employee: in-house General Counsel.

Closed Session Disclosure: Chair Bob Lingl stated that reportable action was taken to appoint Jane E. Luckhardt as General Counsel, approve the Employment Agreement of Jane E. Luckhardt in substantially the form presented to the Commission and direct the Chair of the Commission to execute the Employment Agreement on behalf of the Agency. A motion was made by Gary Plass and seconded by Mark Chandler. The motion carried by a majority on a roll call vote of those members present. *BART and Truckee Donner were absent.*

DISCUSSION/ACTION ITEMS (CONT.)

Item # 19 – Resolution 17-24, Appointment of In-House General Counsel and Approval of Employment Agreement – adopt resolution by all members appointing in-house General Counsel, approving the Employment Agreement in substantially the form presented to the Commission, and directing the Chair of the Commission to execute the Employment Agreement on behalf of the Agency.

Fiscal Impact: Funds are available in the current fiscal year budget for this position. The Agency budgeted and approved for this General Counsel position. On December 1, 2016, the Commission approved the General Counsel Job classification at an assigned salary grade 31, as reflected in the Agency's 2017 Administrative General Wage Structure.

Chair Lingl provided a brief background on the selection process for the General Counsel position, thanked the Executive Committee for their time and effort and reported that this item was discussed and approved under Closed Session Item 21b.

Motion: A motion was made by Bonnie Gore and seconded by Mark Chandler to adopt resolution appointing in-house General Counsel, approving the Employment Agreement in substantially the form presented to the Commission, and directing the Chair of the Commission to execute the Employment Agreement on behalf of the Agency. The motion carried by a majority on a roll call vote of those members present.

BART and Truckee Donner were absent.

INFORMATIONAL ITEMS

Item #22 – Proposed Annual Budget for Fiscal Year 2018 – status report, budget preview and slide presentation for this year's preparation – note and file report by all members.

Assistant General Manager/CFO Monty Hanks gave a presentation on the proposed annual budget for FY18.

Item #23 – Hydrology Report – update and presentation

Assistant General Manager Ken Speer gave an update and presentation on the water levels at the Hydroelectric facility.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

The March 23, 2017, Commission meeting was adjourned at 11:50 am.

Respectfully submitted,

//

CARY A. PADGETT

Assistant Secretary to the Commission

Attachments

Northern California Power Agency
Commission Meeting of March 23, 2017

COMMISSIONER
Attendance List

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

MEMBER	NAME
ALAMEDA	<i>Nadene Collins</i>
BIGGS	<i>Ross J. [Signature]</i>
GRIDLEY	GARY DAVIDSON PAUL BEKERT
HEALDSBURG	<i>[Signature]</i>
LODI	<i>Mark Chandler</i>
LOMPOC	<i>Bblj</i>
PALO ALTO	<i>Dean [Signature]</i>
PORT OF OAKLAND	<i>Paul W. [Signature]</i>
PLUMAS-SIERRA REC	<i>Wille [Signature]</i>
REDDING	<i>Barry [Signature]</i>
ROSEVILLE	<i>Bonnie Gore</i>
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	
SANTA CLARA	<i>Teresa O'Neill</i>
TRUCKEE DONNER	
UKIAH	<i>Mel. Grandi</i>

Northern California Power Agency
 Commission Meeting of March 23, 2017
 Attendance List

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

NAME	AFFILIATION
Craig P. ACS	Healdsburg
David Hagel	Healdsburg
Nico Procos	Alameda
Michene Bertolino	Roseville
Roger Frith	3.995
Monty Hanks	NCPA
Ken Speer	NCPA
Jane Cirincione	NCPA
Dave Daddam	NCPA
LIZ KIRKLEY	LODI
Ruthann Ziegler	NCPA legal counsel
Randy Howard	NCPA
Bob Cing	Lompoc
Kathleen Hughes	SVP
Monica Padilla	PARO ALTO
Carnie Pollo	NCPA
Cam Padgett	NCPA
Mike Brozo	PSREC



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: 3/23/17

Consent Items Listed on the Agenda: # 10 to # 17

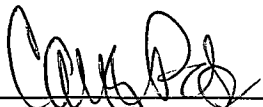
Consent Items Removed from the Agenda and Approved Separately:

0

ROLL-CALL VOTE BY MEMBERS: Hea / Alameda.

Member	Item Numbers Abstained	Vote	Absent
Alameda	10, 17	Y	
BART			X
Biggs		Y	
Gridley		Y	
Healdsburg		Y	
Lodi		Y	
Lompoc		Y	
Palo Alto	10, 17	Y	
Port of Oakland			X
Redding		Y	
Roseville		Y	
Santa Clara		Y	
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: item 18 - bylaws

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

Passed and adopted this 23rd day of March 2017, by the above vote on roll call.

Bob Lingl
BOB LINGL
Chair

ATTEST: Cary A. Padgett
CARY A. PADGETT
Assistant Secretary

**Northern California Power Agency
ROLL CALL VOTE**

Topic: item 19

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

Passed and adopted this 23rd day of March 2017, by the above vote on roll call.

 Bob L.
BOB LINGL
Chair

ATTEST: Cary A. Padgett
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: April 20, 2017
To: NCPA Commission
Subject: March 15, 2017 Special Facilities Committee Meeting Minutes & April 5, 2017
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

To: NCPA Facilities Committee
From: Michelle Schellentrager
Subject: March 15, 2017 Special Facilities Committee Meeting Minutes

- 1. Call Meeting to Order and Roll Call** - The meeting was called to order by Committee Vice Chair Mike Brozo at 9:04am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were: Mark Sorensen (Biggs), Jiayo Chiang (Lodi), Tikan Singh (Lompoc), Christopher Hutchinson and Monica Padilla (Palo Alto), Basil Wong and Khaly Nguyen (Port of Oakland), and Kathleen Hughes (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Gridley, Healdsburg, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

- 2. Gen Services FY18 Budget Review and Approval** – Representatives from the Generation Services department reviewed the budgets for each of the NCPA Project, and answered questions from Members.

Hydro FY18 Budget: Staff were able to make some minor reductions to the budget as compared to the budget presented at the previous meeting. Monica Padilla asked for more information about the additional increase in A&G costs for Hydro. Staff explained that the bulk of the increase was being driven by adjustments to other budget categories since the allocation of A&G is partially based on the proportional distribution of total budget dollars by category. A&G is also impacted due to increased funding of the pension liability fund.

Mike Brozo asked why there appeared to be an increase in CAISO charges between Actual and Proposed budgets. In previous years, NCPA had not budgeted for uninstructed energy costs. The \$1.6 million being budgeted for FY18 is consistent with previous years' Actuals and is an attempt to accurately budget for those costs for FY18.

Hydro has six (6) projects being proposed for FY18; there were no changes to any of the scheduled projects since the previous meeting.

CT's FY18 Budget: Staff reviewed the budgets for CT1 and CT2.

- **CT1 FY18 Budget:** No changes to budget. Staff noted there was a minor increase in labor costs, but that there were decreases to Generation Services Shared costs and Administrative costs. No changes to the projects being proposed.
- **CT2 FY18 Budget:** No changes to budget since previous meeting. Projects all remain the same. Overall budget for CT2 is up slightly from previous years, due to A&G costs.

Geo FY18 Budget: Since the last meeting, the valuation assigned to RECs has been updated based on current market conditions, A&G costs increased slightly, and one scheduled project was deferred.

Member's requested a more detailed cost breakdown of cost drivers contributing to Generation Service A&G increases. O&M costs are fairly flat for FY18. There will be a savings of approximately \$175,000 by deferring an Administrative Project for FY18. Staff reviewed the remaining projects once again for Members; there were no additional questions about the projects scheduled.

Staff mentioned that some additional repairs may need to be made to Unit 4 due to vibration concerns which were discovered after the unit returned to services from a scheduled PG&E line outage. When Unit 4 was brought back online, Geo staff noticed a vibration in the turbine. Staff indicated that the annual maintenance scheduled for the unit will be moved up in time to enable review of the issue. All planned maintenance will still be performed during the outage.

Motion: A motion was made by Shannon McCann and seconded by Alan Hanger recommending Commission approval of the FY18 budget for Generation Services, including Hydro, CT, and Geo. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Plumas-Sierra, Roseville and Santa Clara. ABSTAIN = Palo Alto. The motion passed.

3. Administrative Services FY18 Budget Review and Approval – Representatives from Administrative Services reviewed their final proposed budget and answered questions from Members.

Staff was able to make some additional reductions since the February meeting. Staff was able to reduce the overall budget by an additional \$12,000, mainly through reductions in the amounts budgeted for various projects. Staff made it clear to Members that a vote for the Administrative Services budget would including voting for the Labor costs outlined.

Members had questions about the proposed project to install a storage container on-site at NCPA main office. Staff explained that this container would be used for storage of records, per NCPA's records retention policy, and would allow NCPA to end the lease for off-site storage.

Staff clarified that 75% of the budget was labor or staff-related. Members questioned whether the thirteen million dollars allocated for A&G costs aligned correctly with NCPA's generation, on average. Members also questioned Budgeted vs. Actual amounts, specifically with SCALD and Information Services. Sondra agreed to look into the details of the A&G costs more closely, and send out a more comprehensive review of what makes up those costs.

The Judicial Action cost allocation methodology was also discussed and reviewed. There were computation errors identified upon further examination. Staff made proposals to improve processes/prevent these issues from reoccurring again in the future. Members expressed on interest in considering alternatives for allocating certain categories of Judicial Action going forward, particularly if NCPA gets more involved in transmission/rate cases at FERC. For example, Members question the current allocation methodology being used to allocate costs associated to NCPA's participation in the PG&E TO18 rate case. Monica Padilla expressed an interest in making a motion to re-examine how Judicial Action costs associated TO18 costs are allocated to the Members. Mike Brozo expressed hesitation with including any new proposed allocation methodology in FY17/18 budgets. His suggestion was to have FY18 adjustments handled through the annual settlements in October of 2018. Monica expressed hesitation with approving the FY18 A&G budget. Sondra volunteered to put together a comprehensive analysis outlining the changes between FY16/17, including more detailed data on the Actuals.

Motion: A motion was made by Alan Hanger and seconded by Shannon McCann recommending Commission approval of the FY18 budget for Administrative Services. A vote

was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Plumas-Sierra, Roseville and Santa Clara. ABSTAIN = Palo Alto. The motion passed.

4. Power Management FY18 Budget Review and Approval – Representatives from Power Management reviewed their final proposed budget and answered questions from Members.

Power Management program costs overall went down. Staffing remained unchanged. There was an overall decrease of ~ \$160,000 across the board in all Power Management programs. Staff outlined focus areas for Power Management for FY18.

Staff noted that Power Management has some Administrative Services costs folded into Nexant Model, which results in them be included in the Power Management annual budget.

Staff reviewed the Power Management structure and cost allocation methods. Shannon McCann recommended eliminating the \$19,000 budgeted and earmarked for a consultant in the Fuel Acquisition & Management portion of the budget; all Members agreed that the allocated consultant costs should be cut.

Judicial Allocation was discussed. Historically, Power Management had only spent half of what was actually budgeted. Staff anticipate that the entire amount budgeted for FY17 will be spent. The Committee also requested that PCWA/MEID service revenues be reflected separately from the budget. Monica Padilla asked staff to explain why the forecasting budget was so high; staff gave the Committee a high-level overview of what costs make up the forecasting budget, to give Members a better understanding of the costs.

Motion: A motion was made by Monica Padilla and seconded by Shannon McCann recommending Commission approval of the FY2018 budget for Power Management, contingent on elimination of the Consultant (\$19,000) in Fuel Acquisition & Management. The Committee also recommended that staff review how Judicial Action costs for the PG&E Rates and Tariffs category are allocated, and present options for consideration at the next meeting. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo-Alto, Plumas-Sierra, Roseville and Santa Clara. The motion passed.

5. Schedule Next Meeting Date – The next regular Facilities Committee Meeting is scheduled for April 5th, 2017.

ADJOURNMENT

The meeting was adjourned at 12:10 pm.

**Northern California Power Agency
 March 15, 2017 Special Facilities Committee Meeting
 Attendance List**

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

MEMBER	NAME
ALAMEDA	<i>Alan Hanger</i>
BART	
BIGGS	
GRIDLEY	
HEALDSBURG	
LODI	
LOMPOC	
PALO ALTO	
PLUMAS-SIERRA REC	<i>Michael Brogg</i>
PORT OF OAKLAND	
ROSEVILLE	<i>Shirley McLean</i>
SANTA CLARA	
TID	
UKIAH	



651 Commerce Drive
Roseville, CA 95678

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

Minutes

To: NCPA Facilities Committee
From: Michelle Schellentrager
Subject: April 5, 2017 Facilities Committee Meeting Minutes

- 1. Call Meeting to Order & Roll Call** - The meeting was called to order by Committee Vice Chair Mike Brozo at 9:06am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Alan Hanger, Debbie Whiteman, and Sarah Liuba (Alameda), Mark Sorensen (Biggs), Paul Eckert (Gridley), Tikan Singh (Lompoc), Christopher Hutchinson and Monica Padilla (Palo Alto), Basil Wong (Port of Oakland), and Steve Hance (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Healdsburg, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

- 2. Approve Minutes from March 1st and March 15th Facilities Committee Meetings** – A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending approval of the March 1st and March 15th Facilities Committee Meeting Minutes. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Roseville and Santa Clara. The motion passed.
- 3. Update Amended and Restated Facilities Agreement Schedules** – Staff recommended approval of an Amendment to the Facilities Agreement Schedules. Staff gave some background on CAISO Master File. When Staff reviewed the operating parameters for CT1, STIG, and Combustion Turbine, they found them to be outdated. A request to have the parameters and operating characteristics updated has been submitted to CAISO. To maintain consistency, the Facilities Schedules will also need to be updated. Staff explained that the Lodi Energy Center changes were presented at a previous LEC PPC Meeting, but those changes did not require updates to the Facilities schedule, so the Facilities Committee's approval of those updates is not required.

Members asked if these changes could impact cost allocation. Staff explained there is a possibility cost allocation models will be impacted. Staff assured Members that these changes are a result of engineering, not the be advantageous for particular Members. These changes will allow Staff reports to more accurately reflect the operating parameters of the machine. Staff will examine the cost allocation modeling rules, and whether to input these changes for FY18 budgets. It is likely these changes will not be incorporated until FY19 budgets.

Motion: A motion was made by Jiayo Chiang and seconded by Mike Brozo recommending Commission approval of an Amendment to Facilities Schedules 5 of the Amended and Restated Facilities Agreement to update the CT1 Project Statistics, as further described in this presentation. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Roseville and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 4. Judicial Action Budget Review and Approval** – Staff recommended approval of the FY2017 Judicial Action allocation percentages. As requested by the Facilities Committee in the previous meeting, the \$19,000 that had been earmarked for a consultant in the Fuel Acquisition & Management portion of the budget has been removed.

Staff gave background on Judicial Action Budget, what the budget dollars are used for, and the four functional areas they cover. Staff determined that the allocation percentages in the FY17 budget had not been updated to reflect current Industry Restructuring or Western Base Resource percentages; Staff proposed that the amounts charged for FY17 be re-run through the updated Nexant Cost Allocation Model when NCPA is processing FY17 true-ups in October 2017.

Staff also presented Members with the alternative allocation methodology which was requested by the Facilities Committee in the previous meeting. Staff explained that the main beneficiaries of Judicial Action activities are those members with ISO loads and transmission charges. Staff shared a chart with the proposed alternative cost allocation model. BART will be included in FY19. Staff acknowledges that non-members may benefit from the outcome of some of NCPA's Judicial Action activities, however, NCPA cannot legally represent or advocate for non-members, so they will not be included.

Motion: A motion was made by Monica Padilla and seconded by Alan Hanger recommending Commission approval and direction to staff to update the FY 2017 Judicial Action subcategory allocation percentages, as further described herein, as part of the FY 2017 annual budget settlement process that is scheduled to occur in October 2017.

The Facilities Committee also recommends that costs incurred during FY 2018 under the Judicial Action subcategory "PG&E Rates and Tariff Amendments" be allocated to Members based on their pro-rata share of CAISO loads and exports ending adoption of this proposal, the recommended change to the allocation percentages will impact multiple sections of the budget documentation; therefore, to enable a comprehensive approval of the budget material, NCPA staff also recommends that the proposed allocation methodology be applied to actual costs incurred under this Judicial Action subcategory as part of the FY 2018 annual budget settlement process. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville and Santa Clara. The motion passed.

- 5. Geothermal Generation Services Facility – Informational – Geysers Economic Curtailment** – Staff provided an overview of their plan for Geo load curtailment. Staff reviewed the advantages to curtailments (avoid negative pricing, preserve steam for future use when Day Ahead Market prices are higher, etc.). Staff also reviewed some disadvantages to curtailments (might lose RECs, potential damage to plant equipment could cost up to \$20,000 to repair, turbine efficiency is affected, etc.).

Staff reviewed the fiscal impacts on Geo curtailments, based on a recommended 45 MW maximum curtailment. Staff presented the Committee with three methods to curtail Geysers output. Staff favors Day Ahead Scheduling/bidding, and believes having a bidding strategy in place will allow NCPA to better react to negative pricing in Day Ahead Scheduling.

Members expressed hesitation about curtailment, due to the potential costs if some of the wells are damaged, and questioned whether the savings are worth the risk.

Motion: A motion was made by Steve Hance and seconded by Shannon McCann recommending Commission approval that the GEO facility not be curtailed unless Power prices are a negative price of at least \$25/MWhr, with a curtailment level maximum of 45 MW. The amount of curtailment may need to be adjusted based upon steam field response. Only Cycle when the daily prices are expected to be at the negative price above for 4 hours or more. Limit cycling to once per day. Staff will also return to Facilities Committee with a report should instances of curtailment occur. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Plumas-Sierra, Roseville and Santa Clara. ABSTAIN = Palo Alto and Port of Oakland. The motion passed.

- 6. Geothermal Generation Services Facility – Informational – Geothermal Unit 4 Outage –** Staff provided an update regarding the Geothermal Unit 4 Outage. Unit 4 Turbine was pulled apart to address abnormally high vibration. Once apart, it was discovered that a critical piece of wire which holds the Z Lock Flex Blades in place had come out. Repairs to Unit 4 Turbine were completed 1 day ahead of schedule.

Staff also provided an update on the completion of the Unit 4 main steam pipeline re-route. This project was also completed successfully, and Staff report that steam appear stronger and estimate that we should see MW and steam gains as a result of this work. Staff plans to present a more in-depth analysis of MW gains in the next Facilities Committee meeting.

- 7. All Generation Services Facilities, Members, SCPPA – Schweitzer Engineering Laboratories, Inc. First Amendment –** Staff recommended approval of an Amendment to the existing five year Multi-Task Professional Services Agreement with Schweitzer Engineering Laboratories, Inc. This Amendment expands the Scope of Work to include Training. A draft Commission Staff Report was available for review.

Motion: A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending Commission approval of the First Amendment to the Multi-Task Professional Services Agreement with Schweitzer Engineering Laboratories, Inc., 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 any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. The motion passed.

- 8. Planning and Operations Update –**
- **TO18:** NCPA was in settlement discussions with PG&E, however, an impasse was declared, and we are now moving forward to trial. We anticipate a significant amount of work. NCPA is not actively participating in trial. Moving forward, it will be handled primarily by TANC, CDWA and the CA Utilities Commission. Trial is set for January 2018, with the initial order estimated to come down in June 2018.
 - **PG&E Transmission Planning:** NCPA continues to meet with PG&E on developing a transmission planning process; the next meeting is scheduled for Friday, April 7th.
 - **TAC Restructuring:** NCPA is working with FERC Council and CAISO on pre-meeting basis on CAISO stakeholder process on TAC restructuring. CAISO has a good understanding of the different participants leading to TAC charges and how they are distributed. NCPA is currently assisting CAISO with a white paper addressing this.
 - **Merced Irrigation District and Placer County CCA:** NCPA continues to assist Merced Irrigation District and Placer County CCA.

- 9. All Generation Services Facilities, Members, SCPPA – HDR Engineering, Inc.** – Staff recommended approval of a five-year Multi-Task Professional Services Agreement with HDR Engineering, Inc. This would be for use at all NCPA Facilities, Members and SCPPA/Members. Staff explained this agreement would be for as-needed engineering services, including feasibility studies, business model development, and engineering studies. A draft Commission Staff Report was available for review.

Motion: A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending Commission approval of a Multi-Task Professional Services Agreement with HDR Engineering, Inc. for engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 10. All Generation Services Facilities, Members, SCPPA – Precision Pump and Machine – KSB, Inc. First Amendment** – Staff recommended approval of an Amendment to the existing five year Multi-Task General Services Agreement. This Amendment allows this Agreement to be used by SCPPA/Members. It also accounts for an update to this company’s name. A draft Commission Staff Report was available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Mike Brozo recommending Commission approval of the First Amendment to the Multi-Task General Services Agreement with Precision Pump and Machine - KSB, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$260,000 over five years for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 11. All Generation Services Facilities, Members, SCPPA – Power Engineers, Inc.** – Staff recommended approval of a Multi-Task Professional Services Agreement with Power Engineers, Inc. NCPA’s previous Agreement with Power Engineers, Inc. recently expired. The scope of work in this new five-year MTSA mirrors the scope of work outlined in the previous Agreement. This Agreement would now be extended for use by SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Mike Brozo and seconded by Shannon McCann recommending Commission approval of a Multi-Task Professional Services Agreement with Power Engineers, Inc. for general engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA Members, the Southern California Public Power Authority (“SCPPA”) and SCPPA Member facilities.. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. The motion passed.

- 12. All Generation Services Facilities, Members, SCPPA – Airgas USA, LLC First Amendment**– Staff recommended approval of an Amendment to the existing five-year Multi-Task Agreement with Airgas USA, LLC. Airgas USA, LLC provides various gases to NCPA, as needed. This Amendment increases the not-to-exceed amount from \$500,000 to \$750,000, updates the company name in NCPA’s records, adds additional products to the Purchase List and extends this Agreement for use at all NCPA facilities and for use by all NCPA Members and SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Shannon McCann recommending Commission approval of a First Amendment to Multi-Task Agreement for Purchase of Equipment, Material and Supplies with Airgas USA, LLC, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. The motion passed.

- 13. All Generation Services Facilities, Members, SCPPA – Brian Davis dba Northern Industrial Construction** – Staff recommended approval of a five-year Multi-Task General Services Agreement with Brian Davis dba Northern Industrial Construction. This will be an Enabling Agreement, under which Brian Davis dba could provide a variety of maintenance services (including welding, and labor and materials for miscellaneous maintenance, as-needed). This Agreement would be open for use by all NCPA Members as well as SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Shannon McCann and seconded by Mike Brozo recommending Commission approval of a Five Year Multi-Task General Services Agreement with Brian Davis dba Northern Industrial Construction with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 14. All Generation Services Facilities, Members, SCPPA – Alliance Cooling Products and Construction, Inc.** – Staff recommended approval of a five-year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc. This Agreement will allow Alliance Cooling Products, Inc. to provide a variety of maintenance services, including cooling tower structures and equipment, Stretford systems, buildings, structures, and fiberglass piping. Alliance Cooling Products has proved to be a consistently low bidder for previous NCPA projects. This Agreement would be open to all NCPA Members, as well as SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Shannon McCann and seconded by Mike Brozo recommending Commission approval of a Five Year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc. for maintenance services with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, Southern California Public Power Authority ("SCPPA"), or SCPPA Members. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 15. All Generation Services Facilities, Members, SCPPA – Epidendio Construction, Inc.** – Staff recommended approval of a five-year Multi-Task General Services Agreement with Epidendio Construction, Inc. Under this Agreement, Epidendio Construction, Inc. would be able to provide a variety of maintenance services, such as grading, excavation, paving, demolition, all phases of concrete, and gravel/water hauling. This Agreement would be available for use by all NCPA Members, as well as SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Mike Brozo and seconded by Jiayo Chiang recommending Commission approval of a Five Year Multi-Task General Services Agreement with Epidendio Construction, Inc. for maintenance services, including grading, excavation, paving, demolition, gravel and/or water hauling, seal coating, and related labor and materials, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 16. All Generation Services Facilities, Members, SCPPA – Kestrel Power Engineering LLC –** Staff recommended approval of a five-year Multi-Task Professional Services Agreement with Kestrel Power Engineering, LLC. The scope of work for this Enabling Agreement will include engineering and regulatory support services, engineering support for excitation systems, as well as other miscellaneous engineering tasks as-needed. NCPA has used Kestrel Power Engineering in the past and have been pleased with the work they have done. This Enabling Agreement would be available for use by all NCPA Members, as well as SCPPA/Members. A draft Commission Staff Report was available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Shannon McCann recommending Commission approval of a Five Year Multi-Task Professional Services Agreement with Kestrel Power Engineering LLC for engineering consulting services related to project support and plant operations, with any nonsubstantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

- 17. Geothermal Hydroelectric Generation Services Facility – Ford Construction, Inc. for Adit 4 Spoils Facility Repairs Construction –** Staff recommended approval of a Public Works Agreement with Ford Construction, Inc. for construction of the Adit 4 spoils facility repairs.

Staff reviewed for the Committee the vital purpose of the Adit 4 operational feature. Staff provided photographs which displayed the extensive damage to Adit 4 as a result of multiple brutal winter storms. Staff outlined the design and permitting schedule, as well as the bidding schedule. A chart was provided to the Committee which compared the four lowest bids received. Members commented that it appeared the bid spread was significant, with sizeable differences between the lowest and highest bids in the chart. NCPA expressed confidence in the accuracy of Ford Construction, Inc.'s bid, as they have utilized this company in the past. Staff was not concerned about the variances in the bids.

Staff increased the contingency for this project from the standard 10% to 18%; this increase is due to the fact that the site could suffer additional damage should more storms hit. Staff assured Members that insurance will cover the cost of this project, minus NCPA's \$500,000 deductible. A general construction timeline was provided. NCPA anticipates this project will be completed by November 2017. Members asked Staff to explain where the funding for this project would come from. The initial funding will come out of a capital reserve account. This money will cover any costs beyond the budgeted amount until insurance payments are received.

Motion: A motion was made by Shannon McCann and seconded by Mike Brozo recommending Commission approval of a Public Works Agreement with Ford Construction, Inc. and to issue purchase orders and change orders for not to exceed \$2,897,507 for construction of the Adit 4 Spoils Facility Repairs at the NCPA Hydroelectric Project. A vote was taken by roll call: YES = Alameda, Lodi, Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Port of Oakland. The motion passed.

18. Hydroelectric Generation Services Facility – Informational – Update on Current Hydrology Situation – Staff provided an update on the situation at NCPA's hydro facilities. Staff provided Committee with an overview of the current New Spicer Meadows release strategy, which was implemented the week prior. A chart was provided to Members which showed past years' spill schedules, along with NCPA's estimates for anticipated spills in the coming months (estimated spilling start date is sometime in late May – early July).

NCPA used a consulting firm to estimate probability of tail water curtailment. The consultant estimated there is a 10-15% probability of tail water curtailment when spilling commences in May.

Staff also outlined options to pursue if scheduling into a Negative Price Environment (something NCPA has already experienced this year). There was discussion about the impacts of each option. NCPA Staff will continue to keep Members informed as the situation progresses.

19. Schedule next meeting date – the next regular Facilities Committee Meeting is scheduled for May 3, 2017.

ADJOURNMENT

The meeting was adjourned at 1:40pm.

Northern California Power Agency
April 5, 2017 **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>Gray Curran</i>
LOMPOC	
PALO ALTO	
PLUMAS-SIERRA REC	<i>Michael Berg</i>
PORT OF OAKLAND	
ROSEVILLE	<i>Shirley</i>
SANTA CLARA	
TID	
UKIAH	



651 Commerce Drive
Roseville, CA 95678

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

Commission Staff Report

AGENDA ITEM NO.: 6

Date: April 13, 2017
To: NCPA Commission
Subject: April 5, 2017 Special Finance 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

Date: April 13, 2017
To: NCPA Finance Committee
From: Trisha Hubbard, Administrative Assistant
Subject: April 5, 2017 Special Finance Committee Meeting Minutes

Finance Committee Attendees:

Committee Members

Madeline Deaton, Chair	Alameda
Ann Hatcher	Santa Clara
Melissa Price	Lodi
Matt Michealis	Gridley
Philip McAvoy	Roseville

Attended:

Call-in
Call-in
Attended
Absent
Call-in

Consultants

Gene Carron	Orrick
Rian Irani	PFM

Member Staff

Tarun Narayan	Palo Alto	Call-in
Bob Orbeta	Alameda	Call-in

NCPA Staff

Randy Howard
Monty Hanks
Sondra Ainsworth
Trisha Hubbard

1. Call Meeting to Order

Chair Madeline Deaton called the meeting to order at 2:07 p.m.

2. **Roll call** – roll call was conducted as listed above. A quorum of the Committee was established.

PUBLIC FORUM

Ms Deaton asked if anyone wished to address the Committee on matters within the jurisdiction of the Committee. There were no requests for public comment at the site or at any of the teleconference locations.

REPORTS AND COMMITTEE ACTION ITEMS

3. Review FY2018 Budget and Long-Term Funding Plan for NCPA Pension Plan

Sondra Ainsworth provided a recap of the events and decisions made in regards to the Long-Term funding plan for NCPA's Employee Pension Program. Ms. Ainsworth reiterated that the Committee recommended approval of a 15 year accelerated funding term subject to final budget review. Based on the direction provided by the Finance Committee, staff was

successful in coming within the target to include the additional \$1.5 million in the FY2018 budget with no incremental costs. The Finance Committee reviewed the budget and supported proceeding with the Long-Term Funding Plan for NCPA's Employee Pension Program and the \$1.5 million funding level that was included in the FY 2018 budget.

Motion: a motion was made by Melissa Price and seconded by Ann Hatcher recommending approval of the goal to obtain a minimum 80% funding level and confirm 100% funding of required employer contribution as well as shorten the amortization of the unfunded liability from 30 years to 15 years beginning FY2018. A vote was taken by roll call: YES = Madeline Deaton (Alameda), Melissa Price (Lodi) and Ann Hatcher (Santa Clara), and Philip McAvoy (Roseville). The motion passed.

4. External Auditors and Financial Advisors

Ms. Ainsworth provided the Committee with an update on the Audit Services Request for Proposal (RFP) that was released on March 23rd. Committee members agreed that qualified member staff could participate in the selection panel. Melissa Price (Lodi) volunteered to be on the selection panel, and Madeline Deaton (Alameda) indicated that Bob Orbeta (Alameda) would participate on behalf of Alameda. Phillip McAvoy (Roseville) indicated that Jacquelyn Flickinger (Roseville) would participate on the selection panel on behalf of Roseville. NCPA staff will establish the short list of potential bidders, and the selection panel will conduct interviews with these firms on May 3rd. The selection panel will present its recommended successful proposer to the Finance Committee on May 10th and contract award will be submitted for Commission approval on May 25th.

Staff also discussed the Financial Advisor RFP. NCPA will be issuing the RFP before the end of April. The selection and award of contract will occur no later than August. The current agreement with PFM expires June 1, 2017. The Finance Committee will review and recommend a contract amendment during the May 10th meeting and seek Commission approval May 25th.

5. Next Finance Committee Meeting

The next regular Finance Committee meeting is scheduled for May 10, 2017 at 10:00 a.m.

ADJOURNMENT

The meeting was adjourned at 2:32 p.m.



651 Commerce Drive
Roseville, CA 95678

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

Commission Staff Report

AGENDA ITEM NO.: 8

Date: April 20, 2017
To: NCPA Commission
Subject: February 22, 2017 Legislative and Regulatory Affairs 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

Date: March 2, 2017
To: NCPA Legislative & Regulatory Affairs Committee
From: Carrie Pollo, Legislative and Regulatory Program Assistant
Subject: February 22, 2016 Legislative & Regulatory Affairs Committee Meeting Minutes

Item #1 – Opening Remarks & Introductions

Chair Gary Plass, Council Member, City of Healdsburg, called the meeting to order at 12:04 pm, followed by introductions of all in attendance. Those in attendance are shown on the attached attendance list. Participating via teleconference were Madeline Deaton and Barry Leska from Alameda Municipal Power, Paul Eckert from the City of Gridley, Terry Crowley from the City of Healdsburg, Monica Padilla with the City of Palo Alto, Patrick Keener from the City of Redding, and Steven Poncelet, from Truckee Donner PUD. Marty Kanner from Kanner and Associates, LLC joined the call later for the federal legislative update.

PUBLIC FORUM

No members of the public were present.

Item #2 – Approval of Minutes

Motion: A motion was made by Roger Frith, City of Biggs, and seconded by Chair Gary Plass, City of Healdsburg, to approve the minutes from the November 30, 2016 regular meeting and the January 30, 2017 special meeting. All were in favor. The motion passed unanimously.

Item #3 – Legislative and Regulatory Affairs Committee Budget Workshop

Jane Cirrincione provided an overview and review of the budget planning process for the FY2018 Legislative and Regulatory Affairs Budget. The baseline budget is \$1.69 million, \$20,557 less than FY2017 (-1.2%), not including pass-throughs of \$467,264. The breakdown of the budget includes 44% for State and Federal Advocacy, 21% for Western Programs, 4% for Member Services, 6% for Key Coalitions, 23% for Legal, and 3% for miscellaneous.

Ms. Cirrincione outlined the key changes to the baseline budget compared to FY2017. Increases include member travel at \$13,000, State Legislative Tour at \$10,000, legal services at \$6,000,

workshops and meetings at \$5,643, subscriptions at \$4,000 and APPA Legislative Rally at \$1,500.

The decreases include external affairs at \$23,250, staff travel at \$17,500, memberships at \$9,950, staff development at \$5,500, office supplies/furniture at \$2,500, and NCPA information materials at \$2,000. The net change is \$20,557 or 1.2% less than FY2017. NCPA Commission direction allows for a 2.2% maximum increase or \$37,670. The operating budget for FY2017 is \$1,712,275 with the proposed budget for FY2018 at \$1,691,717.

Roger Frith, City of Biggs, commended the Legislative and Regulatory Affairs team for doing a great job this past year, always looking for the best price possible, and reducing the budget wherever possible. Gary Plass, City of Healdsburg, echoed those same words of a job well done by the L&R team.

Motion: A motion was made by Roger Frith, City of Biggs, and seconded by Elizabeth Kirkley, City of Lodi, to recommend approval of the Legislative and Regulatory Affairs FY2018 Budget to the full NCPA Commission at the April 20, 2017 Commission Meeting. The vote was taken by roll call: YES = Alameda, Biggs, Healdsburg, Lodi, Palo Alto, Redding, Roseville, Santa Clara, and Truckee Donner PUD. ABSENT = BART, Lompoc, Plumas-Sierra and Ukiah. The motion passed.

Item #4 – State Legislative Report

Mario De Bernardo reviewed state legislation, including: 1) post 2020 cap and trade; 2) SB 350 clean up; 3) distributed generation; and, 4) other NCPA-related measures introduced by the February 17th bill introduction deadline. Overall, NCPA is tracking well over 100 bills. Mr. De Bernardo explained that NCPA is meeting with stakeholders and legislative offices to analyze each bill and to develop suggested amendments and NCPA positions.

****** Chair Plass, City of Healdsburg, adjourned the meeting for 10 minutes at 2:55 pm ***
*** Chair Plass reconvened the meeting at 3:05 pm ******

Item #5 – Regulatory Affairs Update

Scott Tomashefsky provided an update on the California Air Resources Board's (CARB's) AB 32 Scoping Plan and cap and trade regulations with climate being the overarching energy policy issue. The 2030 green house gas (GHG) emission requirements are 40% below the 1990 levels, and the state asserts it will not reach the 2030 goal with existing programs, which are 15% short. The new Scoping Plan will shape policy direction, with four different alternatives being considered. The Scoping Plan has been delayed by two months now.

Another highlight included whether Cap and Trade should continue post 2020. NCPA's key objectives are to continue the Cap and Trade program, provide free allowances to utilities post 2020, and support inclusion of transportation electrification in the free allowance study.

Mr. Tomashefsky also updated the committee with regard to the California Energy Commission (CEC) and the California Public Utilities Commissioner (CPUC) renewables portfolio standard issues, and the integrated resource plans.

Item #6 – Member Services

Jonathan Changus reviewed the Public Benefits Advisory Group 2017 projects which include: 1) the 2018 Technical Reference Manual (TRM); 2) energy efficiency best practices guidelines; 3) the energy efficiency reporting tool; and, 4) U.S. Department of Energy/Lawrence Berkeley Laboratory — “Beyond Widgets” program.

Important regulatory reporting dates are listed below:

March 15

- Annual Energy Efficiency Report
- 10-year Energy Efficiency Potential Studies

June 1

- Power Source Disclosure/Power Content Label
- Annual SF₆ Emissions Report
- GHG Emissions Data (AB 32)

June 30

- Use of GHG Allowances Report (AB 32)
- RPS Triennial Compliance Report (SBx1 2)

July 1

- Solar Program Status Report (SB 1)

October 1

- 2020 Energy Storage Procurement Target Update

Item #7 – Federal Legislative Report

Marty Kanner, from Kanner & Associates, LLC, participating by phone, gave a federal update on the Trump Administration and the 115th Congress. He updated the committee on nominations, regulatory reform, tax reform which is a top priority of the White House and Congress, and cyber security. Recent nominations include Ryan Zinke as Interior Secretary, Rick Perry as DOE Secretary, and Scott Pruitt as the new EPA Secretary.

Brent ten Pas briefed the committee on key issues for the APPA Legislative Rally, which include: 1) tax-exempt financing; 2) hydropower relicensing reform; 3) CVPIA funding; 4) workforce development; 5) wildfire management; and 6) new developments surrounding the Oroville spill and NCPA's hydroelectric facilities due to recent extreme weather storms.

Item #8 – Western Area Power Administration Issues

Jerry Toenyas and Maury Kruth gave an update regarding Bureau of Reclamation's (BOR) Central Valley Project Cost Allocation Study, the BOR's upcoming “aid to irrigation” workshop, and the BOR and California Department of Water Resources' (CDWR) Reinitiation of Consultation on the Coordinated Long-Term Operation of the Central Valley Project and the State Water Project. California is on a record pace with regard to the amount of precipitation for 2017 so far, and there could be as much as \$30 million coming into the Central Valley Project Improvement Act Restoration Fund from CVP water customers this year.

Upcoming events include the APPA Legislative Rally at the Mayflower Hotel, Washington, DC February 27 – March 1, 2017, CMUA Annual Conference at the Sheraton Carlsbad Resort,

Carlsbad, CA, and the NCPA/NWPPA Federal Policy Conference at the Marriott Marquis, Washington, DC April 23 – 27, 2017. The deadline to register for the Federal Policy Conference is March 24, 2017.

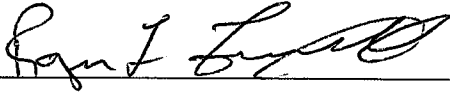
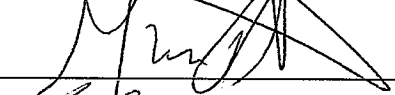

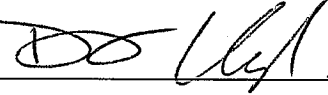
ADJOURNMENT

The Legislative and Regulatory Affairs Committee meeting moved to adjournment by Chair Plass at 4:14 pm. All were in favor.

**Northern California Power Agency
Legislative & Regulatory Affairs Committee Meeting
February 22, 2017 - Attendee List**

#	NAME	AFFILIATION
1	Gray Paris	Amador
2	Jane Cirrinione	NCPA
3	SCOTT TOMASHEFSKY	NCPA
4	JONATHAN CHANGUS	NCPA
5	Mario De Bernardo	NCPA
6	Carrie Pollo	NCPA
7	Tracy Kves	NCPA
8	DEBRA LLOYD	PALO ALTO
9	Chris Romero	Roseville
10	SANDRA AINSWORTH	NCPA
11	Monty Hawks	NCPA
12	Roger Faith	Biggs
13	Leslie Bryan	REU
14	Kathleen Hughes	SVP
15	John Rautema	SVP
16	SHAWN MATCHAM	ROSEVILLE
17	Randy Howard	NCPA
18	Liz Kirkley	Lodi
19	Brenten Pas	NCPA
20	David Hagele	Healdsburg
21	Teresa D'Neill	Santa Clara
22	Bob Lingl	Lompoc
23		
24		
25		
26		

Northern California Power Agency
Legislative & Regulatory Affairs Committee Meeting
February 22, 2017
COMMITTEE MEMBER
Attendance List

MEMBER	SIGNATURE
Alameda	Madeline Deaton via phone
BART	
Biggs	
Gridley	Paul Eckert via phone
Healdsburg	
Lodi	
Lompoc	
Palo Alto	
Port of Oakland	Paul Wong Basil Wong
Plumas-Sierra REC	
Redding	Patrick Keener via phone
Roseville	
Santa Clara	Kathleen Hughes Kathleen Hughes
Shasta Lake	
Truckee Donner	Steven Parcelet via phone
Ukiah	



Commission Staff Report

April 11, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: March 2017 Financial Report (Unaudited)

AGENDA CATEGORY: Consent

FROM:	Sondra Ainsworth	<i>SA</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 Ukiah	<input type="checkbox"/>	City of Lompoc	<input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Palo Alto	<input type="checkbox"/>
Bay Area Rapid Transit	<input type="checkbox"/>	City of Redding	<input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Roseville	<input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Santa Clara	<input type="checkbox"/>
City of Healdsburg	<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 by all members.

NOTICE:

The disbursements of the Northern California Power Agency for the month reported herein, will be approved at the April 20, 2017 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 March 2017 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 March 2017

Operations:

Geothermal	\$ 1,495,386
Hydroelectric	3,315,579
CT#1 Combustion Turbines	137,952
CT#2 STIG	505,316
Lodi Energy Center	2,684,268
NCPA Operating	16,110,697
Total	<u>\$ 24,249,198</u>

NORTHERN CALIFORNIA POWER AGENCY
 REPORT OF BUDGET VS. ACTUAL COST
 FOR THE PERIOD ENDED MARCH 31, 2017

PERCENT OF YEAR ELAPSED 75%

	This Month	Actual Year To-Date	FY 2017 Budget	% Used	
GENERATION RESOURCES					
NCPA Plants					
Hydroelectric					
Other Plant Cost	\$ 786,343	\$ 9,754,777	\$ 13,601,891	72%	
Debt Service (Net)	3,187,715	28,689,431	38,252,575	75%	
Annual Budget Cost	3,974,058	38,444,208	51,854,466	74%	
Geothermal					
Other Plant Cost	2,594,995	18,407,277	28,035,560	66%	
Debt Service (Net)	375,667	3,631,727	5,109,745	71%	
Annual Budget Cost	2,970,662	22,039,004	33,145,305	66%	
Combustion Turbine No. 1	295,941	2,600,697	2,648,330	98%	(a)
Combustion Turbine No. 2 (Stig)					
Fuel and Pipeline Transport Charges	57,266	593,885	936,070	63%	
Other Plant Cost	129,134	1,300,425	2,025,600	64%	
Debt Service (Net)	468,797	4,219,176	5,625,568	75%	
Annual Budget Cost	655,197	6,113,486	8,587,238	71%	
Lodi Energy Center					
Fuel	250,575	7,943,244	44,100,578	18%	
Other Plant Cost	1,245,344	13,816,450	22,453,402	62%	
Debt Service (Net)	2,202,269	19,810,380	26,437,261	75%	
Annual Budget Cost	3,698,188	41,570,074	92,991,241	45%	
Member Resources - Energy	3,931,993	34,010,391	45,637,694	75%	
Member Resources - Natural Gas	560,144	4,071,329	4,877,728	83%	(b)
Western Resources	2,492,948	17,967,378	30,288,301	59%	
Market Power Purchases	2,433,406	25,206,001	39,302,363	64%	
Load Aggregation Costs - CAISO	12,909,826	134,963,019	240,128,621	56%	
Net GHG Obligations	67,850	602,510	2,539,910	24%	
	33,990,213	327,588,097	552,001,197	59%	
TRANSMISSION					
Independent System Operator					
Grid Management Charge	404,810	2,833,831	3,799,908	75%	
Wheeling Access Charge	6,965,573	59,236,248	74,972,258	79%	(c)
Ancillary Services	410,724	1,924,289	1,421,202	135%	(d)
Other Charges	1,309,017	9,340,746	807,975	1156%	(e)
	9,090,124	73,335,114	81,001,343	91%	

NORTHERN CALIFORNIA POWER AGENCY
 REPORT OF BUDGET VS. ACTUAL COST
 FOR THE PERIOD ENDED MARCH 31, 2017

PERCENT OF YEAR ELAPSED 75%

	This Month	Actual Year To-Date	FY 2017 Budget	% Used	
MANAGEMENT SERVICES					
Legislative & Regulatory					
Legislative Representation	128,861	1,176,923	1,896,810	62%	
Regulatory Representation	64,678	582,680	794,328	73%	
Western Representation	47,141	408,393	816,695	50%	
Member Services	26,891	273,188	432,215	63%	
Judicial Action	120,192	545,811	625,000	87%	(f)
Power Management					
System Control & Load Dispatch	403,574	3,682,916	5,621,941	66%	
Forecasting, Planning, Prescheduling & Trading	156,193	1,563,452	2,554,949	61%	
Industry Restructuring & Regulatory Affairs	27,318	219,430	414,128	53%	
Contract Admin, Interconnection Svcs & External Affairs	63,994	616,765	1,136,523	54%	
Green Power Project	148	1,444	17,782	8%	
Gas Purchase Program	4,586	44,888	86,550	52%	
Market Purchase Project	6,755	59,019	127,856	46%	
Energy Risk Management					
Settlements	1,105	126,733	211,925	60%	
Integrated Systems Support	35,349	363,150	861,558	42%	
Participant Pass Through Costs	2,101	83,291	310,532	27%	
Support Services	12,748	1,034,424	1,417,039	73%	
	-	102,531	-	N/A	
	1,101,634	10,885,038	17,325,831	63%	
TOTAL ANNUAL BUDGET COST	44,181,971	411,808,249	650,328,371	63%	
LESS: THIRD PARTY REVENUE					
Plant ISO Energy Sales	5,985,922	51,617,755	118,942,685	43%	(g)
Load Aggregation Energy Sales	11,106,629	92,520,056	184,116,660	50%	(h)
Ancillary Services Sales	121,927	2,820,263	3,790,032	74%	
Other ISO Revenue	1,997,813	12,189,381	-	N/A	
Transmission Sales	9,198	82,782	110,376	75%	
Western Credits, Interest and Other Income	1,724,629	17,236,071	14,810,642	116%	
	20,946,118	176,466,308	321,770,395	55%	
NET ANNUAL BUDGET COST TO PARTICIPANTS	\$ 23,235,853	\$ 235,341,941	\$ 328,557,976	72%	

- (a) Increase in costs due to greater than projected MWhs of generation. CT1 is at 275% of budgeted MWhs at 3/31/17. Fuel costs, CAISO charges, and other variable costs have all increased as a result of increased generation.
- (b) Member Resources Natural Gas budget variance due to unbudgeted gas hedging contract not included in the FY 2017 budget column. Hedging contract with the Department of General Services was executed subsequent to approval of the FY 2017 budget.
- (c) Variance due to unbudgeted wheeling access charges related BRT1.
- (d) Ancillary Services variance due to higher than budgeted price per MWh.
- (e) The large 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.
- (f) Variance due to ongoing actual costs related to the CVPIA case which are not included in the FY 2017 Budget column.
- (g) Variance due to lower than anticipated ISO energy sales for the Lodi Energy Center (LEC). Power values in the CAISO markets remain low. As a result, LEC is at 18% of budgeted generation at 3/31/17.
- (h) Market prices down due to increased hydro and solar generation availability in the CAISO markets.

COMBINED STATEMENTS OF NET POSITION

NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	March 31,	
	2017	2016
ASSETS	(in thousands)	
CURRENT ASSETS		
Cash and cash equivalents	\$ 44,424	\$ 37,745
Investments	30,041	29,541
Accounts receivable		
Participants	-	-
Other	654	1,422
Interest receivable	222	217
Inventory and supplies	9,657	8,651
Prepaid expenses	1,920	300
TOTAL CURRENT ASSETS	<u>86,918</u>	<u>77,876</u>
RESTRICTED ASSETS		
Cash and cash equivalents	46,065	48,211
Investments	175,540	163,255
Interest receivable	507	415
TOTAL RESTRICTED ASSETS	<u>222,112</u>	<u>211,881</u>
ELECTRIC PLANT		
Electric plant in service	1,501,569	1,501,003
Less: accumulated depreciation	(935,032)	(904,343)
	<u>566,537</u>	<u>596,660</u>
Construction work-in-progress	506	100
TOTAL ELECTRIC PLANT	<u>567,043</u>	<u>596,760</u>
OTHER ASSETS		
Regulatory assets	239,447	251,445
Unused vendor credits	44	-
TOTAL ASSETS	<u>1,115,564</u>	<u>1,137,962</u>
DEFERRED OUTFLOWS OF RESOURCES		
Excess cost on refunding of debt	50,346	56,290
Pension deferrals	9,093	5,310
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u>59,439</u>	<u>61,600</u>
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	<u>\$ 1,175,003</u>	<u>\$ 1,199,562</u>

COMBINED STATEMENTS OF NET POSITION

NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	March 31,	
	2017	2016
LIABILITIES	(in thousands)	
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 21,908	\$ 20,461
Member advances	993	993
Operating reserves	20,020	18,870
Current portion of long-term debt	39,090	36,730
Accrued interest payable	10,441	11,094
TOTAL CURRENT LIABILITIES	92,452	88,148
NON-CURRENT LIABILITIES		
Net pension liability	57,774	57,260
Operating reserves and other deposits	140,863	133,823
Interest rate swap liability	16,870	22,373
Long-term debt, net	747,931	787,658
TOTAL NON-CURRENT LIABILITIES	963,438	1,001,114
TOTAL LIABILITIES	1,055,890	1,089,262
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	72,081	74,343
Pension deferrals	6,599	4,947
TOTAL DEFERRED INFLOWS OF RESOURCES	78,680	79,290
NET POSITION		
Net investment in capital assets	(63,073)	(62,012)
Restricted	72,603	66,666
Unrestricted	30,903	26,356
TOTAL NET POSITION	40,433	31,010
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 1,175,003	\$ 1,199,562

COMBINED STATEMENTS OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION

NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	Nine Months Ended March 31,	
	2017	2016
	(in thousands)	
OPERATING REVENUES		
Participants	\$ 254,429	\$ 249,091
Other Third-Party	96,336	105,991
TOTAL OPERATING REVENUES	<u>350,765</u>	<u>355,082</u>
OPERATING EXPENSES		
Purchased power	145,646	148,575
Operations	39,125	53,866
Transmission	74,527	60,045
Depreciation	23,068	23,012
Maintenance	11,209	16,369
Administrative and general	14,133	14,556
TOTAL OPERATING EXPENSES	<u>307,708</u>	<u>316,423</u>
NET OPERATING REVENUES	<u>43,057</u>	<u>38,659</u>
OTHER (EXPENSES) REVENUES		
Interest expense	(26,063)	(38,411)
Interest income	797	1,670
Other	11,792	4,713
TOTAL OTHER EXPENSES	<u>(13,474)</u>	<u>(32,028)</u>
FUTURE RECOVERABLE AMOUNTS	(10,072)	1,785
REFUNDS TO PARTICIPANTS	<u>(7,041)</u>	<u>(7,396)</u>
INCREASE (DECREASE) IN NET POSITION	12,470	1,020
NET POSITION, Beginning of year	<u>27,963</u>	<u>29,990</u>
NET POSITION, Period ended	<u>\$ 40,433</u>	<u>\$ 31,010</u>

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

March 31, 2017

	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	\$ 72	\$ -	\$ -	\$ 39	\$ -	\$ 44,310	\$ -	\$ 44,424
Investments	-	-	-	-	-	-	-	-	-	30,041	-	30,041
Accounts receivable	-	-	-	-	-	-	-	-	-	-	-	-
Participants	-	-	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-	648	-	-	654
Interest receivable	-	-	-	-	24	-	-	-	86	-	-	222
Inventory and supplies	4,447	1,079	642	1,405	2,084	-	-	-	-	-	-	9,657
Prepaid expenses	693	298	16	34	318	-	-	13	-	548	-	1,920
Due from Agency and other programs*	16,326	16,445	2,270	(1,124)	9,417	-	-	5,340	20,909	(69,583)	-	-
TOTAL CURRENT ASSETS	21,467	17,822	2,929	316	11,915	-	-	5,392	21,643	5,434	-	86,918
RESTRICTED ASSETS												
Cash and cash equivalents	5,050	3,963	19	-	5,551	-	-	-	3,390	-	-	46,065
Investments	20,810	47,350	4,482	-	31,389	-	-	-	18,683	-	-	175,540
Interest receivable	98	101	8	-	29	-	-	-	-	-	-	507
TOTAL RESTRICTED ASSETS	25,958	51,414	4,509	-	36,969	-	-	-	22,073	81,189	-	222,112
ELECTRIC PLANT												
Electric plant in service	568,958	394,214	64,826	36,245	423,640	7,736	-	663	-	5,287	-	1,501,569
Less: accumulated depreciation	(530,964)	(250,169)	(45,604)	(34,250)	(63,289)	(7,736)	-	(350)	-	(2,670)	-	(935,032)
	37,994	144,045	19,222	1,995	360,351	-	-	313	-	2,617	-	566,537
Construction work-in-progress	355	-	-	-	107	-	-	-	-	44	-	506
TOTAL ELECTRIC PLANT	38,349	144,045	19,222	1,995	360,458	-	-	313	-	2,661	-	567,043
OTHER ASSETS												
Regulatory assets	953	149,226	11,873	-	21,029	-	-	-	-	56,366	-	239,447
Unused vendor credits	44	-	-	-	-	-	-	-	-	-	-	44
TOTAL ASSETS	86,771	362,507	38,533	2,311	430,371	-	-	5,705	43,716	145,650	-	1,115,564
DEFERRED OUTFLOWS OF RESOURCES												
Excess cost on refunding of debt	2,052	46,191	2,103	-	-	-	-	-	-	-	-	50,346
Pension deferrals	-	-	-	-	-	-	-	-	-	9,093	-	9,093
TOTAL DEFERRED OUTFLOWS OF RESOURCES	2,052	46,191	2,103	-	-	-	-	-	-	9,093	-	59,439
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 88,823	\$ 408,698	\$ 40,636	\$ 2,311	\$ 430,371	\$ -	\$ -	\$ 5,705	\$ 43,716	\$ 154,743	\$ -	\$ 1,175,003

* Eliminated in Combination

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

March 31, 2017

	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	\$ 139	\$ 251	\$ -	\$ -	\$ 245	\$ -	\$ 17,081	\$ -	\$ 4,190	\$ 21,908
Member advances	791	-	-	-	-	-	-	202	-	993
Operating reserves	6,213	250	513	558	12,486	-	-	-	-	20,020
Current portion of long-term debt	3,995	21,385	3,760	9,950	9,950	-	-	-	-	39,090
Accrued interest payable	339	4,334	307	-	5,461	-	-	-	-	10,441
TOTAL CURRENT LIABILITIES	11,477	26,220	4,580	560	28,142	-	17,081	202	4,190	92,452
NON-CURRENT LIABILITIES										
Net pension liability	-	-	-	-	-	-	-	-	57,774	57,774
Operating reserves and other deposits	17,219	15,595	-	-	1,715	-	22,159	2,008	82,167	140,863
Interest rate swap liability	-	16,870	-	-	-	-	-	-	-	16,870
Long-term debt, net	28,770	333,294	34,451	-	351,416	-	-	-	-	747,931
TOTAL NON-CURRENT LIABILITIES	45,989	365,759	34,451	-	353,131	-	22,159	2,008	139,941	963,438
TOTAL LIABILITIES	57,466	391,979	39,031	560	381,273	-	39,240	2,210	144,131	1,055,890
DEFERRED INFLOWS OF RESOURCES										
Regulatory credits	19,581	3,848	997	2,122	42,453	-	-	314	2,766	72,081
Pension deferrals	-	-	-	-	-	-	-	-	6,599	6,599
TOTAL DEFERRED INFLOWS OF RESOURCES	19,581	3,848	997	2,122	42,453	-	-	314	9,365	78,680
NET POSITION										
Net investment in capital assets	(5,668)	(30,415)	(5,983)	-	(21,007)	-	-	-	-	(63,073)
Restricted	7,523	43,045	4,201	-	18,812	-	-	-	(978)	72,603
Unrestricted	9,921	241	2,390	(371)	8,840	-	4,476	3,181	2,225	30,903
TOTAL NET POSITION	11,776	12,871	608	(371)	6,645	-	4,476	3,181	1,247	40,433
TOTAL LIABILITIES, DEFERRED INFLOWS										
OF RESOURCES AND NET POSITION	\$ 88,823	\$ 408,698	\$ 40,636	\$ 2,311	\$ 430,371	\$ -	\$ 43,716	\$ 5,705	\$ 154,743	\$ 1,175,003

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 Nine Months Ended March 31, 2017

	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	\$ 4,829	\$ 24,707	\$ 5,484	\$ 2,069	\$ 26,535	\$ -	\$ 178,342	\$ 12,172	\$ 291	\$ 254,429		
Other Third-Party	20,775	20,445	151	499	12,755	-	41,711	-	-	96,336		
TOTAL OPERATING REVENUES	25,604	45,152	5,635	2,568	39,290	-	220,053	12,172	291	350,765		
OPERATING EXPENSES												
Purchased power	-	-	-	-	2,366	-	143,280	-	-	145,646		
Operations	10,943	2,580	1,006	928	13,405	-	4,071	6,172	20	39,125		
Transmission	499	1,697	46	78	334	-	71,870	3	-	74,527		
Depreciation	2,865	7,189	1,659	134	10,955	5	-	39	222	23,068		
Maintenance	3,583	3,109	443	1,073	2,969	-	-	32	-	11,209		
Administrative and general	3,189	2,249	387	490	3,072	-	-	4,919	(173)	14,133		
Intercompany (sales) purchases, net*	(418)	152	39	87	194	-	-	(54)	-	-		
TOTAL OPERATING EXPENSES	20,661	16,976	3,580	2,790	33,295	5	219,221	11,111	69	307,708		
NET OPERATING REVENUES	4,943	28,176	2,055	(222)	5,995	(5)	832	1,061	222	43,057		
OTHER (EXPENSES) REVENUES												
Interest expense	(683)	(12,018)	(1,414)	-	(11,948)	-	-	-	-	(26,063)		
Interest income	191	(23)	(42)	-	165	-	211	25	270	797		
Other	768	27	910	-	7,873	-	1,957	40	217	11,792		
TOTAL OTHER EXPENSES	276	(12,014)	(546)	-	(3,910)	-	2,168	65	487	(13,474)		
FUTURE RECOVERABLE AMOUNTS												
	(958)	(9,786)	(1,204)	-	1,871	5	-	-	-	(10,072)		
REFUNDS TO PARTICIPANTS												
INCREASE (DECREASE) IN NET POSITION	(634)	(2,741)	97	33	(278)	-	(508)	(2,571)	(439)	(7,041)		
	3,627	3,635	402	(189)	3,678	-	2,492	(1,445)	270	12,470		
NET POSITION, Beginning of year	8,149	9,236	206	(182)	2,967	-	1,984	4,626	977	27,963		
NET POSITION, Period ended	\$ 11,776	\$ 12,871	\$ 608	\$ (371)	\$ 6,645	\$ -	\$ 4,476	\$ 3,181	\$ 1,247	\$ 40,433		

* Eliminated in Combination

NORTHERN CALIFORNIA POWER AGENCY & ASSOCIATED POWER CORPORATIONS
 AGED ACCOUNTS RECEIVABLE
 March 31, 2017

Status	Participant / Customer	Description	Amount
CURRENT			\$ 654,377
PAST DUE:			
1 - 30			
31 - 60			
61 - 90			
91 - 120			
Over 120 Days			
PARTICIPANT and OTHER RECEIVABLES (net)			<u>\$ 654,377</u>

NOTE: All amounts invoiced or credited to members and others are project/program specific.
 NCPA does not apply any credits issued to outstanding invoices unless directed.

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

**Schedule of Disbursements
(Unaudited)**

For the Month of March 2017

Operations:

Geothermal	\$ 1,495,386
Hydroelectric	3,315,579
CT#1 Combustion Turbines	137,952
CT#2 STIG	505,316
Lodi Energy Center	2,684,268
NCPA Operating	16,110,697
Total	<u>\$ 24,249,198</u>



Commission Staff Report

April 11, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Treasurer's Report for Month Ended March 31, 2017

AGENDA CATEGORY: Consent

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

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 \$36,597,293 of which approximately \$932,456 was applicable to Special and Reserve Fund Deposits, \$2,414 to Debt Service and \$35,662,423 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 \$259,265,656 at month end. The current market value of the portfolio totaled \$257,514,814.

The overall portfolio had a combined weighted average interest rate of 0.962% with a bond equivalent yield (yield to maturity) of 0.975%. Investments with a maturity greater than one year totaled \$149,702,000. March maturities totaled \$8 million and monthly receipts totaled \$28 million. During the month \$17 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 26 basis points (from 0.52% to 0.78%) and rates on one year T-Bills increased 21 basis points (from 0.82% to 1.03%).

To the best of my knowledge and belief, all securities held by NCPA as of March 31, 2017 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

FISCAL IMPACT:

This report has no direct budget impact to the Agency.

ENVIRONMENTAL ANALYSIS:

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

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachment

SR: 146:17

NORTHERN CALIFORNIA POWER AGENCY

TREASURER'S REPORT

MARCH 31, 2017

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
March 31, 2017

	CASH	INVESTMENTS	TOTAL	PERCENT
NCPA FUNDS				
Operating	\$ 34,595,384	\$ 60,976,751	95,572,135	32.30%
Special Deposits	1,004,243	1	1,004,244	0.34%
Construction	62,796	4,848,693	4,911,489	1.66%
Debt Service	2,414	39,101,266	39,103,680	13.22%
Special & Reserve	932,456	154,338,945	155,271,401	52.48%
	<u>\$ 36,597,293</u>	<u>\$ 259,265,656</u>	<u>\$ 295,862,949</u>	<u>100.00%</u>

Portfolio Investments at Market Value

\$ 257,514,814

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency
Treasurer's Report
Cash Activity Summary
March 31, 2017

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
NCPA FUNDS							
Operating	\$ 22,544,501	\$ 782	\$ 5,000,000	\$ (12,820,853)	\$ (5,398,898)	\$ (5,605,708)	\$ 3,719,823
Special Deposits	5,419,390	5	-	(5,480,390)	-	(20,323)	(81,317)
Construction	-	-	-	-	-	-	-
Debt Service	-	46	2,200,477	-	(11,826,465)	6,024,925	(3,601,017)
Special & Reserve	-	3,653	1,297,400	-	(247,903)	(398,894)	654,256
	<u>\$ 27,963,891</u>	<u>\$ 4,486</u>	<u>\$ 8,497,877</u>	<u>\$ (18,301,243)</u>	<u>\$ (17,473,266)</u>	<u>\$ -</u>	<u>\$ 691,745</u>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency
Treasurer's Report
Investment Activity Summary
March 31, 2017**

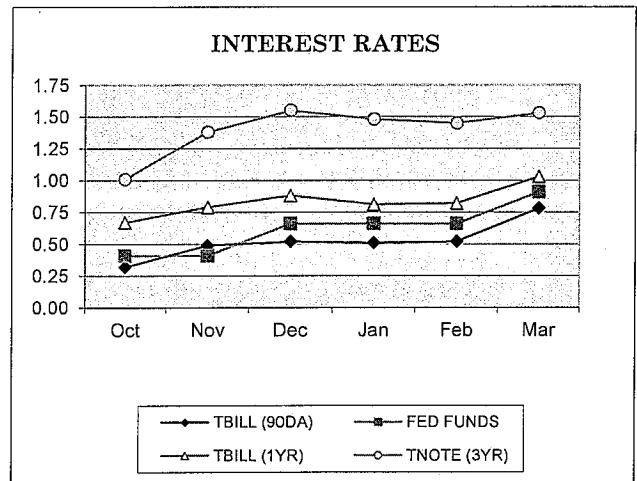
	PURCHASED	SOLD OR MATURED	(NON-CASH)	(NON-CASH)	INVESTMENTS	
			DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
NCPA FUNDS						
Operating	\$ 5,398,898	\$ (5,000,000)	\$ (3,102)	\$ -	\$ -	\$ 395,796
Special Deposits	-	-	-	-	-	-
Construction	-	-	(704)	-	-	(704)
Debt Service	11,826,465	(2,200,477)	15,964	-	-	9,641,952
Special & Reserve	247,903	(1,297,400)	(3,452)	-	-	(1,052,949)
	<u>\$ 17,473,266</u>	<u>\$ (8,497,877)</u>	<u>\$ 8,706</u>	<u>\$ -</u>	<u>\$ -</u>	<u>8,984,095</u>
Less Non- Cash Activity						
Disc/(Prem) Amortization & Gain/(Loss) on Sale						<u>(8,706)</u>
Net Change in Investment --Before Non-Cash Activity						<u>\$ 8,975,389</u>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Interest Rate/Yield Analysis
March 31, 2017**

	<u>WEIGHTED AVERAGE INTEREST RATE</u>	<u>BOND EQUIVALENT YIELD</u>
OVERALL COMBINED	<u>0.962%</u>	<u>0.975%</u>
<u>OPERATING FUNDS:</u>	0.969%	0.934%
<u>PROJECTS:</u>		
Geothermal	1.219%	1.228%
Capital Facilities	1.211%	1.207%
Hydroelectric	1.089%	1.070%
Lodi Energy Center	0.862%	0.827%

KEY INTEREST RATES		
	<u>CURRENT</u>	<u>PRIOR YEAR</u>
Fed Fds (Ovrnight)	0.91%	0.37%
T-Bills (90da.)	0.78%	0.23%
Agency Disc (90da.)	0.77%	0.30%
T-Bills (1yr.)	1.03%	0.62%
Agency Disc (1yr.)	1.10%	0.55%
T-Notes (3yr.)	1.53%	0.93%



Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
March 31, 2017

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	\$ -	\$ 43,412	\$ 7,142	\$ -	\$ -	\$ 149,702	\$ -	\$ 200,256	68.18%
US Bank Trust Money Market	3,467							3,467	1.18%
Commercial Paper	5,000							5,000	1.70%
Investment Trusts (LAIF)	50,334							50,334	17.14%
U.S.Treasury Market Acct. *	34,671							34,671	11.80%
U.S.Treasury Bill									0.00%
Certificates of Deposit	10							10	0.00%
Total Dollars	\$ 93,482	\$43,412	\$7,142	\$0	\$0	\$149,702	\$0	\$ 293,738	100.00%
Total Percents	31.82%	14.78%	2.43%	0.00%	0.00%	50.96%	0.00%	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
03/31/2017

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
US Bank, N.A.	USB	5,000,000	0.100	11/26/2014	5,000,000		1	0.100	5,000,000	SYS70101	70101	5,000,000
Local Agency Investm	LAIF	9,672,950	0.675	07/01/2013	9,672,950		1	0.675	9,672,950	SYS70000	70000	9,672,950
Union Bank of Califo	UBOC	13,134	0.002	07/01/2013	13,134		1	0.002	13,134	SYS70014	70014	13,134
US Bank	USB	34,595,382	0.001	06/30/2013	34,595,382		1	0.001	34,595,382	SYS70050	70050	34,595,382
US Bank	USB	10,000	0.050	01/07/2017	10,000	04/07/2017	6	0.050	10,000	SYS30302	30302	10,000
Federal Farm Credit	UBOC	3,626,000	1.290	12/21/2015	3,624,948	11/19/2018	597	1.300	3,628,284	3133EFPJ0	26280	3,625,410
Federal Home Loan Mt	UBOC	9,870,000	1.750	06/09/2015	9,983,900	05/30/2019	789	1.450	9,947,282	3137EADG1	26231	9,932,004
Federal Home Loan Ba	UBOC	7,785,000	1.400	07/19/2016	7,781,108	01/19/2021	1,389	1.411	7,626,420	3130A8P80	26355	7,781,713
Federal Home Loan Mt	UBOC	3,500,000	1.500	11/23/2016	3,500,000	08/23/2021	1,605	1.500	3,414,040	3134GAVH4	26385	3,500,000
Federal Home Loan Mt	UBOC	202,000	2.200	01/30/2017	202,000	01/26/2022	1,761	2.200	201,527	3134GAV92	26403	202,000
Fund Total and Average		\$ 74,274,466	0.615		\$ 74,383,422		361	0.577	\$ 74,109,019			\$ 74,332,593

MPP GHG Auction Acct

Local Agency Investm		38,950	0.675	07/01/2013	38,950		1	0.675	38,950	SYS70045	70045	38,950
Fund Total and Average		\$ 38,950	0.676		\$ 38,950		1	0.676	\$ 38,950			\$ 38,950

SCPA Balancing Account

Local Agency Investm	LAIF	2,410,793	0.675	07/01/2013	2,410,793		1	0.675	2,410,793	SYS70022	70022	2,410,793
Union Bank of Califo	UBOC	35,032	0.005	07/01/2013	35,032		1	0.005	35,032	SYS70023	70023	35,032
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70058	70058	0
Federal Home Loan Ba	UBOC	4,510,000	1.000	04/27/2015	4,510,000	04/27/2018	391	1.000	4,503,145	3130A5T12	26223	4,510,000
Federal National Mtg	UBOC	3,962,000	1.625	12/18/2014	4,000,630	11/27/2018	605	1.369	3,986,247	3135GOYT4	26187	3,978,225
Federal National Mtg	UBOC	5,098,000	1.350	04/28/2016	5,098,000	10/28/2019	940	1.350	5,063,079	3135GOJ95	26330	5,098,000
Federal National Mtg	UBOC	5,097,000	1.350	07/28/2016	5,097,000	07/28/2020	1,214	1.350	4,953,367	3136G3T39	26357	5,097,000
Fund Total and Average		\$ 21,112,825	1.248		\$ 21,151,455		717	1.200	\$ 20,951,663			\$ 21,129,050

General Operating Reserve

Local Agency Investm	LAIF	28,091,603	0.675	07/01/2013	28,091,603		1	0.675	28,091,603	SYS70000	70002	28,091,603
Union Bank of Califo	UBOC	34	0.002	07/01/2013	34		1	0.002	34	SYS70019	70019	34
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70051	70051	0
Federal National Mtg	UBOC	3,263,000	0.750	12/16/2014	3,261,466	04/20/2017	19	0.770	3,262,935	3135GOZB2	26186	3,262,965
Federal National Mtg	UBOC	5,970,000	1.625	12/23/2014	6,009,701	11/27/2018	605	1.450	6,006,536	3135GOYT4	26188	5,986,734
Federal National Mtg	UBOC	4,982,000	1.750	08/28/2015	5,047,364	11/26/2019	969	1.430	5,014,234	3135GOZY2	26246	5,022,852
Federal Farm Credit	UBOC	4,285,000	1.440	07/20/2016	4,280,715	01/19/2021	1,389	1.463	4,136,439	3133EGMP7	26356	4,281,379



Northern California Power Agency
Treasurer's Report

03/31/2017

General Operating Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Federal Home Loan Ba	UBOC	16,720,000	1.400	07/19/2016	16,711,640	01/19/2021	1,389	1.411	16,379,414	3130A8P80	26354	16,712,940
Federal National Mtg	UBOC	5,162,000	1.625	05/25/2016	5,162,000	05/25/2021	1,515	1.625	5,027,375	3136G3N15	26332	5,162,000
Federal National Mtg	UBOC	1,300,000	1.500	08/30/2016	1,300,000	05/28/2021	1,518	1.500	1,259,297	3136G3W3	26368	1,300,000
Federal Farm Credit	UBOC	10,629,000	1.690	06/02/2016	10,629,000	06/02/2021	1,523	1.690	10,477,643	3133EGDH5	26335	10,629,000
Federal Home Loan Mt	UBOC	467,000	2.200	01/30/2017	467,000	01/26/2022	1,761	2.200	465,907	3134GAV92	26402	467,000

Fund Total and Average		\$ 80,869,637	1.222		\$ 80,960,523		798	1.193	\$ 80,121,417			\$ 80,916,507
GRAND TOTALS:		\$ 176,295,878	0.969		\$ 176,534,350		604	0.934	\$ 175,221,049.			\$ 176,417,100

*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 03/31/2017

- Investment #26223 FHLMC Callable on 4/27/2017 Only
- Investment #26330 FNMA Callable quarterly
- Investment #26332 FNMA Callable quarterly
- Investment #26335 FFCB Callable 6/2/17, then anytime
- Investment #26354 FHLB Callable anytime
- Investment #26355 FHLB Callable anytime
- Investment #26356 FFCB Callable anytime
- Investment #26357 FNMA Callable quarterly
- Investment #26368 FNMA Callable quarterly
- Investment #26385 FHLMC Callable quarterly
- Investment #26402 FHLMC Callable 1/26/18, then quarterly
- Investment #26403 FHLMC Callable 1/26/18, then quarterly



Northern California Power Agency
Treasurer's Report
03/31/2017

GEO 2012 Construction 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
Federal Home Loan Ba	USB	870,000	0.875	05/27/2016	871,305	05/24/2017	53	0.722	870,104	3130A1NNA	26334	870,194
Fund Total and Average		\$ 870,000	0.875		\$ 871,305		53	0.723	\$ 870,104			\$ 870,194

Geothermal Debt Service

Federal Home Loan Ba	USBT	233,000	0.780	03/29/2017	232,551	06/26/2017	86	0.792	232,592	313385HJ8	26415	232,566
Federal Home Loan Mt	USBT	1,409,000	0.525	01/23/2017	1,405,815	06/27/2017	87	0.533	1,406,506	313397HKO	26387	1,407,212
Federal Home Loan Ba	USBT	234,000	0.550	01/27/2017	233,457	06/28/2017	88	0.558	233,581	313385HL3	26393	233,685
Federal Home Loan Ba	USBT	234,000	0.560	03/01/2017	233,560	06/30/2017	90	0.568	233,572	313385HN9	26408	233,672
Fund Total and Average		\$ 2,110,000	0.560		\$ 2,105,383		87	0.569	\$ 2,106,251			\$ 2,107,135

Geo 2012A Debt Service

Federal Home Loan Ba	USBT	124,000	0.780	03/29/2017	123,761	06/26/2017	86	0.792	123,783	313385HJ8	26416	123,769
Federal Home Loan Ba	USBT	125,000	0.550	01/27/2017	124,710	06/28/2017	88	0.558	124,776	313385HL3	26394	124,832
Federal Home Loan Ba	USBT	123,000	0.560	03/01/2017	122,768	06/30/2017	90	0.568	122,775	313385HN9	26409	122,828
Fund Total and Average		\$ 372,000	0.630		\$ 371,239		88	0.640	\$ 371,334			\$ 371,429

Geo 2016A Debt Service

Federal Home Loan Ba	USBT	126,000	0.780	03/29/2017	125,757	06/26/2017	86	0.792	125,780	313385HJ8	26417	125,765
Federal Home Loan Mt	USBT	63,000	0.504	01/27/2017	62,867	06/27/2017	87	0.513	62,868	313397HKO	26395	62,923
Fund Total and Average		\$ 189,000	0.688		\$ 188,624		86	0.699	\$ 188,668			\$ 188,688

Geothermal Special Reserve

Local Agency Investm	LAIF	0	0.356	07/01/2013	0		1	0.356	0	SYS70032	70032	0
Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70015	70015	0
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70063	70063	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	604	1.150	1,495,515	3134G8KVO	26302	1,500,000
Fund Total and Average		\$ 1,500,000	1.150		\$ 1,500,000		604	1.150	\$ 1,495,515			\$ 1,500,000

Geo Decommissioning Reserve

Local Agency Investm	LAIF	5,018,770	0.675	07/01/2013	5,018,770		1	0.675	5,018,770	SYS70027	70027	5,018,770
Union Bank of Calif	UBOC	102	0.002	07/01/2013	102		1	0.002	102	SYS70034	70034	102



Northern California Power Agency
Treasurer's Report
03/31/2017

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
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70059	70059	0
Federal National Mtg	UBOC	9,700,000	1.500	08/30/2016	9,700,000	05/28/2021	1,518	1.500	9,396,293	3136G3W3	26369	9,700,000
Federal Home Loan Mt	UBOC	941,000	2.200	01/30/2017	941,000	01/26/2022	1,761	2.200	938,798	3134GAV92	26404	941,000
Fund Total and Average		\$ 15,659,872	1.278		\$ 15,659,872		1046	1.278	\$ 15,353,963			\$ 15,659,872

GEO Debt Service Reserve Acct

Federal Home Loan Mt	USBT	907,000	1.750	06/02/2015	920,886	05/30/2019	789	1.354	914,102	3137EADG1	26228	914,522
Federal Home Loan Mt	USBT	2,515,000	1.250	02/27/2015	2,483,839	10/02/2019	914	1.530	2,500,966	3137EADM8	26197	2,498,036
Fund Total and Average		\$ 3,422,000	1.384		\$ 3,404,725		881	1.483	\$ 3,415,068			\$ 3,412,558

Geo 2012A DSR Account

Federal National Mtg	USBT	1,517,000	1.625	05/25/2016	1,517,000	05/25/2021	1,515	1.625	1,477,437	3136G3NLS	26333	1,517,000
Fund Total and Average		\$ 1,517,000	1.625		\$ 1,517,000		1515	1.625	\$ 1,477,437			\$ 1,517,000
GRAND TOTALS:		\$ 25,639,872	1.219		\$ 25,618,148		893	1.228	\$ 25,278,340.			\$ 25,626,876

*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 03/31/2017

- Investment #26302 FHLMC Callable quarterly
- Investment #26333 FNMA Callable quarterly
- Investment #26369 FNMA Callable quarterly
- Investment #26404 FHLMC Callable 1/26/18, then quarterly



Northern California Power Agency
Treasurer's Report
03/31/2017

Cap Facilities Debt Service

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Federal Home Loan Mt	USBT	939,000	0.595	01/27/2017	936,113	09/01/2017	122	0.605	936,530	313397JW2	26397	937,107
Federal Home Loan Mt	USBT	1,093,000	0.620	02/02/2017	1,089,612	09/01/2017	122	0.630	1,090,125	313397JW2	26405	1,090,703
Federal Home Loan Mt	USBT	470,000	0.609	02/28/2017	468,774	09/01/2017	122	0.620	468,764	313397JW2	26406	469,028
Federal National Mtg	USBT	470,000	0.780	03/29/2017	468,727	09/01/2017	122	0.792	468,764	313589JW4A	26418	468,758
Fund Total and Average		\$ 2,972,000	0.636		\$ 2,963,226		122	0.647	\$ 2,964,183			\$ 2,965,596
Cap. Fac. Debt Svc Reserve												
Federal National Mtg	USB	71,000	1.530	07/28/2016	71,000	07/28/2021	1,579	1.530	68,417	3136G3S97	26358	71,000
Federal Home Loan Mt	USB	1,443,000	2.375	02/13/2012	1,447,430	01/13/2022	1,748	2.340	1,469,089	3137EADB2	25845	1,445,137
Fund Total and Average		\$ 1,514,000	2.335		\$ 1,518,430		1740	2.302	\$ 1,537,506			\$ 1,516,137
GRAND TOTALS:		\$ 4,486,000	1.211		\$ 4,481,656		669	1.207	\$ 4,501,689			\$ 4,481,733

*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 03/31/2017

Investment #26358 FNMA Callable 7/28/17, then quarterly



Northern California Power Agency
 Treasurer's Report
 03/31/2017

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	3,015,863	0.675	07/01/2013	3,015,863		1	0.675	3,015,863	SYS70028	70028	3,015,863
Union Bank of Calif	UBOC	111	0.002	07/01/2013	111		1	0.002	111	SYS70031	70031	111
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70052	70052	0
Federal Home Loan Mt	UBOC	3,993,000	0.950	06/29/2016	3,993,000	06/29/2018	454	0.950	3,975,790	3134G9A80	26339	3,993,000
Federal Home Loan Mt	UBOC	3,221,000	1.150	02/29/2016	3,221,000	11/26/2018	604	1.150	3,211,369	3134G8KVO	26304	3,221,000
Federal National Mtg	UBOC	5,320,000	1.350	06/30/2016	5,320,000	12/30/2019	1,003	1.350	5,265,630	3136G3VH5	26340	5,320,000
Fund Total and Average		\$ 15,549,974	1.075		\$ 15,549,974		585	1.075	\$ 15,468,763			\$ 15,549,974

Hydro Initial Facilities

Federal National Mtg	USB	1,529,000	1.625	12/12/2014	1,539,244	11/27/2018	605	1.450	1,538,357	3135GOVY4	26189	1,533,285
Federal Farm Credit	USB	2,437,000	1.250	02/02/2016	2,450,501	01/22/2019	661	1.060	2,434,977	3133EFVQ7	26300	2,445,214
Fund Total and Average		\$ 3,966,000	1.395		\$ 3,989,745		639	1.210	\$ 3,973,334			\$ 3,978,499

Hydro Debt Service

Federal Home Loan Ba	USBT	2,943,000	0.780	03/29/2017	2,937,325	06/26/2017	86	0.792	2,937,850	313385HJ8	26414	2,937,516
Federal Home Loan Mt	USBT	2,944,000	0.538	01/27/2017	2,937,345	06/27/2017	87	0.547	2,938,789	313397HKO	26388	2,940,166
Federal Home Loan Ba	USBT	10,629,000	0.550	01/27/2017	10,604,317	06/28/2017	88	0.558	10,609,974	313385HL3	26396	10,614,710
Federal Home Loan Ba	USBT	3,188,000	0.560	03/01/2017	3,181,999	05/30/2017	90	0.568	3,182,166	313385HJ9	26407	3,183,537
Fund Total and Average		\$ 19,704,000	0.584		\$ 19,660,986		88	0.594	\$ 19,668,779			\$ 19,675,929

Hydro Debt Service Resrv 2010A

Federal Farm Credit	USB	5,528,000	1.750	08/28/2015	5,546,187	09/04/2020	1,221	1.680	5,486,042	3133EE529	26243	5,540,319
Fund Total and Average		\$ 5,528,000	1.750		\$ 5,546,187		1221	1.680	\$ 5,486,042			\$ 5,540,319

Hydro Special Reserve

Local Agency Investm	LAIF	0	0.377	07/01/2013	0		1	0.377	0	SYS70000	70003	0
Local Agency Investm	LAIF	0	0.356	07/01/2013	0		1	0.356	0	SYS70033	70033	0
Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70016	70016	0
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70064	70064	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/28/2016	1,500,000	11/26/2018	604	1.150	1,495,515	3134G8KVO	26303	1,500,000
Fund Total and Average		\$ 1,500,000	1.150		\$ 1,500,000		604	1.150	\$ 1,495,515			\$ 1,500,000



Northern California Power Agency
Treasurer's Report

03/31/2017

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
Hydro 2012 DSRA												
Federal Farm Credit	USB	100,000	1.750	08/28/2015	100,329	08/04/2020	1,221	1.680	99,241	3133EE529	26244	100,223
Federal National Mtg	USB	94,000	1.530	07/28/2016	94,000	07/28/2021	1,579	1.530	90,580	3136G3S97	26359	94,000
Federal Home Loan Mt	USB	3,928,000	2.375	02/09/2012	3,926,232	01/13/2022	1,748	2.380	3,999,018	3137EADB2	25852	3,927,148
Fund Total and Average		\$ 4,122,000	2.341		\$ 4,120,561		1731	2.344	\$ 4,188,839			\$ 4,121,371
GRAND TOTALS:		\$ 50,369,974	1.089		\$ 50,367,453		559	1.070	\$ 50,281,272.			\$ 50,366,092

*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 03/31/2017

Investment #26303 FHLMC Callable quarterly
 Investment #26339 FHLMC Callable quarterly
 Investment #26340 FNMA Callable quarterly
 Investment #26359 FNMA Callable 7/28/17, then quarterly



Northern California Power Agency
Treasurer's Report
03/31/2017

LEC GHG Auction Acct

Issuer	Trustees / 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		71,541	0.675	07/01/2013	71,541		1	0.675	71,541	SYS70046	70046	71,541
Fund Total and Average		\$ 71,541	0.676		\$ 71,541		1	0.676	\$ 71,541			\$ 71,541

LEC Construction Revolving

Local Agency Investm		1	0.254	07/01/2013	1		1	0.254		SYS70040	70040	1
Fund Total and Average		\$ 1	0.254		\$ 1		1	0.254	\$ 1			\$ 1

LEC Issue#1 2010A DS Fund

US Bank Trust	USB	354	0.100	07/01/2013	354		1	0.100	354	SYS79003	79003	354
Federal Home Loan Ba	USBT	695,000	0.535	01/27/2017	693,719	05/31/2017	60	0.543	694,180	313385GG5	26398	694,380
Federal Home Loan Ba	USBT	694,000	0.540	03/01/2017	693,053	05/31/2017	60	0.548	693,181	313385GG5	26410	693,375
Federal Home Loan Ba	USBT	695,000	0.760	03/29/2017	694,061	06/01/2017	61	0.771	694,145	313385GH3	26419	694,105
Federal National Mfg	USBT	3,385,000	0.520	01/23/2017	3,378,693	06/01/2017	61	0.528	3,380,836	313589GHO	26389	3,382,017
Fund Total and Average		\$ 5,469,354	0.555		\$ 5,459,880		61	0.564	\$ 5,462,696			\$ 5,464,231

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	254	0.100	07/01/2013	254		1	0.100	254	SYS79004	79004	254
Federal Home Loan Ba	USBT	725,000	0.534	01/27/2017	723,664	05/31/2017	60	0.543	724,145	313385GG5	26399	724,354
Federal Home Loan Ba	USBT	726,000	0.540	03/01/2017	725,009	05/31/2017	60	0.548	725,143	313385GG5	26411	725,347
Federal Home Loan Ba	USBT	725,000	0.760	03/29/2017	724,020	06/01/2017	61	0.771	724,108	313385GH3	26420	724,066
Federal National Mfg	USBT	727,000	0.536	01/27/2017	725,645	06/01/2017	61	0.545	726,106	313589GHO	26390	726,339
Fund Total and Average		\$ 2,903,254	0.593		\$ 2,898,592		60	0.602	\$ 2,899,756			\$ 2,900,360

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	1,032	0.100	07/01/2013	1,032		1	0.100	1,032	SYS79011	79011	1,032
Federal Home Loan Ba	USBT	434,000	0.535	01/27/2017	433,200	05/31/2017	60	0.543	433,488	313385GG5	26400	433,613
Federal Home Loan Ba	USBT	435,000	0.540	03/01/2017	434,406	05/31/2017	60	0.548	434,487	313385GG5	26412	434,609
Federal Home Loan Ba	USBT	434,000	0.760	03/29/2017	433,414	06/01/2017	61	0.771	433,466	313385GH3	26421	433,441
Federal National Mfg	USBT	2,734,000	0.536	01/27/2017	2,728,906	06/01/2017	61	0.545	2,730,637	313589GHO	26391	2,731,514
Fund Total and Average		\$ 4,038,032	0.561		\$ 4,030,958		61	0.569	\$ 4,033,110			\$ 4,034,209



Northern California Power Agency
Treasurer's Report
03/31/2017

LEC Issue #2 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
LEC Issue #2 2010B DS Fund												
US Bank Trust	USB	79	0.100	07/01/2013	79	07/01/2013	1	0.100	79	SYS79012	79012	79
Federal Home Loan Ba	USBT	349,000	0.535	01/27/2017	348,357	05/31/2017	60	0.543	348,588	313385GG5	26401	348,689
Federal Home Loan Ba	USBT	348,000	0.540	03/01/2017	347,525	05/31/2017	60	0.548	347,589	313385GG5	26413	347,687
Federal Home Loan Ba	USBT	349,000	0.760	03/29/2017	348,528	06/01/2017	61	0.771	348,571	313385GH3	26422	348,551
Federal National Mfg	USBT	349,000	0.536	01/27/2017	348,350	06/01/2017	61	0.545	348,571	313589GHO	26392	348,683
Fund Total and Average		\$ 1,395,079	0.593		\$ 1,392,839		60	0.602	\$ 1,393,398			\$ 1,393,689

LEC Issue #1 2010 DSR Fund

LEC Issue #1 2010 DSR Fund												
US Bank Trust	USB	113,555	0.100	07/01/2013	113,555		1	0.100	113,555	SYS79005	79005	113,555
Federal National Mfg	USB	4,170,000	0.875	05/30/2014	4,171,960	08/28/2017	149	0.977	4,169,083	3135GOMZ3	26136	4,170,247
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	1,515	1.659	4,304,454	3133EG8Z7	26337	4,360,000
Fund Total and Average		\$ 8,643,555	1.261		\$ 8,645,515		836	1.310	\$ 8,587,092			\$ 8,643,802

LEC Iss#1 2010B BABS Subs Resv

LEC Iss#1 2010B BABS Subs Resv												
US Bank Trust	USB	2,264,142	0.100	07/01/2013	2,264,142		1	0.100	2,264,142	SYS79006	79006	2,264,142
Fund Total and Average		\$ 2,264,142	0.100		\$ 2,264,142		1	0.100	\$ 2,264,142			\$ 2,264,142

LEC Issue #2 2010B DSR BABS

LEC Issue #2 2010B DSR BABS												
US Bank Trust	USB	1,087,973	0.100	07/01/2013	1,087,973		1	0.100	1,087,973	SYS79013	79013	1,087,973
Fund Total and Average		\$ 1,087,973	0.100		\$ 1,087,973		1	0.100	\$ 1,087,973			\$ 1,087,973

LEC O & M Reserve

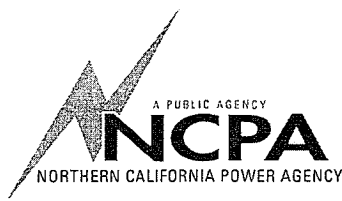
LEC O & M Reserve												
Local Agency Investm	UBOC	2,013,571	0.675	07/01/2013	2,013,571		1	0.675	2,013,571	SYS70047	70047	2,013,571
Union Bank of Califo	UBOC	27,560	0.002	07/18/2013	27,560		1	0.002	27,560	SYS70041	70041	27,560
Federal Home Loan Ba	UBOC	3,100,000	0.625	06/27/2016	3,099,380	06/27/2017	87	0.645	3,098,450	3130ABLCS	26338	3,099,852
Federal National Mfg	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	689	1.220	2,962,535	3135G0ZA4	26248	2,968,305
Federal National Mfg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	1,186	1.300	2,926,020	3136G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,074,131	1.149		\$ 11,138,653		529	0.980	\$ 11,028,136			\$ 11,109,288

GRAND TOTALS: \$ 36,947,062 0.862 \$ 36,990,094 377 0.827 \$ 36,827,845. \$ 36,969,236

'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 03/31/2017

Investment #26337 FFCB Callable 5/25/17, then anytime
Investment #26341 FNMA Callable on 6/30/17 only



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Power Engineers, Inc. – Five Year Multi-Task Professional Services Agreement for General Engineering Services; Applicable to the following projects: All NCPA, NCPA Members, SCPPA and SCPPA Member Facilities

AGENDA CATEGORY: Consent

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

IMPACTED MEMBERS:

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

RECOMMENDATION:

Approve Resolution 17-25 authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Power Engineers, Inc. for general engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA Members, the Southern California Public Power Authority ("SCPPA") and SCPPA Member facilities.

BACKGROUND:

Miscellaneous general engineering service are required from time to time at various NCPA locations as well as NCPA Members, SCPPA and SCPPA Member facilities for the operation of the plants. Power Engineers, Inc. is a provider of these services.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,

A handwritten signature in black ink that reads "D. Dodu for". The signature is written in a cursive, somewhat stylized font.

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with Power Engineers, Inc.

RESOLUTION 17-25

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK PROFESSIONAL SERVICES AGREEMENT WITH POWER
ENGINEERS, INC.

(reference Staff Report #135:17)

WHEREAS, various general engineering services are required for plant operations at the facilities owned and/or operated by Northern California Power Agency (NCPA), NCPA Member facilities, Southern California Public Power Authority ("SCPPA"), and SCPPA Member facilities; and

WHEREAS, Power Engineers, Inc. is a provider of these services; and

WHEREAS, on April 10, 2017, the LEC Project Participant Committee approved the agreement with Power Engineers, Inc. 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 Power Engineers, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for general engineering services at all facilities owned and/or operated by NCPA, NCPA members, SCPPA and SCPPA member facilities.

PASSED, ADOPTED and APPROVED this ___ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
POWER ENGINEERS, 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 Power Engineers, Inc., an Idaho Corporation with its office located at 3940 Glenbrook Drive, Hailey, ID 83333 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2017 ("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, then

Consultant shall return a signed copy of the Purchase Order and will be deemed to have agreed to perform the Requested Services on the terms set forth in the Purchase Order. If Consultant does not return a signed copy of the Purchase Order within seven calendar days from the date of the Agency's issuance of the Purchase Order, Consultant shall be deemed to have declined to perform the Requested Work.

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;
- 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. If Agency objects to all or any portion of an invoice, Agency shall notify Contractor within seven (7) calendar days of receipt of the

invoice, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute.

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

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

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

- 4.1 **Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of one million dollars (\$1,000,000.00) 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 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 of 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 seven hundred fifty thousand dollars (\$750,000) 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 three (3) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within three (3) 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 three (3) 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 [Intentionally omitted.]

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.

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 to the extent caused by the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent caused by such claims, whether directly or indirectly ("Liabilities"). Such obligations to hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency. Notwithstanding the foregoing, in the event that Consultant defends the Agency and it is ultimately determined or agreed that the Consultant was either not negligent or was only partially negligent with respect to the loss, liability, claim or suit, action or damages, the Agency agrees that it

shall promptly reimburse Consultant for such proportion of the Consultant's costs incurred in defending the Agency that is not attributable to the negligence of the Consultant.

- 5.3. **Limitation of Liability.** Agency agrees to limit Consultant's liability for insurable events arising from Consultant's performance to the insurance limits stated in Section 5 above, or to the total compensation received by Consultant for the Services under which the liability arises, whichever is greater. Consultant's liability for non-insurable events including breach of contract or breach of warranty shall not exceed \$1,000,000.00, or the compensation received by Consultant, whichever is greater. Neither Consultant nor Agency nor either party's suppliers, agents, officers, and directors shall have any liability regardless of the theory of recovery, including breach of contract or negligence, to the other party or any other person or entity for any indirect, incidental, special, or consequential damages, cost or expense whatsoever, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss, which exceed the dollar amounts set forth and/or otherwise referenced in this Section. This waiver of consequential damages is made regardless that (i) either party has been advised of the possibility of such damages and (ii) that such damages may be foreseeable.

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; (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law, and (d) for the sole purpose of documenting the use of such Confidential Information in the preparation of any work product to which professional liability might attach. 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:

Power Engineers, Inc.
Attention: Greg Clark, Sr. Project Manager
3940 Glenbrook Drive
Hailey, ID 83333

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 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.

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

NORTHERN CALIFORNIA POWER AGENCY

POWER ENGINEERS, INC.

Date _____

Date _____

RANDY S. HOWARD, General Manager

GREG CLARK, Sr. Project Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF SERVICES

Power Engineers, Inc. ("Consultant") shall provide engineering 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:

- Review of existing protection settings;
- Design and recommendation for new protection systems and settings;
- Review of engineering documents created by other firms;
- Phone consultation and/or attendance at on-site meetings;
- Review and analysis of SEL event files for line and unit trips;
- Review and update of Arc-Flash studies;
- Provide transmission line engineering and review;
- Fiberoptic Communications;
- Preparation of technical specifications; and
- General Mechanical, Civil, Electrical, Distribution and Protection Engineering.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed one million dollars (\$1,000,000) 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:

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.

2017 Rates:

PERSONNEL CLASSIFICATION

President	\$260.00/hr.
Executive Vice President	
Senior Project Manager IV	
Project Manager Director	\$255.00/hr.
Senior Project Manager III	
Senior Project Manager II.....	\$242.00/hr.
Senior Program Manager II	
Senior Project Manager I.....	\$228.00/hr.
Senior Program Manager I	
Senior Project Engineer III	
Strategic Consultant III	
Project Manager III	\$214.00/hr.
Project Lead IV	
Construction Manager III	
Senior Project Engineer II	
Strategic Consultant II	
Senior Consultant III	
Project Manager II	\$192.00/hr.
Project Lead III	
Strategic Consultant I	
Senior Consultant II	
Project Engineer III	
Construction Manager II	
Senior Project Engineer I	
Engineer V	
Project Manager I	\$165.00/hr.
Project Lead II	
Construction Manager I	
Environmental Specialist IV	
Project Engineer II	
Engineer IV	
Designer V	
Project Administrator III	
Senior Consultant I	
Consultant III	
Project Lead I	\$155.00/hr.
Project Engineer I	
Engineer III	
Designer IV	
Environmental Specialist III	
Procurement Specialist III	
Scheduling Specialist III	
Project Administrator II	
Consultant II	
Engineer II	\$143.00/hr.
Designer III	
Technician IV	
Environmental Specialist II	
Procurement Specialist II	
Scheduling Specialist II	
Project Administrator I	
Consultant I	
Engineer I	\$131.00/hr.
Designer II	
Technician III	
Environmental Specialist I	
Procurement Specialist I	
Field Representative IV	
Scheduling Specialist I	
Project Managers Assistant III	

Designer I	\$118.00/hr.
Drafter III	
Technician II	
Administrative Assistant I	
Field Representative III	
Staff Assistant II	
Project Managers Assistant III	
Drafter II	\$98.00/hr.
Staff Assistant	
Field Representative II	
Project Managers Assistant I	
Drafter I	\$78.00/hr.
General Office Assistant	
Field Representative I	

SPECIAL APPLICATION SOFTWARE

Level I Software *	\$10.00/hr.
Level II Software **	\$20.00/hr.
Level III Software ***	\$35.00/hr.
Level IV Software ****	\$60.00/hr.

* Level I Software includes, among others: Structural Design, Foundation Design, HVAC Design, Conveyor Design, and Rockwell RSVIEW & RSLogix.

** Level II Software includes, among others: ASPEN OneLiner, ESA Easy Power, Missoft Windmill, OSI ETAP, Pathloss, SKM PTW, SynerGEE, Smart Plant P&ID, Smart Plant Instrumentation, Autodesk Revit, Navisworks, PTW, Matlab, PLS-Cad, TL-PRO, AutoCAD, AutoCAD Plant, AutoCAD Civil 3D, MicroStation, and specialized estimating programs.

***Level III Software includes, among others: CDEGS (RES&P/MALZ), GE PSLF, PSCAD (PSCAD/EMTDC), PTI PSS/E, WinIGS, Smart Plant 3D, PDS, ArcGis, Caesar II, and Electrocon CAPE.

****Level IV Software includes, among others: CDEGS, CDEGS (HIFREQ), AspenTech, and Autodesk 3D Max.

REPRODUCTION

Drawings – Black & White	
Large Scale Drawings (C Size)	\$1.90/ea.
Large Scale Drawings (D Size)	\$3.30/ea.
Large Scale Drawings (E Size)	\$5.50/ea.

Drawings – Color	
Large Scale Drawings (C Size)	\$6.00/ea.
Large Scale Drawings (D Size)	\$10.90/ea.
Large Scale Drawings (E Size)	\$17.50/ea.

Documents – Black & White	
Single-sided Copies 8 x 11	\$0.11/ea. 11 x 17 \$0.17/ea.
Double-sided Copies 8 x 11	\$0.22/ea. 11 x 17 \$0.34/ea.

Documents – Color	
Single-sided Copies 8 x 11	\$0.50/ea. 11 x 17 \$1.00/ea.
Double-sided Copies 8 x 11	\$1.00/ea.
Spiral Comb	\$2.65/ea.
3 Ring Binder	Dependent on size
Special Copy Center Projects (Labor)	\$45.00/hr.

SURVEY EQUIPMENT

Survey Equip. to support field crew		\$70.00/day
GPS Equipment 2 Units	\$60.00/hour	\$350.00/day
GPS Equipment 3 Units	\$80.00/hour	\$450.00/day

Other expenses including but not limited to subcontractors, airfare, lodging, meals, postage and shipping, purchases, rentals, are charged at cost plus a carrying and handling charge of 10%.

Communication Charge - including but not limited to long distance telephone and fax, charged at 1% of labor billing charges.

CAD Usage Charge – charged at 3% of labor billing charges.

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
POWER ENGINEERS, INC.

for contract work at

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

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

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Airgas USA, LLC – First Amendment to Five Year Multi-Task Agreement for Purchase of Equipment, Material and Supplies; Applicable to the following projects: All NCPA Generation Services Plant 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"/>	City of Lodi <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Other <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	<i>If other, please specify.</i>

RECOMMENDATION:

Approval of Resolution 17-26 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Agreement for Purchase of Equipment, Material and Supplies with Airgas USA, LLC, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members.

BACKGROUND:

Various gases are required at the NCPA locations from time to time. Airgas USA, LLC is a provider of these services. NCPA entered into a Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Airgas USA, LLC effective May 1, 2014 for an amount not to exceed \$500,000. This amendment will 1) increase the not to exceed amount from \$500,000 to \$750,000; 2) add additional delivery facility locations and 3) add products to the Purchase List. This agreement will be for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$750,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place an agreement with Matheson Tri-Gas 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Agreement for Purchase of Equipment, Material and Supplies with Airgas USA, LLC
- First Amendment to Multi-Task Agreement for Purchase of Equipment, Material and Supplies with Airgas USA, LLC

RESOLUTION 17-26

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK AGREEMENT FOR
PURCHASE OF EQUIPMENT, MATERIAL AND SUPPLIES WITH AIRGAS USA, LLC

(reference Staff Report #136:17)

WHEREAS, Northern California Power Agency (NCPA) facilities, its Members, Southern California Public Power Authority ("SCPPA") and SCPPA Members require gases at its various locations; and

WHEREAS, Airgas USA, LLC is a provider of these materials and supplies; and

WHEREAS, NCPA and Airgas USA, LLC entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies effective May 1, 2014; and

WHEREAS, NCPA seeks to increase the not to exceed amount from \$500,000 to \$750,000; add additional delivery facility locations including all NCPA facilities, its Members, SCPPA, and SCPPA Members; and add materials to the Purchase List; 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 Agreement for Purchase of Equipment, Material and Supplies with Airgas USA, LLC, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
AIRGAS USA, LLC.**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is entered into on 5/1/ 2014 (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 Airgas USA, LLC., ("Supplier"), whose principal office is located at 920 Piner Road, Santa Rosa, CA 95403-1904 (together sometimes referred to as the "Parties").

Section 1. SCOPE. In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein DDP to NCPA facility, located at 12745 N. Thornton Road, Lodi, CA 95242, when requested by the Agency. 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. REQUEST FOR GOODS. At such time that Agency determines to have Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"), may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods shall be delivered.

Section 4. COMPENSATION. Agency hereby agrees to pay Supplier for the Goods an amount not to exceed five hundred thousand dollars (\$500,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges.

4.1 Invoices. Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the 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

- 4.2 **Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.
- 4.3 **Timing for Submittal of Final Invoice.** Supplier shall have ninety (90) days after delivery of the Requested Goods to submit its final invoice for the Requested Goods. 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 the Requested Goods from Agency.

Section 5. 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.

- 5.1 **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.
- 5.2 **Automobile Liability.** Supplier shall maintain automobile liability insurance 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, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with \$2,000,000 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.
- 5.3 **Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product 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 \$1,000,000/\$2,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.
- 5.4 **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.

5.5 All Policies Requirements.

- 5.5.1 **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 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.
- 5.5.2 **Notice of Reduction in or Cancellation of Coverage.** Supplier agrees to provide at least ten (10) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.
- 5.5.3 **Waiver of Subrogation.** Supplier agrees to waive subrogation, to the extent of Supplier's indemnity obligations hereunder, 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.
- 5.5.4 **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.

Section 6. WARRANTY. In addition to any and all 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 or repair the same to Agency's satisfaction.

Section 7. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.

- 7.1 **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.

7.2 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 negligent acts or omissions by Supplier, its officers, officials, agents and employees, except as caused by the sole or gross negligence of Agency.

7.3 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 8. MISCELLANEOUS PROVISIONS.

8.1 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.

8.2 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.

8.3 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.

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

8.5 Supplier's Status. Supplier is an independent contractor and not an employee or agent of NCPA.

8.6 Non-assignment. Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.

8.7 **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.

Section 9. COMPLIANCE CERTIFICATION.

9.1 **Affidavit of Compliance for Contractors.** Consistent with the Conditions of the Certification issued by the California Energy Commission, Contractor shall, at the same time Contractor executes this Agreement, execute and provide to Agency Exhibit B hereto for any employees, agents or other representatives of Contractor who will be present on site at NCPA's Lodi Energy Center, Lodi, California. During the term of this Agreement, Contractor shall keep current the Certificate, attached as Exhibit B.

9.2 **Affidavit of Compliance for Hazardous Materials Transport Vendors.** Consistent with the Conditions of Certification issued by the California Energy Commission, Contractor shall, at the same time Contractor executes this Agreement, execute and provide to Agency Exhibit C hereto for itself, any employees, agents or other representatives of Contractor who shall be present on site at NCPA's Lodi Energy Center, Lodi, California. During the term of this Agreement, Contractor shall keep current the Certificate, attached as Exhibit C.

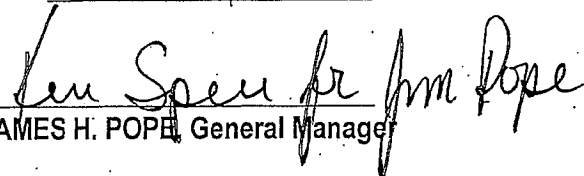
The Parties have executed this Agreement as of the date signed by the Agency.


NORTHERN CALIFORNIA POWER AGENCY

AIRGAS USA, LLC.


Date: 5-1-14

Date: 4-30-14

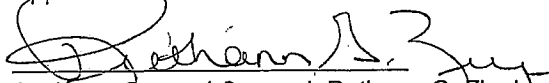

JAMES H. POPE, General Manager


MICHAEL CHANDLER, President-NCN Region

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Assistant General Counsel, Ruthann G. Ziegler

**EXHIBIT A
PURCHASE LIST**

Supplier shall provide the following list of Goods in an on-going basis to Agency after the Effective Date of this Agreement in accordance with the Rates set forth below:

Product Price Schedule:

Airgas P/N	Airgas Product Description	Cylinder Size	Purity	Cylinder Price
	Lodi Energy Center			
Certified Mixes				
X02AI99C15A3299	8ppm NH3/ bal Air	150A [141 cf.]	Cert	\$215.00
EPA Protocols				
E02NIE15AC427	2.5ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NIE15AC007	5.5ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15A0065	80ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E03NI99E15AC470	2.5ppm NO,2.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A03L5	5.5ppm NO,5.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A01L7	25ppm NO,800ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15AC0J9	55ppm NO,1700ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A03NO	9ppm NO,8ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15ACLD8	90ppm NO,2500ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI94E15AC220	5.5% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NII89E15AC155	11% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
NI CZ200	Nitrogen- CEMS [99.9999%] grade	200	CEMS	\$97.00
	STIG			
E02NI77E15A0084	22.5% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI86E15AC044	13.75 O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI93E15AC043	6.25% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI99E15A0131	9 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15AC1T1	5.5 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15AC427	2.5 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E03NI99E15A2718	90ppm NO,45ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00

E03NI99E15A3818	55ppm NO,27.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A3819	25ppm NO,12.5pm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
Industrial				
NI 250	Nitrogen	250	Ind.	\$19.00
OX 250	Oxygen – Industrial	250	Ind.	\$12.50
AC 4	Acetylene	Size 4	Ind.	\$22.72
AR 300	Argon - Industrial	300	Ind.	\$40.80
SH CP200	SF6	200	CP	\$1425.00

All EPA protocol and certified gas mixes will be supplied in aluminum 150A size cylinders unless otherwise specified.

Monthly Cylinder Rental : \$7.00 per cylinder per month.

The monthly charge is based on the number of cylinders on site at the end of each calendar month multiplied by the charge per cylinder.

Delivery Charges: \$38.00/ delivery - There is no charge for picking up empty cylinders.

Hazmat Fee: \$6.45/ delivery

EXHIBIT B

CERTIFICATION

Affidavit of Compliance for Contractors

Michael Chandler

(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

Airgas USA, LLC

(Company name)

for contract work at

Lodi Energy Center, Lodi, CA

(Project name and location)

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

Michael Chandler

(Signature of officer or agent)

Dated this 30th day of April, 20 14.

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 C

Certification - Affidavit of Compliance for Hazardous Materials Transport Vendors

I, Michael Chaudhry
(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 172.880 and has conducted employee background investigations in conformity with 49 CFR 172, subparts A and B,

Airgas USA, LLC
(Company name)

for hazardous materials delivery to

Lodi Energy Center, Lodi, CA
(Project name and location)

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

Michael Chaudhry
(Signature of officer or agent)

Dated this 30th day of April, 2014.

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.

2232824.6



**FIRST AMENDMENT TO MUTLI-TASK AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS
AND SUPPLIES BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND AIRGAS USA, LLC**

This First Amendment ("Amendment") to Multi-Task Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Airgas USA, LLC ("Supplier") (collectively referred to as "the Parties") as of _____, 2017.

WHEREAS, the Parties entered into a five year Multi-Task Agreement for the Purchase of Equipment, Materials and Supplies dated effective May 1, 2014, (the "Agreement") for Supplier to provide gases and cylinder rentals at its CT facilities located at 12745 N. Thornton Road, Lodi, CA 95242; 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 \$500,000.00 to a "NOT TO EXCEED" amount of \$750,000.00; and

WHEREAS, the Agency now desires to amend the Agreement to allow Contractor to provide Work 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 Agency now desires to amend the Purchase List set forth in Exhibit A to the Agreement; and

WHEREAS, the Agency now desires to amend the Agreement to add additional Miscellaneous provisions; and

WHEREAS, the Agency now desires to amend the Agreement to provide for the supply of ammonia; and

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 1—Scope** of the Agreement is amended and restated to read in full as follows:

In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein, DDP to NCPA when requested by the Agency. 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 the site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

2. **Section 4—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 SEVEN HUNDRED FIFTY THOUSAND** dollars (\$750,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 4 of the Agreement is unchanged.

3. **Section 5- Insurance Requirements** of the Agreement is amended to add the following provisions:

5.6 Pollution Liability. During the term of this Agreement, Supplier's primary and excess liability insurance policies shall include pollution coverage, which shall provide coverage for various activities by Supplier, including sudden and accidental pollution caused by Suppliers' products and/or operation.

4. **Section 8-Miscellaneous Provisions** of the Agreement is amended to add the following provisions:

- 8.8 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.
- 8.9 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.10 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.
- 8.11 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.
- 8.12 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.
- 8.13 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.*

8.14 **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.

8.15 **Notices.** Any written notice to Supplier shall be sent to:

Airgas USA, LLC
920 Piner Road
Santa Rosa, CA 95403-1904

Any written notice to Agency shall be sent to:

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

With a copy to:

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

8.16 **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:

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

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

8.16.3 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 counsels. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

8.16.4 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.

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

8.16.6 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.*

8.17 **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 a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.

The remainder of Section 8 of the Agreement is unchanged.

5. **Exhibit A – PURCHASE LIST** is amended and restated to read in full as set forth in the attached Exhibit A.

6. 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

AIRGAS USA, LLC

RANDY S. HOWARD, General Manager

MATTHEW B. WHITTON, President-NCN Region

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A

PURCHASE LIST

Supplier shall provide the following list of Goods after the Effective Date of this Agreement as requested by the Northern California Power Agency ("Agency"), at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members and in accordance with the Rates set forth below:

Product Price Schedule:

Airgas P/N	Airgas Product Description	Cylinder Size	Purity	Cylinder Price
	Lodi Energy Center			
	Certified Mixes			
X02AI99C15A3299	8ppm NH3/ bal Air	150A [141 cf.]	Cert	\$215.00
	EPA Protocols			
E02NIE15AC427	2.5ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NIE15AC007	5.5ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15A0065	80ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E03NI99E15AC470	2.5ppm NO,2.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A03L5	5.5ppm NO,5.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A01L7	25ppm NO,800ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15AC0J9	55ppm NO,1700ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A03NO	9ppm NO,8ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15ACLD8	90ppm NO,2500ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI94E15AC220	5.5% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NII89E15AC155	11% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
NI CZ200	Nitrogen- CEMS [99.9999%] grade	200	CEMS	\$97.00
	STIG			
E02NI77E15A0084	22.5% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI86E15AC044	13.75 O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI93E15AC043	6.25% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI99E15A0131	9 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15AC1T1	5.5 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI99E15AC427	2.5 ppm NO/ bal N2	150A [141 cf.]	EPA	\$218.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00

E02NI82E15AC071	18% O2/ bal N2	150A [141 cf.]	EPA	\$185.00
E03NI99E15A2718	90ppm NO,45ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A3818	55ppm NO,27.5ppm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
E03NI99E15A3819	25ppm NO,12.5pm CO/ bal N2	150A [141 cf.]	EPA	\$265.00
Industrial				
NI 250	Nitrogen	250	Ind.	\$19.00
OX 250	Oxygen – Industrial	250	Ind.	\$12.50
AC 4	Acetylene	Size 4	Ind.	\$22.72
AR 300	Argon - Industrial	300	Ind.	\$40.80
SH CP200	SF6	200	CP	\$1425.00
Ammonia				
*Anhydrous(R-Grade)		Ton		\$600.00
*Aqueous (19%)		Solution Lb.		\$0.45

Additional products not listed above to be provided as requested in writing by NCPA facilities. Pricing for additional products not listed above will be quoted by Supplier at the time product is requested.

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

*NCPA acknowledges that Supplier's pricing for ammonia may be subject to change every six to twelve (6 – 12) months. NCPA shall compensate Supplier in accordance with such price list revisions, provided, however, that (1) Supplier shall provide NCPA with written notice of such revisions thirty (30) days in advance; and (2) regardless of such price list revisions, total compensation for all tasks, including all products delivered under this Agreement, shall not exceed the amount set forth in Section 4 (Compensation) of this Agreement.

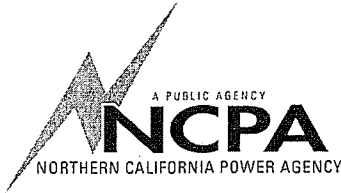
All EPA protocol and certified gas mixes will be supplied in aluminum 150A size cylinders unless otherwise specified.

Monthly Cylinder Rental: \$7.00 per cylinder per month.

The monthly charge is based on the number of cylinders on site at the end of each calendar month multiplied by the charge per cylinder.

Delivery Charges: \$72.00/ bulk delivery, \$38.00/ cylinder delivery - There is no charge for picking up empty cylinders.

Hazmat Fee: \$6.45/ delivery



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: SCHWEITZER ENGINEERING LABORATORIES, INC. – First Amendment to Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All NCPA Generation Services Plant 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"/>	City of Lodi <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Other <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	<i>If other, please specify.</i>

RECOMMENDATION:

Approval of Resolution 17-27 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Professional Services Agreement with Schweitzer Engineering Laboratories, Inc., 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 any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members.

BACKGROUND:

Various protective relay and automation design, testing and commissioning services are required at the NCPA locations as well as NCPA Members, SCPPA and SCPPA Member facilities from time to time. Schweitzer Engineering Laboratories, Inc. is a provider of these services. NCPA and Schweitzer Engineering Laboratories, Inc. entered into a Multi-Task Professional Services Agreement dated effective June 17, 2016.

On or about February 2, 2017, Schweitzer Engineering Laboratories, Inc. provided notice to the Agency of its intention to assign all rights and obligations of the June 17, 2016 agreement to its wholly owned subsidiary, SEL Engineering Services, Inc. The parties now desire to amend the Agreement and accept the assignment. Both parties also desire to amend the Scope of Services set forth in Exhibit A and the Compensation Schedule set forth in Exhibit B.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Dora for", is written over the typed name.

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Professional Services Agreement with Schweitzer Engineering Laboratories, Inc.
- First Amendment to Multi-Task Professional Services Agreement with Schweitzer Engineering Laboratories, Inc.

RESOLUTION 17-27

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

(reference Staff Report #137:17)

WHEREAS, Northern California Power Agency (NCPA) facilities, its Members, Southern California Public Power Authority ("SCPPA") and SCPPA Members require protective relay and automation design, testing and commissioning services at its various locations; and

WHEREAS, Schweitzer Engineering Laboratories, Inc. is a provider of these services; and

WHEREAS, NCPA and Schweitzer Engineering Laboratories, Inc. entered into a five year Multi-Task Professional Services Agreement effective June 17, 2016; and

WHEREAS, NCPA seeks to modify the vendor name as well as amend Exhibit A and Exhibit B; 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 Schweitzer Engineering Laboratories, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
SCHWEITZER ENGINEERING LABORATORIES, 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 Schweitzer Engineering Laboratories, Inc., a corporation with its office located at 2350 NE Hopkins Ct., Pullman, WA 99163 ("Consultant") (together sometimes referred to as the "Parties") as of 6/17, 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 and goods 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 sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services or does not respond within the seven day period

specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2.

COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED ONE MILLION** dollars (\$1,000,000.00) 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. All quoted prices are exclusive of any sales, use, value-added or similar taxes, which will be added, if applicable, at the statutory rate(s) at the time of invoicing.

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 sixty (60) 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 sixty (60) 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; LIMITATION OF LIABILITY.

- 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 negligence or willful misconduct of the Agency.
- 5.3 **Limitation of Liability.** Notwithstanding any other term in this Agreement, Consultant's liability to Agency or its insurers for any loss or damage regarding this Agreement shall be limited as follows: (i) for those claims covered by an insurance policy required under Section 4 of this Agreement, Consultant's liability shall be limited to the amount of the applicable insurance policy; and (ii) for all other claims, except those arising as a result of Consultant's violation of applicable law or patent infringement, Consultant's liability shall in no event exceed \$1,000,000 aggregate during the term of the Agreement whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise. In no event, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall Consultant be liable for any special, incidental, consequential or punitive damages, including without limitation any loss of profit or revenues, loss of use of associated equipment, cost of capital, cost of substitute

products, facilities, services or replacement power, downtime costs or claims of Agency's customers for such damages.

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 and its actual, direct, unavoidable, and reasonable expenses incurred as of the effective date of termination, which shall not include anticipated profit or overhead expenses of Consultant. 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 seven (7) calendar days of written notice of such breach from Agency, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1 Immediately terminate the Agreement;
 - 8.4.2 Subject to Section 9, 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. Notwithstanding the above, Consultant's Confidential Information (as defined below) and all intellectual property, including patents, copyrights, trademarks, trade secrets, and other proprietary information incorporated into, or provided in conjunction with, the Services (collectively, "Consultant IP") shall not be deemed "works made for hire" for Agency, Agency members, SCPPA, and SCPPA members (each a "Licensee"), and shall remain the exclusive property of Consultant. Consultant hereby grants to each Licensee a perpetual, worldwide, royalty-free, non-exclusive, non-transferable, personal, irrevocable, limited license to use, copy and modify Consultant IP for Licensee's internal business purposes, including the use, operation, maintenance, and repair of the Services and all parts or portions thereof, and

including such work by Licensee's employees, agents, contractors, or consultants on such Licensee's behalf ("License"). Consultant IP shall not be used for any other purpose without first obtaining Consultant's written consent. For the avoidance of doubt, a Licensee may assign its License in connection with the sale or other disposition of substantially all of the assets of Licensee's business or substantially all of the goods or other deliverables obtained by such Licensee under this Agreement. Notwithstanding any other provision of this Agreement, each License shall survive the termination or expiration of this Agreement.

Subject to this Section 9, Consultant shall provide Agency relay settings and supporting documentation, including supporting calculations, pertinent fault study results, overcurrent coordination curves, and similar information, in Microsoft Word, Adobe Acrobat, and/or SEL-5030 ACCELERATOR QuickSet format, as applicable.

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. Please note: As Consultant is a privately held company it can allow audits of time and expense projects, however, Consultant does not provide breakdown of its fixed price or lump sum contracts, and does not reveal the components that make up its hourly rate.

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:

Schweitzer Engineering Laboratories, Inc.
Attention: Contracts and Risk
2350 NE Hopkins Ct
Pullman, WA 99163-5603

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.

Section 11 **WARRANTY.**

- 11.1** **Warranty for Goods.** Consultant warrants that goods, equipment, supplies, or other materials provided pursuant to this Agreement (for purposes of this Section 11, "Goods") are free from defects in material, design, and workmanship for ten (10) years after

completion or delivery of the Goods, including Consultant-manufactured control enclosure structures and panels. Such warranty shall be for ten (10) years after delivery for Fault Indicator and Sensor Division goods. This warranty is conditioned upon storage, installation, connection, operation and maintenance of Goods consistent with Consultant's manual provided to Agency in writing. If during the term of this Agreement or the applicable warranty period specified above, any Goods used or provided by Consultant under this Agreement fail due to defects in material, design, and/or workmanship or other breach of this Agreement, Consultant shall, upon any reasonable written notice from Agency, replace, reperform, or repair the same to Agency's satisfaction. This warranty shall be void in its entirety if Agency modifies the Goods without prior written consent to and subsequent approval of any such modifications by Consultant. If any Goods fail to conform to this warranty, Agency properly notifies Consultant of such failure and Agency returns the Goods to Consultant factory for diagnosis (and pays all expenses for such return), Consultant shall correct any such failure by, at its sole discretion, either repairing any defective or damaged Goods or part(s) thereof, or making available, freight prepaid, by Consultant (Carriage Paid To (CPT) customer's place of business) any necessary replacement part(s) or Good(s). Any Goods repair or upgrade shall be covered by this warranty for the longer of one (1) year from date of repair or the remainder of the original warranty period.

- 11.2 **Warranty for Services.** Consultant shall perform services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Consultant shall reperform (or, at Consultant's option, pay a third party to reperform) any defective services at no cost upon receipt of notice detailing the defect(s) within one (1) year of performance of the original services.
- 11.3 **General Warranty Provisions.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF PERFORMANCE OR DEALING OR USAGE OF TRADE), EXCEPT TITLE AND PATENT INFRINGEMENT. Consultant shall, whenever possible, pass the original manufacturer warranty to Agency for non-Consultant products.

SIGNATURES ON FOLLOWING PAGE

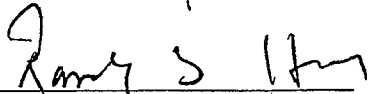
The Parties have executed this Agreement as of the date signed by the Agency.


NORTHERN CALIFORNIA POWER AGENCY

SCHWEITZER ENGINEERING
LABORATORIES, INC.


Date 6/18/14

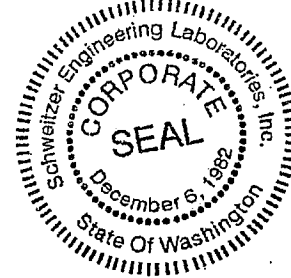
Date _____


RANDY S. HOWARD, GENERAL MANAGER


ERIK C. NEWMAN, Finance Director

Attest:


Assistant Secretary of the Commission



Approved as to Form:

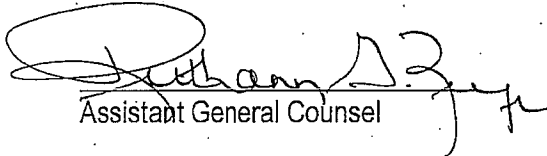

Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

Schweitzer Engineering Laboratories, Inc. ("Consultant") shall provide protective relay and automation design, testing and commissioning services as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

Goods shall be provided Delivered Duty Paid (DDP) to the specified project site.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed amount 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:

Time and Expense Additional Work

Schweitzer Engineering Laboratories, Inc. (SEL) will perform additional work on an actual time and expense (T&E) basis, unless the Customer and SEL agree on other arrangements. The party identifying a potential change in scope will request the change of scope to the other in writing (fax, email, or letter). SEL will identify any budget or schedule impact and submit it for approval. SEL will proceed with the work as soon as SEL receives written approval, in accordance with established contract provisions.

Work performed on an actual T&E basis will be in accordance with the schedule of charges shown in the Rate Table (below), unless specifically modified in this proposal.

T&E Rate Table (U.S.)

Role	Weekday (per hour)	Weekday Overtime (per hour)	Saturday (per hour)	Sunday/ Holiday (per hour)	Travel (per hour)	Travel Expenses
Consultant	\$250	\$375	\$375	\$500	\$250	Actual
Principal Engineer	\$165	\$247.50	\$247.50	\$330	\$165	Actual
Senior Engineer	\$155	\$232.50	\$232.50	\$310	\$155	Actual
Program Manager Engineer V-VI Resource Manager	\$145	\$217.50	\$217.50	\$290	\$145	Actual
Engineer III-IV Project Manager II-III	\$135	\$202.50	\$202.50	\$270	\$135	Actual
Engineer I-II Project Manager I Senior Specialist	\$125	\$187.50	\$187.50	\$250	\$125	Actual
Specialist II-III	\$115	\$172.50	\$172.50	\$230	\$115	Actual
Associate Engineer Associate Project Manager Senior Designer	\$105	\$157.50	\$157.50	\$210	\$105	Actual
Technician II-III Specialist I Designer IV Project Coordinator	\$90	\$135	\$135	\$180	\$90	Actual
Technician I Designer I-III	\$80	\$120	\$120	\$160	\$80	Actual
Associate Technician Engineering Intern Drafter I-II Senior Project Administrator	\$70	\$105	\$105	\$140	\$70	Actual
Administrative	\$60	\$90	\$90	\$120	\$60	Actual

The following details apply to the T&E Rate Table:

- The price does not include any sales or use tax.
- The Customer is to reimburse SEL for actual travel expenses such as airline tickets, meals, lodging, rental car, parking, and fuel (where applicable). Airline tickets are at the coach rate to the commercial airport nearest the work site; business rates apply for international travel.
- The T&E rate is the charge per person, per hour. Typical working hours are 8 a.m. to 6 p.m., Monday through Friday. Lunch shall be up to 60 minutes with two 15-minute breaks each day. On-site work outside of typical working hours shall be agreed upon between the Customer and SEL in advance and be subjected to additional charges.
- Overtime is defined as time in excess of 8 hours per day.
- As a general rule, no SEL service personnel should be required to work more than 12 hours of any day. Should job requirements result in workloads that exceed 12 hours, the Customer and SEL must agree on other arrangements that may be subject to additional costs.
- Time spent by SEL personnel on site while waiting standby, training, or traveling to/from the site will be considered billable time.
- On-site T&E invoices will include billable project administration and project management time not performed on site.
- The hourly rates quoted include the use of personal computers loaded with Microsoft[®] Office, Lotus Notes[®], MATLAB[®], Mathcad[®], AutoCAD[®], MicroStation[®], and SEL software used in the preparation, documentation, and processing of settings for SEL products.
- SEL does not bill for long-distance telephone, fax, low-volume copying, and document shipping charges.
- Hourly rates are valid for work performed within one year of the proposal date.
- Holidays observed for U.S. Offices include: New Year's Day (observed), Memorial Day, Independence Day (observed), Labor Day, Thanksgiving Day, Thanksgiving Friday, and Christmas Day (observed).

Per Diem

Schweitzer Engineering Laboratories, (SEL) will perform onsite work on a per diem basis, unless the Customer and SEL agree on other arrangements. The party identifying a potential change in scope will request the change of scope to the other in writing (fax, email, or letter). SEL will identify any budget or schedule impact and submit it for approval. SEL will proceed with the work as soon as SEL receives written approval, in accordance with established contract provisions. Refer to the Per Diem Rate Table (below) for the per diem rates.

Per Diem Rate Table (U.S.)

Item	Description	Price (USD)
1	Mobilization fee per U.S. personnel	Distant (requires air travel) = \$3,500 Local (within 200 miles) = \$1,500
2	Daily rate per U.S. personnel	Weekday rate = \$1,700/day Saturday rate = \$2,550/day Sunday and holiday rate = \$3,400/day

The following details apply to the Per Diem Rate Table:

- The price does not include any sales or use tax.
- No receipts will be provided as part of the per diem rates.
- The mobilization fee is defined to include the labor and travel costs associated with transporting one person roundtrip to/from the Customer site.
- The daily rate is the charge per person, per day. Typical working hours are 8 a.m. to 6 p.m., Monday through Friday. Lunch shall be up to 60 minutes with two 15-minute breaks each day. If all the onsite work cannot be performed during typical working hours, then the daily per diem rate will be billed at 1.5 times the above rate for work performed Monday through Friday. Onsite work performed on Saturday or Sunday shall be agreed upon between the Customer and SEL in advance and be subject to additional charges.
- As a general rule, no SEL service personnel should be required to work more than 12 hours of any day. Should job requirements result in workloads that exceed 12 hours, the Customer and SEL must agree on other arrangements that may be subject to additional costs.
- Time spent by SEL personnel on site while waiting standby, training, or traveling to/from the site will be considered billable time.
- Per diem rates are valid for work performed within one year of the proposal date.
- Holidays observed for U.S. Offices include: New Year's Day (observed), Memorial Day, Independence Day (observed), Labor Day, Thanksgiving Day, Thanksgiving Friday, and Christmas Day (observed).

Consultant's Rate Escalation: Consultant may increase the rates once per calendar year by an amount not to exceed two percent (2%) per year after the first year of the Agreement. Consultant shall notify Agency of any rate increase in writing at least 30 calendar days prior to the effective date of the increase.

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, Erik C. Newman

(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
SCHWEITZER ENGINEERING LABORATORIES, INC.

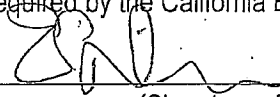
(Company name)

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 Sixth day of July, 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.

2655326.1



**FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND SCHWEITZER ENGINEERING LABORATORIES,
INC. ACCEPTING ASSIGNMENT TO SEL ENGINEERING 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 SEL Engineering Services, Inc. ("Consultant") (collectively referred to as "the Parties") as of _____, 2017.

WHEREAS, Agency and Schweitzer Engineering Laboratories, Inc. entered into a Multi-Task Professional Services Agreement dated effective June 17, 2016, (the "Agreement") for Consultant to provide protective relay and automation design, testing and commissioning services at all NCPA facilities, its Members, Southern California Public Power Authority (SCPPA) or SCPPA member facilities; and

WHEREAS, on or about February 2, 2017, Schweitzer Engineering Laboratories, Inc. provided notice to Agency of its intention to assign all rights and obligations of the June 17, 2016 agreement to its wholly owned subsidiary, SEL Engineering Services, Inc.; and

WHEREAS, the parties now desire to amend the Agreement and accept the assignment; and

WHEREAS, the Agency now desires to amend the Scope of Services set forth in Exhibit A to the Agreement and amend the Compensation Schedule set forth in Exhibit B to the Agreement; 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. **First Paragraph** of Agreement is amended and restated to read in full as follows:

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 SEL Engineering Services, Inc., a corporation with its office located at 2350 NE Hopkins Ct., Pullman, WA 99163 ("Consultant") (together sometimes referred to as the "Parties") as of June 17, 2016 ("Effective Date") in Roseville, California.

2. **Section 10.8 Notices** of Agreement is amended and restated to read in full as follows:

SEL Engineering Services, Inc.
Contracts and Risk

2350 NE Hopkins Court
Pullman, WA 99163-5603
selcontracts@selinc.com
509-332-1890

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD, General Manager

Date: _____

SEL ENGINEERING SERVICES, INC.

DAVID E. WHITEHEAD, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

SCHWEITZER ENGINEERING LABORATORIES, INC. consents to the foregoing:

By: _____
JOSEPH NESTEGARD, VP of Finance

Date: _____

EXHIBIT A

SCOPE OF SERVICES

SEL Engineering Services, Inc. ("Consultant") shall provide protective relay and automation design, testing and commissioning services as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Protective Relay and Automation Design
- Testing Services
- Commissioning Services
- Training

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed amount 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:

Time and Expense Additional Work

Schweitzer Engineering Laboratories, Inc. (SEL) will perform additional work on an actual time and expense (T&E) basis, unless the Customer and SEL agree on other arrangements. The party identifying a potential change in scope will request the change of scope to the other in writing (fax, email, or letter). SEL will identify any budget or schedule impact and submit it for approval. SEL will proceed with the work as soon as SEL receives written approval, in accordance with established contract provisions.

Work performed on an actual T&E basis will be in accordance with the schedule of charges shown in the Rate Table (below), unless specifically modified in this proposal.

T&E Rate Table (U.S.)

Role	Weekday (per hour)	Weekday Overtime (per hour)	Saturday (per hour)	Sunday/ Holiday (per hour)	Travel (per hour)	Travel Expenses
Consultant	\$250	\$375	\$375	\$500	\$250	Actual
Principal Engineer	\$165	\$247.50	\$247.50	\$330	\$165	Actual
Senior Engineer	\$155	\$232.50	\$232.50	\$310	\$155	Actual
Program Manager Engineer V-VI Resource Manager	\$145	\$217.50	\$217.50	\$290	\$145	Actual
Engineer III-IV Project Manager II-III	\$135	\$202.50	\$202.50	\$270	\$135	Actual
Engineer I-II Project Manager I Senior Specialist	\$125	\$187.50	\$187.50	\$250	\$125	Actual
Specialist II-III	\$115	\$172.50	\$172.50	\$230	\$115	Actual
Associate Engineer Associate Project Manager Senior Designer	\$105	\$157.50	\$157.50	\$210	\$105	Actual
Technician II-III Specialist I Designer IV Project Coordinator	\$90	\$135	\$135	\$180	\$90	Actual
Technician I Designer I-III	\$80	\$120	\$120	\$160	\$80	Actual
Associate Technician Engineering Intern Drafter I-II Senior Project Administrator	\$70	\$105	\$105	\$140	\$70	Actual
Administrative	\$60	\$90	\$90	\$120	\$60	Actual

The following details apply to the T&E Rate Table:

- The price does not include any sales or use tax.
- The Customer is to reimburse SEL for actual travel expenses such as airline tickets, meals, lodging, rental car, parking, and fuel (where applicable). Airline tickets are at the coach rate to the commercial airport nearest the work site; business rates apply for international travel.
- The T&E rate is the charge per person, per hour. Typical working hours are 8 a.m. to 6 p.m., Monday through Friday. Lunch shall be up to 60 minutes with two 15-minute breaks each day. On-site work outside of typical working hours shall be agreed upon between the Customer and SEL in advance and be subjected to additional charges.
- Overtime is defined as time in excess of 8 hours per day.
- As a general rule, no SEL service personnel should be required to work more than 12 hours of any day. Should job requirements result in workloads that exceed 12 hours, the Customer and SEL must agree on other arrangements that may be subject to additional costs.
- Time spent by SEL personnel on site while waiting standby, training, or traveling to/from the site will be considered billable time.
- On-site T&E invoices will include billable project administration and project management time not performed on site.
- The hourly rates quoted include the use of personal computers loaded with Microsoft® Office, Lotus Notes®, MATLAB®, Mathcad®, AutoCAD®, MicroStation®, and SEL software used in the preparation, documentation, and processing of settings for SEL products.
- SEL does not bill for long-distance telephone, fax, low-volume copying, and document shipping charges.
- Hourly rates are valid for work performed within one year of the proposal date.
- Holidays observed for U.S. Offices include: New Year's Day (observed), Memorial Day, Independence Day (observed), Labor Day, Thanksgiving Day, Thanksgiving Friday, and Christmas Day (observed).

Per Diem

Schweitzer Engineering Laboratories, (SEL) will perform onsite work on a per diem basis, unless the Customer and SEL agree on other arrangements. The party identifying a potential change in scope will request the change of scope to the other in writing (fax, email, or letter). SEL will identify any budget or schedule impact and submit it for approval. SEL will proceed with the work as soon as SEL receives written approval, in accordance with established contract provisions. Refer to the Per Diem Rate Table (below) for the per diem rates.

Per Diem Rate Table (U.S.)

Item	Description	Price (USD)
1	Mobilization fee per U.S. personnel	Distant (requires air travel) = \$3,500 Local (within 200 miles) = \$1,500
2	Daily rate per U.S. personnel	Weekday rate = \$1,700/day Saturday rate = \$2,550/day Sunday and holiday rate = \$3,400/day

The following details apply to the Per Diem Rate Table:

- The price does not include any sales or use tax.
- No receipts will be provided as part of the per diem rates.
- The mobilization fee is defined to include the labor and travel costs associated with transporting one person roundtrip to/from the Customer site.
- The daily rate is the charge per person, per day. Typical working hours are 8 a.m. to 6 p.m., Monday through Friday. Lunch shall be up to 60 minutes with two 15-minute breaks each day. If all the onsite work cannot be performed during typical working hours, then the daily per diem rate will be billed at 1.5 times the above rate for work performed Monday through Friday. Onsite work performed on Saturday or Sunday shall be agreed upon between the Customer and SEL in advance and be subject to additional charges.
- As a general rule, no SEL service personnel should be required to work more than 12 hours of any day. Should job requirements result in workloads that exceed 12 hours, the Customer and SEL must agree on other arrangements that may be subject to additional costs.
- Time spent by SEL personnel on site while waiting standby, training, or traveling to/from the site will be considered billable time.
- Per diem rates are valid for work performed within one year of the proposal date.
- Holidays observed for U.S. Offices include: New Year's Day (observed), Memorial Day, Independence Day (observed), Labor Day, Thanksgiving Day, Thanksgiving Friday, and Christmas Day (observed).

Consultant's Rate Escalation: Consultant may increase the rates once per calendar year by an amount not to exceed two percent (2%) per year after the first year of the Agreement. Consultant shall notify Agency of any rate increase in writing at least 30 calendar days prior to the effective date of the increase.

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

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: HDR Engineering, 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>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	
Department:	Combustion Turbines	

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

RECOMMENDATION:

Approve Resolution 17-28 authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with HDR Engineering, Inc. for engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Engineering services are needed at various NCPA facility locations as well as member facilities for the operation of the plants. HDR Engineering, Inc. is a provider of these services.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This five year contract 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 two other enabling agreements with Worley Parsons and Black & Veatch 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,

A handwritten signature in black ink that reads "D. Dodson for". The signature is written in a cursive style.

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with HDR Engineering, Inc.

RESOLUTION 17-28

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK PROFESSIONAL SERVICES AGREEMENT WITH
HDR ENGINEERING, INC.

(reference Staff Report #138:17)

WHEREAS, various engineering services are periodically required for operations 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, HDR Engineering, Inc. is a provider of these services; and

WHEREAS, on April 10, 2017, the LEC Project Participant Committee approved the agreement with HDR Engineering, Inc. 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 HDR Engineering, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for various engineering services 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 _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
HDR ENGINEERING, 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 HDR Engineering, Inc., a Nebraska corporation, with its office located at 8404 Indian Hills Drive, Omaha, NE 68114 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2017 ("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 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. The fee schedule shall be subject to an annual adjustment at the first of each year in which this Agreement is in effect. Consultant shall provide the proposed adjustment to its fee schedule in writing to NCPA at least thirty (30) days prior to the effective date of the proposed adjustment; any proposed adjustment shall not be valid unless such Consultant provides the schedule as set forth above.

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

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

Invoices shall be sent to:

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

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred.

Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation,

maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

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

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

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

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

4.5 Waiver of Subrogation. 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, and Consultant fails to cure such breach within thirty (30) days following written notice thereof, 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. Any modification or reuse of such materials for purposes other than those intended by this Agreement and without Consultant's written authorization shall be at Agency's sole risk and without liability to Consultant. 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:

HDR Engineering, Inc.
Attention: Rick Jones
2379 Gateway Oaks
Sacramento, CA 95833

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 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 Waiver of Consequential Damages.** Neither party to this Agreement shall be liable to the other party for any special, incidental, indirect, or consequential damages (including but not limited to loss of profits or revenue; loss of use or opportunity; loss of goodwill; cost of substitute facilities; and/or cost of capital) arising out of, resulting from, or in any way related to this Agreement from any cause or causes, including but not limited to any such damages caused by negligence, errors or omissions, strict liability, or breach of contract.

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

NORTHERN CALIFORNIA POWER AGENCY

HDR ENGINEERING, INC.

Date _____

Date _____

RANDY S. HOWARD,
 General Manager

WILLIAM BLAYLOCK,
 Senior Vice President

Attest:

 Assistant Secretary of the Commission

Approved as to Form:

 General Counsel

EXHIBIT A

SCOPE OF SERVICES

HDR Engineering, Inc. ("Consultant") shall provide engineering 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:

- Feasibility Studies
- Business Model Development
- Conceptual Design
- Cost Estimating
- Contract Planning
- Engineering Services (preliminary and detailed)
- Engineering Studies
- Execution Planning
- Operations and Maintenance Evaluation and Support
- Vendor Quality Assurance
- Construction Management
- Start-up and Commissioning Services

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed one million dollars (\$1,000,000) 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:

The hourly rates in the following table provide a range for the listed classification. Specific rates for specific classifications vary depending on the individual performing the work. Specific individuals, their estimated work hours, and their specific rates will be detailed along with the scope of work and estimated expenses for each task order entered into in accordance with this Agreement.

Classification for Invoicing	Min	Max
Administrator/Project Controller	\$ 63.00	\$ 115.00
Botanist / Engineer I	\$ 86.00	\$ 85.00
Designer/Technician I	\$ 76.00	\$ 104.00
Designer/Technician II	\$ 111.00	\$ 126.00
Designer/Technician III	\$ 135.00	\$ 159.00
Drafting/CADD I	\$ 60.00	\$ 83.00
Drafting/CADD II	\$ 62.00	\$ 126.00
Drafting/CADD III	\$ 111.00	\$ 134.00
Engineer I	\$ 77.00	\$ 138.00
Engineer II	\$ 117.00	\$ 148.00
Engineer III	\$ 126.00	\$ 268.00
Principal I	\$ 277.00	\$ 277.00
Principal II	\$ 255.00	\$ 319.00
Project Controller/Specialist	\$ 67.00	\$ 92.00
Project Manager I	\$ 139.00	\$ 221.00
Project Manager II	\$ 173.00	\$ 230.00
Project Manager III	\$ 173.00	\$ 277.00
Sr Proj Controller/Specialist	\$ 92.00	\$ 173.00
Subject Matter Expert I	\$ 267.00	\$ 306.00
Subject Matter Expert II	\$ 315.00	\$ 478.00

Expenses required will vary depending on the specific scope of work. Expenses will be billed at actual cost plus 5%. Detailed estimates of both work hours and expenses will be provided in each task order.

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

HDR Engineering, Inc.

for contract work at

Lodi Energy Center, 12745 N. Thornton Road, Lodi, CA 95242

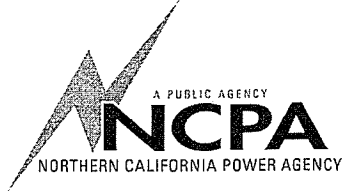
have been conducted as required by the California Energy Commission Decision for the above-named project.

(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.

2796236.2



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: PRECISION PUMP AND MACHINE – KSB, INC. – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA Generation Services Plant 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	
Department:	Combustion Turbines	

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

RECOMMENDATION:

Approval of Resolution 17-29 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task General Services Agreement with Precision Pump and Machine - KSB, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$260,000 over five years for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members.

BACKGROUND:

Various pump maintenance services are required at the NCPA locations as well as its Members, SCPPA and SCPPA Member facilities from time to time. Precision Pump and Machine – KSB, Inc. is a provider of these services. NCPA and Precision Pump and Machine - KSB, Inc. entered into a Multi-Task General Services Agreement dated effective January 24, 2014.

Effective January 1, 2017, the operating assets of Precision Pump and Machine – KSB, Inc. were acquired by KSB, Inc. The parties now desire to amend the Agreement and accept the assignment.

In addition, the original agreement was for services at NCPA locations only. This amendment will open up the agreement for use at NCPA Members, SCPPA and SCPPA Member facilities as well.

FISCAL IMPACT:

Total cost of the agreement is not-to-exceed \$260,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA 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:

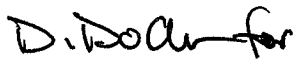
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task General Services Agreement with Precision Pump and Machine - KSB, Inc.
- First Amendment to Multi-Task General Services Agreement with Precision Pump and Machine - KSB, Inc.

RESOLUTION 17-29

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES
AGREEMENT WITH PRECISION PUMP AND MACHINE - KSB, INC.**

(reference Staff Report #139:17)

WHEREAS, Northern California Power Agency (NCPA) facilities, its Members, Southern California Public Power Authority ("SCPPA") and SCPPA Members require pump maintenance services at its various locations; and

WHEREAS, Precision Pump and Machine - KSB, Inc. is a provider of these services; and

WHEREAS, NCPA and Precision Pump and Machine - KSB, Inc. entered into a five year Multi-Task General Services Agreement effective January 24, 2014; and

WHEREAS, NCPA seeks to modify the vendor name as well as amend Exhibit A to include for use at Members, SCPPA and SCPPA Member facilities; 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 General Services Agreement with Precision Pump and Machine - KSB, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$260,000 over five years.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PRECISION PUMP AND MACHINE – KSB, INC.**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Precision Pump and Machine – KSB, Inc., a corporation with its office located at 3131 Fairhaven Drive, Bakersfield, CA 93308 ("Contractor") (together sometimes referred to as the "Parties") as of 1/24/, 2014 ("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 **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 TWO HUNDRED SIXTH THOUSAND DOLLARS (\$260,000.00)** 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;
- 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

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. Intentionally left blank.

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. 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.

4.4.3 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 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. 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.

- 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.

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 **Work Requiring Payment of Prevailing Wages.** If applicable, 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 these services are 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 shall be paid to all workers engaged in performing the services under this Agreement.

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 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 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 to 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 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, Contractors, 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.** Conclusion of Agreement. Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof) upon termination of this Agreement, 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:

Precision Pump and Machine – KSB, Inc.
Attn: Joe Seerly, Controller
3131 Fairhaven Drive
Bakersfield, CA 93308
Email: jseerly@precisionpump.com

Any written notice to Agency shall be sent to:

James H. Pope
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

- 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 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.

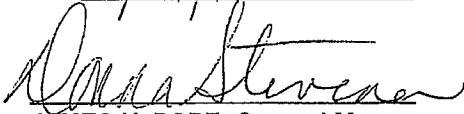
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

PRECISION PUMP AND MACHINE –
KSB, INC.

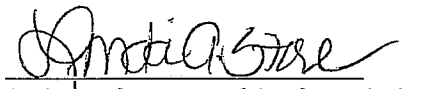
Date 1/24/14

Date 11-20-13


JAMES H. POPE, General Manager


GLEN A. EPHROM,
Operations Manager

Attest:


Assistant Secretary of the Commission
Approved as to Form:

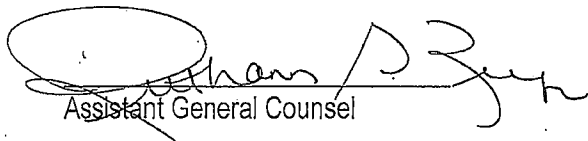

Assistant General Counsel

EXHIBIT A.

SCOPE OF WORK

Precision Pump and Machine – KSB, Inc. ("Contractor") shall provide pump maintenance services as requested by the Northern California Power Agency ("Agency").

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

- Pump Maintenance
- Mechanical Seal Maintenance
- Metal Fabrication
- Rotating Equipment Balancing
- Equipment Cleaning

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Type of Service	Rate Schedule/Hour
Pump Shop Labor	\$ 80.00 / hour
Field Service with Service Truck (2 hr minimum) Portal to Portal	\$ 80.00 / hour
Machine Shop Labor/Fabrication Labor	\$ 85.00 / hour
Machine Shop Labor; High Energy (200HP+ and/or Boiler Feed Pump	\$ 110.00 / hour
Pump Shop Labor; High Energy (200HP+ and/or Boiler Feed Pump	\$ 100.00 / hour
Field Service Engineer; High Energy (200HP+ and/or Boiler Feed Pump	\$ 145.00 / hour
Transportation Charge for Pick-Up/Delivery (2 hours minimum)	\$ 80.00 / hour
Laser Alignment	\$ 250.00 / hour
Per Diem Charge (daily)	\$ 75.00 / day
Public Transportation and Lodging	At Cost

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)

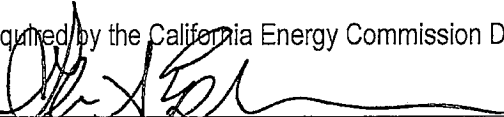
do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

(Company name)

for contract work at

(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 20 day of November, 20 13.

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 GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND PRECISION PUMP AND MACHINE – KSB, INC.
ACCEPTING ASSIGNMENT TO KSB, INC.**

This First Amendment (“Amendment”) to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Precision Pump and Machine – KSB, Inc. (“Contractor”) (collectively referred to as “the Parties”) as of _____, 2017.

WHEREAS, the Parties entered into a five year Multi-Task General Services Agreement dated effective January 24, 2014, (the “Agreement”) for Contractor to provide pump maintenance services (“Work”), as more specifically detailed in the Agreement to NCPA; and

WHEREAS, effective January 1, 2017, the operating assets of Precision Pump and Machine - KSB, Inc. were acquired by KSB, Inc.

WHEREAS, Precision Pump – KSB, Inc. and the Agency desires to agree to the assignment of the Agreement to KSB, Inc.; and

WHEREAS, the Agency now desires to amend the Agreement to allow Contractor to provide Work 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 Agency now desires to amend the Agreement to add miscellaneous provisions as set forth below; 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;

NOW, THEREFORE, the Parties agree as follows:

A. Section 1.4-Work Provided is replaced in its entirety by the following Section 1.4.

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.

B. **Section 1.5-Request for Work to be Performed** is added to the Agreement as follows:

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.

C. **Section 4.4.4-Additional Certificates and Endorsements** is added to the Agreement as follows:

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

D. **Section 6.1-Independent Contractor** is amended to add the following to that section:

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.

F. **Section 6.5-Maintenance Labor Agreement** is added to the Agreement as follows:

6.5 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.

G. Section 7-LEGAL REQUIREMENTS of the Agreement is amended and restated to read as follows:

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.

H. **Section 10-PROJECT SITE** of the Agreement is amended and restated to read as follows:

Section 10. PROJECT SITE.

- 10.1 **Project Site Locations.** The Project site at which Contractor may perform Work under this Agreement shall include any facilities owned and/or operated by the Agency, by the Agency's members, by SCPA, or by SCPA members.
- 10.2 **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; if applicable, the entity for which Contractor is performing the Work as referenced in Section 1.4, 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.
- 10.3 **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. Agency and, if applicable, the entity for which Contractor is performing the work as referenced in Section 1.4, 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 and, if applicable, by the entity for which Contractor is performing the work as referenced in Section 1.4, shall be

solely as an accommodation without any liability therefor to Contractor or other party. 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.

10.4 Use of Agency Equipment. Contractor shall assume the risk and is solely responsible for its use of any equipment and property owned and/or provided by Agency, its members, SCPPA, or SCPPA members for the performance of Work.

I. **Section 12.10** is added to the Agreement to read as follows:

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. In addition, Contractor's actions under the initial paragraph of Section 12 shall comply with all site programs established by Member if Contractor is performing Work for that Member.

J. **Section 13.8-Notices** is amended to the following:

KSB, Inc.
Attention: Tom Brooks, General Manager
19234 Flightpath Way
Bakersfield, CA 93308
Email: tbrooks@ksbusa.com

With a copy to:

KSB, Inc.
Audrey Schumacher Turner
Corporate Counsel
4415 Sarellen Road
Henrico, VA 23231
Email: aturner@ksbusa.com

Any written notice to Agency shall be sent to:

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

With a copy to:

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

K. **Section 13.12-Controlling Provisions** is replaced in its entirety by the following:

13.12 Controlling Provisions. In the case of any conflict between the terms of this Amendment and the Agreement, the Amendment shall control. 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.

L. **Section 13.15-No Third Party Beneficiaries** is replaced in its entirety by the following:

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.

M. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.

N. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

NORTHERN CALIFORNIA POWER AGENCY

KSB, INC.

Date: _____

Date: _____

RANDY S. HOWARD, General Manager

TOM BROOKS, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

**PRECISION PUMP AND MACHINE – KSB, INC.
Consents to the foregoing:**

By:

General Counsel

GLEN A. EPHROM, Operations Manager

Date: _____

2698437.3

EXHIBIT A
SCOPE OF WORK

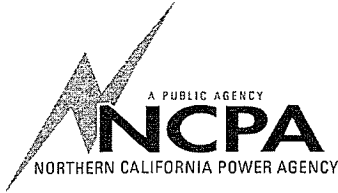
KSB, Inc. ("Contractor") shall provide pump maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members:

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

- Pump Maintenance
- Mechanical Seal Maintenance
- Metal Fabrication
- Rotating Equipment Balancing
- Equipment Cleaning

Contractor may provide services at all Project Site Locations.

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



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Brian Davis dba Northern Industrial Construction – Five Year Multi-Task General Services Agreement for General Services; Applicable to the following projects: All NCPA Generation Services Plant 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	
Department:	Geothermal	

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

RECOMMENDATION:

Approval of Resolution 17-30 authorizing the General Manager or his designee to enter into a Five Year Multi-Task General Services Agreement with Brian Davis dba Northern Industrial Construction with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Northern California Power Agency (NCPA) facilities require general maintenance services, which include but are not limited to welding, labor and materials for miscellaneous maintenance. Brian Davis dba Northern Industrial Construction is a provider of these services.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements with Hug’s Painting and Gifford’s Backhoe Services 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Brian Davis dba Northern Industrial Construction

RESOLUTION 17-30

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIVE YEAR MULTI-TASK GENERAL SERVICES AGREEMENT WITH BRIAN
DAVIS DBA NORTHERN INDUSTRIAL CONSTRUCTION

(reference Staff Report #140:17)

WHEREAS, general maintenance services which include but are not limited to welding, labor and materials for miscellaneous maintenance are periodically required for plant operations at the facilities owned and/or operated by the Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority ("SCPPA"), and SCPPA Members ; and

WHEREAS, Brian Davis dba Northern Industrial Construction is a provider of these services; and

WHEREAS, on April 10, 2017, the LEC Project Participant Committee approved the agreement with Brian Davis dba Northern Industrial Construction 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 Five Year Multi-Task General Services Agreement with Brian Davis dba Northern Industrial Construction with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BRIAN DAVIS DBA NORTHERN INDUSTRIAL CONSTRUCTION**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Brian Davis dba Northern Industrial Construction, a sole proprietorship with its office located at P.O. Box 653, Middletown, CA 95461 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2017 ("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) 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.** Intentionally Omitted.
- 4.4 Pollution Insurance.** Intentionally Omitted.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 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, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.6 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. 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.

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

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 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 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:

Brian Davis dba Northern Industrial Construction
P.O. Box 653
Middletown, CA 95461

Any written notice to Agency shall be sent to:

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

With a copy to:

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.

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

BRIAN DAVIS DBA NORTHERN
INDUSTRIAL CONSTRUCTION

Date _____

Date _____

RANDY S. HOWARD, General Manager

BRIAN DAVIS, Owner

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A
SCOPE OF WORK

Brian Davis dba Northern Industrial Construction ("Contractor") shall provide maintenance services which include but are not limited to welding, labor and materials for miscellaneous maintenance as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

All services identified above shall be promptly provided by Contractor to Agency as directed by Agency and in accordance with all Agency specifications.

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:

Refer to Attached Rate Sheet Below

NORTHERN INDUSTRIAL CONSTRUCTION
P.O. BOX 194
KELSEYVILLE, CA
Brian Davis (Owner)
(619) 729-3915 (Cell)
(707)692-7025 (Fax)
bprdavis@hotmail.com

2017
RATE SCHEDULE

MANPOWER:	<u>STRAIGHT TIME</u>	<u>OVERTIME</u>	<u>DOUBLE TIME</u>
	First 10 hr/day Mon-Thurs	Up to 12/hrs day Mon-Thurs Fri- Sat 8 hrs	Over 12 hrs/day
NIC Shop Rates	\$85.00/hr	\$95.00/hr	\$115.00/hr
General Foreman	\$ 65.00/hr	\$ 80.00/hr	\$ 90.00/hr
Working Leadman - Fitter, Welder, Millwright	\$ 65.00/hr	\$ 80.00/hr	\$ 90.00/hr
"B" Craft Person (Laborer)	\$ 55.00/hr	\$ 70.00/hr	\$ 85.00/hr
Call Out	4 hrs Minimum	OT Rate Applies	\$ 100.00/hr
Fire Watch (minimal tools)(site prep, weed eating, ect)	\$ 40.00/hr	\$ 55.00/hr	\$ 70.00/hr
Heavy Equipment Operator	\$ 65.00/hr	\$ 80.00/hr	\$ 90.00/hr
Spotter for Heavy Equipment	\$ 40.00/hr	\$ 55.00/hr	\$ 70.00/hr
PREVAILING WAGES PER LABOR CODES: EFFECTIVE TILL JUNE 2017			
General Foreman	\$85.00/hr	\$100.00/hr	\$120.00/hr
Welder	\$85.00/hr	\$100.00/hr	\$120.00/hr
Laborer	\$80.00/hr	\$95.00 hr	\$115.00/hr
Heavy Equipment Operator	\$80.00/hr	\$95.00/hr	\$120.00/hr
Spotter for Heavy Equipment Operations	\$75.00/hr	\$90.00 hr	\$115.00/hr
EQUIPMENT & MATERIALS RATES:			
Vehicles:			
#15 1995 L9000 International	\$40.00/hr		
#26 1999 Int Boom Truck (Big Red)	\$50.00/hr		
#28 2008 Dodge Dually Service Truck	\$35.00/hr		
#30 2000 F-350 White Service Truck	\$35.00/hr		
#32 2008 Ford Ranger Pick-up	\$20.00/hr		
#34 2007 Dodge Red Service Truck	\$35.00/hr		
#36 2006 Dodge (Red 4-door)	\$30.00/hr		
#37 2013 International Boom Truck (Little Boom Truck)	\$50.00/hr		
#38 2001 Dodge Blue Service Truck	\$35.00/hr		
#39 2001 Ford F-450 White Service Truck	\$35.00/hr		
#42 1997 Dodge 3500	\$35.00/hr		
#43 2000 Ford F-450	\$35.00/hr		
#44 2004 Dodge	\$30.00/hr		
#45 97 Toyota	\$30.00/hr		
HEAVY EQUIPMENT RATES:			
#40 1996 Excavator	\$35.00/hr		
#41 2007 Mini Excavator	\$50.00/hr		
#46 60' Manlift	\$40.00/hr		
TRAILER RATES:			
24 GVW Transport	\$18.00/hr		
20' Flat Bed Trailer	\$15.00/hr		
14" Dual Axle Box Trailer	\$18.00/hr		
MISC EQUIPMENT RATES:			
Fire Suppression Equipment (Water Wagon)	\$100.00/day	\$350.00/week	\$1,000.00/month
Rental Equipment/Manlift, etc	Cost plus 15%		
All Sub-Contractors	Cost plus 15%		
Materials	Cost plus 15%		
Per Diem (If required Per-Man night only)	\$125.00/night		
Travel Time (If required)	Straight Time Rates will apply		
HOT SHOT SERVICE RATES			
One Driver with One One-Ton Truck	\$85.00/hr		
One Driver with One Half-Ton Truck	\$80.00/hr		
*Note: Hot Shots longer than 10hrs straight, additional driver required or allow 8 hrs down time with Per Diem			

12/8/2016

All services will be billed according to Time & Material (T&M) Rates.

Prices are subject to change with 30 days' advance written notice to Agency.

Pricing for services to be performed at other NCPA facilities, 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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 __.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

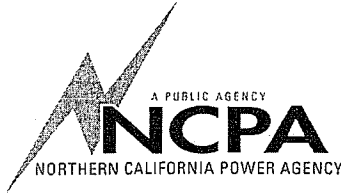
The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally establishes trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Alliance Cooling Products and Construction, Inc. – Five-Year Multi-Task General Services Agreement for General Services, Applicable to the following projects:
All NCPA Generation services Plant 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	
Department:	Geothermal	

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

RECOMMENDATION:

Approval of Resolution 17-31 authorizing the General Manager or his designee to enter into a Five Year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc. for maintenance services with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, Southern California Public Power Authority (“SCPPA”), or SCPPA Members.

BACKGROUND:

General maintenance services which include but are not limited to cooling tower structures and equipment, Stretford systems, buildings, structures, fiberglass piping, and any other miscellaneous maintenance work are needed at various NCPA facility locations as well as NCPA Members, SCPPA and SCPPA Members. Alliance Cooling Products and Construction, Inc. is a provider of these services.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements for similar services with Northern Industrial Construction and MP Environmental 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc.

RESOLUTION 17-31

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIVE YEAR MULTI-TASK GENERAL SERVICES AGREEMENT WITH
ALLIANCE COOLING PRODUCTS AND CONSTRUCTION, INC.

(reference Staff Report #141:17)

WHEREAS, Northern California Power Agency (NCPA) facilities, its Members, the Southern California Public Power Authority ("SCPPA"), and SCPPA Members require general maintenance services which include but are not limited to cooling tower structures and equipment, Stretford systems, buildings, structures, and fiberglass piping, and any other miscellaneous maintenance work; and

WHEREAS, Alliance Cooling Products and Construction, Inc. is a provider of these services; 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 Five-Year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc. with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ALLIANCE COOLING PRODUCTS AND CONSTRUCTION, INC.**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Alliance Cooling Products and Construction, Inc., a corporation with its office located at 123 W. North Street, P.O. Box 1512, Healdsburg, CA 95448 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2017 ("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) 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.** Intentionally Omitted.
- 4.4 Pollution Insurance.** Intentionally Omitted.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 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, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.6 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. 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.
- 4.7 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by

the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and 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. Intentionally Omitted

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 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 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:

Alliance Cooling Products & Construction, Inc.
123 W. North Street
P.O. Box 1512
Healdsburg, CA 95448

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be

commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

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

13.11.6 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.

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

ALLIANCE COOLING PRODUCTS &
CONSTRUCTION, INC.

Date _____

Date _____

RANDY S. HOWARD, General Manager

SHERI SMITH, Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF WORK

Alliance Cooling Products and Construction, Inc. ("Contractor") shall provide maintenance services which include but are not limited to cooling tower structures and equipment, Stretford systems, buildings, structures, and fiberglass piping, and any other miscellaneous maintenance work necessary as requested by Northern California Power Agency ("Agency") at any facilities owned and/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 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:

Alliance Cooling Products, Inc. hourly billing rates and fee schedule for performing work on a Time and Materials basis for NCPA.

The below listed rates will be effective 01-01-17 on a PREVAILING WAGE Basis.

Hourly Billing Rates

<u>CRAFT</u>	<u>S.T.</u>	<u>T 1/2</u>
Superintendent	112.52	146.09
Carpenter	78.92	101.47
Laborer Group 1	77.70	99.70
Laborer Group 2	77.43	99.32
Laborer Group 4	77.26	99.07
Laborer Group 5	66.26	83.07

All of the above rates will require written approval on the part of a NCPA representative by issuing a contract work authorization prior to the start of work.

Minimum of four (4) hours for Superintendent and Foreman.

1. Basis of Overtime Payment (per person)

T-1/2: All hours worked over 8 and up to 12 Monday through Friday.
Weekends.
All hours worked over 40 in one week.

D.T.: All hours worked over 12 in one day.
All hours worked over 8 on Sunday.
All hours worked on ACPC's observed holidays.

2. Material/Miscellaneous Charges

A. All of the following shall be billed at cost plus, and copies of invoices for said items will accompany all billing to NCPA.

1. Direct shipment or jobsite purchased materials – Cost Plus 15%
 2. Equipment costs (third party rentals) – Cost Plus 8%
- B. ACPC stocked items or fabricated items will be quoted as needed prior to shipment for **NCPA's** review.
- C. Delivery charges for usage of ACPC's truck will be billed at \$0.54 per mile traveled plus actual time at the delivery rate.
- D. Site specific safety training shall be billed per our time and materials rates.
- E. Freight will be billed at cost + 5% or freight collect.
3. Travel Allowance
- A. Outside the seventy-five (75) mile radius of ACPC's Healdsburg office or employee home, the following will apply:

Travel Allowance: Superintendent/Inspector shall be billed at the straight time rate for actual travel to and from the jobsite plus \$0.32 per mile traveled, on a one-time basis to the jobsite and return at the completion of the project. All other employees shall be billed at the straight time rate for actual travel from the home office or their then current jobsite on a one-time basis to and from the jobsite.

Company truck and tool trailer shall be added at the rate of \$80.00 per working day/per truck & trailer.

ACTS OF GOD CLAUSE

The following is intended to become a part of this proposal and will become effective upon our award of this contract in the event that work does not start on any given day.

Once ACPC employees arrive at the jobsite and check in with the **NCPA** Work Supervisor, any work stoppage due to Acts of God (rain, snow or any other phenomena beyond the reasonable control of ACPC) will be considered a lost time situation if authorized by **NCPA** Work Supervisor and the following subsequent rates will apply:

1. Job Superintendent: The job Superintendent will charge a four (4) hour minimum with full travel allowance, unless **NCPA** representative authorizes additional hours.
2. Foreman: The job Foreman will charge a four (4) hour minimum with full subsistence allowance.
3. R1 and below: A two (2) hour minimum will be charged for all other crewmembers with full subsistence allowance.

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

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

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D
CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 __.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally establishes trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report

April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Epidendio Construction, Inc. – Five Year Multi-Task General Services Agreement for Maintenance Services; Applicable to the following projects: All NCPA Generation Services Plant 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	
Department:	Geothermal	

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

RECOMMENDATION:

Approval of Resolution 17-32 authorizing the General Manager or his designee to enter into a Five Year Multi-Task General Services Agreement with Epidendio Construction, Inc. for maintenance services, including grading, excavation, paving, demolition, gravel and/or water hauling, seal coating, and related labor and materials, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Northern California Power Agency facilities, its Member facilities, SCPPA and SCPPA Members require general maintenance services from time to time, which include but are not limited to grading, excavation, paving, demolition, all phases of concrete, gravel hauling, water hauling, seal coating, labor and materials for miscellaneous maintenance. Epidendio Construction, Inc. is a provider of these services.

FISCAL IMPACT:

Total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements with Northern Industrial Construction, Gifford’s Backhoe Services, and Hug’s Painting 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Epidendio Construction, Inc.

RESOLUTION 17-32

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIVE YEAR MULTI-TASK GENERAL SERVICES AGREEMENT WITH
EPIDENDIO CONSTRUCTION, INC.

(reference Staff Report #142:17)

WHEREAS, general maintenance services, which include but are not limited to grading, excavation, paving, demolition, all phases of concrete, gravel hauling, water hauling, seal coating, labor and materials for miscellaneous maintenance are periodically required for plant operations at the facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, the Southern California Power Authority ("SCPPA"), and SCPPA Members; and

WHEREAS, Epidendio Construction, Inc. is a provider of these services; and

WHEREAS, on April 10, 2017, the LEC Project Participant Committee approved the agreement with Epidendio Construction, Inc. 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 Five Year Multi-Task General Services Agreement with Epidendio Construction, Inc. with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Agency (SCPPA), or by SCPPA members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
EPIDENDIO CONSTRUCTION, INC.**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Epidendio Construction, Inc., a corporation with its office located at 11325 Highway 29, Lower Lake, CA 95457 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2017 ("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) 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.** Intentionally Omitted
- 4.4 Pollution Insurance.** Intentionally Omitted
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 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, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.6 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. 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.
- 4.7 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by

the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and 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.** Intentionally Omitted

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 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 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, each party is responsible for its own attorneys' fees, regardless of who is the prevailing party.
- 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:

Mike Epidendio
President
Epidendio Construction, Inc.
P.O. Box 452
11325 Highway 29
Lower Lake, CA 95457

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

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

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

13.11.6 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

EPIDENDIO CONSTRUCTION, INC.

Date _____

Date _____

RANDY S. HOWARD, General Manager

MIKE EPIDENDIO, Owner

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Ruthann G. Ziegler, General Counsel

EXHIBIT A

SCOPE OF WORK

Epidendio Construction, Inc. ("Contractor") shall provide maintenance services which include but are not limited to grading, excavation, paving, demolition, all phases of concrete, gravel hauling, water hauling, seal coating, labor and materials for miscellaneous maintenance as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

All services identified above shall be promptly provided by Contractor to Agency as directed by Agency and in accordance with all Agency specifications.

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:

NCPA

Attachment B – Page 1

Supplier Name: **Epidendio Construction, Inc.**

Line No.	Description of Work	Type of Charge	Unit of Measure (UOM)	Size	Material	Standard Price	Overtime Price	Double-Time Price
1	Foreman	Hourly Labor	Per Hour			\$95.00	\$115.00	\$135.00
2	Supervisor	Hourly Labor	Per Hour			\$105.00	\$125.00	\$145.00
3	Equipment Operator - All Types	Hourly Labor	Per Hour			\$95.00	\$115.00	\$135.00
4	Teamster	Hourly Labor	Per Hour			\$75.00	\$95.00	\$115.00
5	Laborer	Hourly Labor	Per Hour			\$70.00	\$90.00	\$110.00
6	Cement Mason	Hourly Labor	Per Hour			\$80.00	\$100.00	\$120.00
7	Pick Up - 1/2 or 3/4 ton	Hourly Equipment	Per Hour			\$20.00		
8	Service Truck - With Tools	Hourly Equipment	Per Hour			\$45.00		
9	Flatbed Truck - 2 Ton	Hourly Equipment	Per Hour			\$45.00		
10	Dump Truck - 8 CY	Hourly Equipment	Per Hour			\$60.00		
11	Dump Truck - 10 CY	Hourly Equipment	Per Hour			\$60.00		
12	Transfer Truck	Hourly Equipment	Per Hour			\$70.00		
13	Water Truck	Hourly Equipment	Per Hour			\$63.00		
14	Boom Truck - 10 Ton	Hourly Equipment	Per Hour			\$70.00		
15	Backhoe (Case 650 or equivalent)	Hourly Equipment	Per Hour			\$45.00		
16	Excavator (Cat 307)	Hourly Equipment	Per Hour			\$55.00		
17	Loader (Cat 950)	Hourly Equipment	Per Hour			\$55.00		
18	Cone Truck with Arrow Board & Traffic Signs	Hourly Equipment	Per Hour			\$45.00		
19	Excavator (Cat 315 w/ thumb)	Hourly Equipment	Per Hour			\$70.00		
20	Excavator (Cat 320 w/ thumb)	Hourly Equipment	Per Hour			\$95.00		
21	Loader 545 Ford Skip 4 x 4 or equivalent	Hourly Equipment	Per Hour			\$45.00		
22	Loader (Cat 920)	Hourly Equipment	Per Hour			\$55.00		
23	Loader (Clark Michigan 75C)	Hourly Equipment	Per Hour			\$55.00		
	Other Equipment By Request							

NCPA

Attachment B – Page 2

Supplier Name: **Epidendio Construction, Inc.**

Line No.	Description of Work	Type of Charge	Unit of Measure (UOM)	Size	Material	Standard Price	Overtime Price	Double-Time Price
1	Subcontractor Markup - In the event you must use a service provider not otherwise covered, this markup shall be added to the direct cost of the service provider.	Markup	Percent Markup of Service Provider Invoice			15.00%		
2	Administrative Markup for Materials - In the event we are asked by NCPA to provide materials from a supplier, this markup shall be added to the direct material cost (acquisition, handling and installation should be included in the base fee and unit pricing).	Markup	Percent Markup of Direct Material Cost			15.00%		
1	8 x 10 trench Plates	Daily Equipment	Per Day				\$10.00	
2	Underground mole accessory for compressor	Daily Equipment	Per Day				\$215.00	
3	Barricades	Daily Equipment	Per Day				\$2.00	
4	Barricades with flashers	Daily Equipment	Per Day				\$3.00	
5	Cones/Delineators	Daily Equipment	Per Day				\$2.00	
6	Traffic Signs/stand	Daily Equipment	Per Day				\$16.00	
7	K-Ra2	Daily Equipment	Per Day				\$10.00	
8	3" Mud pump	Hourly Equipment	Per Hour			8		
9	185 CFM Compressor, hose & jackhammer	Hourly Equipment	Per Hour			25		
10	Cutoff Saw Dry	Hourly Equipment	Per Hour			12		
11	Concrete walk behind saw 20hp lg	Hourly Equipment	Per Hour			17		
12	Concrete walk behind saw small	Hourly Equipment	Per Hour			9		
13	Bilch Pot (asphalt tack)	Hourly Equipment	Per Hour			25		
14	Cone truck with arrow board	Hourly Equipment	Per Hour			35		

All services will be billed according to Time & Material (T&M) Rates.

Prices are subject to change with 30 days' advance written notice to Agency.

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 RD., LODI, CA 95242

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 __.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally establishes trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report

Date: April 10, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Kestrel Power Engineering LLC – 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>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	
Department:	Hydroelectric	

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

RECOMMENDATION:

Approval of Resolution 17-33 authorizing the General Manager or his designee to enter into a Five Year Multi-Task Professional Services Agreement with Kestrel Power Engineering LLC for engineering consulting services related to project support and plant 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, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

BACKGROUND:

Professional and engineering services relating to excitation systems project upgrades and other miscellaneous engineering tasks are required from time to time related to project support and plant operations at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. Kestrel Power Engineering LLC is a provider of these services and has previously provided engineering services to the NCPA facilities.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements with General Electric, Andritz Hydro, Sage Engineers, and Baskin Engineering 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 April 5, 2017 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on April 10, 2017 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. D. Howard for".

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with Kestrel Power Engineering LLC

RESOLUTION 17-33

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK PROFESSIONAL SERVICES AGREEMENT WITH KESTREL
POWER ENGINEERING LLC

(reference Staff Report #143:17)

WHEREAS, professional engineering and regulatory support services related to project support and plant operations 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, Kestrel Power Engineering LLC is a provider of these services; and

WHEREAS, on April 10, 2017, the LEC Project Participant Committee approved the agreement with Kestrel Power Engineering LLC, 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;

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 Kestrel Power Engineering LLC, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for engineering consulting services related to project support and plant operations 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 _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KESTREL POWER ENGINEERING LLC**

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 Kestrel Power Engineering, LLC, a partnership with its office located at 9126 N. 2150 East Road, Fairbury, IL 61739 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 201_ ("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** one million dollars (\$1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

4.1 **Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of 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 one million dollars (\$1,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

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

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

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

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, 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 ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

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

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state,

or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all

work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

- 8.4.1 Immediately terminate the Agreement;

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

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:

Mike Fogarty, Manager
Kestrel Power Engineering LLC
9126 N. 2150 East Road
Fairbury, IL 61739

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 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.

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

NORTHERN CALIFORNIA POWER AGENCY

KESTREL POWER ENGINEERING LLC

Date _____

Date _____

RANDY HOWARD, General Manager

MIKE FOGARTY, Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF SERVICES

Kestrel Power Engineering, LLC ("Contractor") as requested by Northern California Power Agency ("Agency"), Agency Members, SCPPA, or SCPPA Members, shall perform the following services including, without limitation:

- Engineering support for excitation systems upgrades
- Engineering support as needed

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. Pricing for services to be performed at NCPA, NCPA Members or SCPPA locations will be quoted at the time services are requested. Work to be performed on quoted fixed price basis.

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 RD., 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

April 11, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Approval of Amendment to Facilities Schedule 5 of the Amended and Restated Facilities Agreement

AGENDA CATEGORY: Consent

FROM:	David Dockham ^{DLD}	METHOD OF SELECTION:
	AGM, Power Management	N/A
Division:	Power Management	<i>If other, please describe:</i>
Department:	Industry Restructuring	

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

RECOMMENDATION:

Staff recommends that the Commission of Northern California Power Agency (NCPA) adopt and approved an amendment to Facilities Schedule 5 of the Amended and Restated Facilities Agreement to update the CT1 Project Statistics contained in Section 1.3, to ensure the operating parameters remain consistent with the CAISO Master File.

BACKGROUND:

The resource operating parameters used by the California Independent System Operator (CAISO) to develop dispatch orders are stored in the CAISO Master File. Each year NCPA staff review the parameters contained in the CAISO Master File to ensure they are consistent with current business practices and physical operating limits. Staff recently completed a review of the CAISO Master File and identified certain operating parameters that need to be updated.

AMENDMENT:

Section 1.3 of Facilities Schedule 5, which is appended to and made part of the Amended and Restated Facilities Agreement, contains certain CT1 Project Statistics. Based on staff's recent review of the CAISO Master File, the CT1 Project Statistics need to be updated; therefore, Staff propose to amend Facilities Schedule 5 to update the CT1 Project Statistics contained in Section 1.3.

The amended Facilities Schedule 5 is attached to this staff report for your reference.

FISCAL IMPACT:

Costs associated with staff time and resources required to develop the amended Facilities Schedule 5 are accounted for in existing NCPA budget categories.

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 Facilities Committee on April 5, 2017, and was recommended for Commission approval.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: 2

RESOLUTION 17-36

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVAL OF AMENDMENT TO FACILITIES SCHEDULE 5 OF THE AMENDED AND
RESTATED FACILITIES AGREEMENT**

(reference Staff Report #148:17)

WHEREAS, the resource operating parameters used by the California Independent System Operator (CAISO) to develop dispatch orders are stored in the CAISO Master File; and

WHEREAS, each year Northern California Power Agency (NCPA) staff review the parameters contained in the CAISO Master File to ensure they are consistent with current business practices and physical operating limits; and

WHEREAS, staff recently completed a review of the CAISO Master File and identified certain operating parameters that need to be updated; and

WHEREAS, Section 1.3 of Facilities Schedule 5, which is appended to and made part of the Amended and Restated Facilities Agreement, contains certain CT1 Project Statistics; and

WHEREAS, based on staff's review of the CAISO Master File, the CT1 Project Statistics need to be updated, so staff propose to amend Facilities Schedule 5 to update the CT1 Project Statistics contained in Section 1.3; and

WHEREAS, costs associated with staff time and resources required to develop the amended Facilities Schedule 5 are accounted for in existing NCPA budget categories; 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 and approves an amendment to Facilities Schedule 5 of the Amended and Restated Facilities Agreement to update the CT1 Project Statistics contained in Section 1.3, as further described in Staff Report 148:17.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY

FACILITIES SCHEDULE 5

COMBUSTION TURBINE PROJECT NO. 1 OPERATING PROCEDURES

Section 1. General Operating Criteria. The following general operating criteria are applicable to the operation of the Combustion Turbine Project No. 1 generation facilities (hereinafter referred to as the "CT1 Project"). The General Manager, or his or her designee, shall act as project manager for the CT1 Project on behalf of the Project Participants.

1.1 Good Utility Practice. The CT1 Project shall be operated in accordance with Good Utility Practice.

1.2 Licenses and Regulatory Criteria. The CT1 Project shall be operated in accordance with all license and regulatory requirements that are applicable to the CT1 Project (e.g., air permit restrictions).

1.3 CT1 Project Statistics. The following are general CT1 Project statistics:

<u>Resource Name</u>	<u>Resource ID</u>	<u>Pmax</u>	<u>Pmin</u>
Alameda GT Unit 1	ALMEGT_1_UNIT 1	23.4 MW	23.0 MW
Alameda GT Unit 2	ALMEGT_1_UNIT 2	23.5 MW	23.0 MW
Lodi Gas Turbine	LODI25_2_UNIT 1	23.8 MW	23.0 MW

Section 2. Scheduling Criteria.

2.1 Schedule Coordination. NCPA shall act as Scheduling Coordinator for the CT1 Project, and perform such duties in accordance with the Amended and Restated Scheduling Coordination Program Agreement.

2.2 Scheduling Criteria and Project Coordination. Each Project Participant, acting as an Operating Entity, shall schedule and bid its Project Participation Percentage share of capacity, energy, and/or other project attributes in any manner, and shall coordinate the scheduling of its Project Participation Percentage share of the CT1 Project with NCPA; provided, however, that such schedules or bids shall be consistent with licensing and regulatory criteria, operational limitations, all established scheduling requirements, including, but not limited to, those requirements set forth in the CAISO Tariff and as determined by NCPA pursuant to the Amended and Restated Scheduling Coordination Program Agreement, and the provisions of the respective Project Agreement. NCPA may act as Operating Entity on behalf of a Project Participant or a group of Project Participants, pursuant to separate agreement.

2.3 Test Energy. All energy generated for testing purposes shall be allocated in proportion to each Project Participant's Project Participation Percentage share of the CT1 Project.

2.4 Allocation of Project Output. All output of the CT1 Project, including capacity, energy and/or other project attributes shall be allocated among the Project

Participants in accordance with the Project Agreement and the Amended and Restated Scheduling Coordination Program Agreement.

2.5 Outage Coordination. Prior to the beginning of each Fiscal Year the project manager shall prepare and submit for approval to the Facilities Committee a planned outage schedule for the CT1 Project. Changes or modifications made to the planned outage schedule during the course of the Fiscal Year shall be subsequently reported in a timely manner to each Project Participant. NCPA shall provide outage coordination services to track and report planned and unplanned outages pursuant to the Amended and Restated Scheduling Coordination Program Agreement.

2.6 Emergency Operation. The City of Alameda or Lodi may request that the CT1 Project unit or units physically located within their respective distribution systems be operated in the case of an usual event (e.g., approaching distribution system loading limitations, loss of transmission services, etc.). Such request shall be made from the Project Participant to the NCPA dispatch center. Prior to approving a submitted request, NCPA shall review the impact such request may have on prior commitments of NCPA and/or the Project Participants associated with the CT1 Project, including, but not limited to, Project Participant own load requirements, contractual commitments, bids submitted to and awards received from the CAISO, to determine the feasibility of such request. All costs related to emergency operations of the CT1 Project shall be borne by the requesting Project Participant.

Section 3. Natural Gas Fuel Supply.

3.1 General. The CT1 Project consumes natural gas as a fuel in order to generate electric power for the benefit of the Project Participants. Section 3 of this Facilities Schedule 5 describes the terms and conditions under which NCPA will procure natural gas fuel for the CT1 Project.

3.2 Economic Dispatch and Daily Fuel Requirements. The CT Project consists of three (3) peaking generators, two (2) of which are located in the City of Alameda, and one (1) of which is located in the City of Lodi. Unless called upon to insure reliability by the CAISO, each generator is economically dispatched in accordance with this Facilities Schedule 5. In either case the fuel supply requirements of the CT1 Project are met through NCPA's contractual relationship with a supplier for index based gas delivery. The cost of fuel procured for the CT1 Project will be allocated to the Project Participants in accordance with the Project Agreement, this Agreement, and the Amended and Restated Scheduling Coordination Program Agreement.

3.3 Forward Natural Gas Procurement and Financial Hedging. In the normal course of business NCPA does not execute forward natural gas transactions for the potential fuel supply needs of the CT Project, due to the inherent uncertainty in forecasting fuel supply requirements for small peaking generators. No financial hedges for fuel supply costs associated with the CT Project will be implemented pursuant to this Facilities Schedule 5. NCPA may assist any Project Participant that desires to

procure natural gas in advance for anticipated CT1 Project fuel supply requirements, upon written request of a Project Participant, provided that NCPA and the requesting Project Participant have executed a separate agreement for such purposes.

3.4 Fuel Supply Management and Scheduling. Natural gas fuel consumed by the CT1 Project must be scheduled and transported to each generator site. To obtain necessary scheduling and transportation rights and services the Commission may periodically authorize contracts with Third Parties and/or authorize subscriptions for transportation and storage services under pipeline tariffs in accordance with procurement policies and procedures established by the Commission.



Commission Staff Report

Date: April 12, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Appointment of the Law Offices of Susie Berlin as Outside Special Counsel/Regulatory Affairs, and Authorization for General Manager to Execute Legal Services Agreement

AGENDA CATEGORY: Consent

FROM:	Jane Cirrincione <i>JCC</i>	METHOD OF SELECTION:
	Assistant General Manager	<i>Other</i>
Division:	Legislative & Regulatory Affairs	<i>Request for Proposals Issued on November 4, 2016</i>
Department:	Legislative & Regulatory	

IMPACTED MEMBERS:

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

RECOMMENDATION: That the Commission appoint the Law Offices of Susie Berlin as NCPA outside Special Counsel/Regulatory Affairs, and authorize the General Manager to execute the attached five year contract for these services to be paid at an hourly rate of \$335 through June 30, 2017, increasing to an hourly rate of \$390 effective July 1, 2017, with a not to exceed amount \$350,000 annually.

BACKGROUND: On November 4, 2016, NCPA issued a Request for Proposals (RFP) for the provision of outside legal services, including Special Counsel/Regulatory Affairs. Qualifications for this position included extensive regulatory policy expertise as well as substantial experience in providing representation before state energy agencies such as the California Energy Commission, the California Air Resources Board, and the California Public Utilities Commission.

A member review committee was established to review and evaluate the responses to the RFP. The committee included John Roukema, Director of Utility, Silicon Valley Power; Shawn Matchim, Electric Regulatory Compliance Administrator, Roseville Electric; Stephen Hollabaugh, Assistant General Manager, Truckee Donner Public Utility District; and Jane Cirrincione of NCPA staff. After a careful examination of the responses, two were identified by the member review committee as fully meeting NCPA's criteria, and interviews were subsequently conducted with representatives of these firms. The interview process led to the committee's selection of the Law Offices of Susie Berlin as the most qualified firm to meet the agency's needs and fulfill the responsibilities of this position as outlined in the scope of services.

FISCAL IMPACT: The Law Offices of Susie Berlin currently represents NCPA in this area. The firm's hourly rate for the past four years has been \$335. Under the attached contract, the hourly rate for the firm's services will remain at this level through June 30, 2017. Effective July 1, 2017, the hourly rate will increase to \$390. Payments under this contract are not to exceed \$350,000 annually. The hourly rate does not include expenses. However, the annual cap includes all expenses.

The FY 2017 NCPA Legislative and Regulatory Affairs Committee Budget includes funding to cover expected costs for these special counsel services through the balance of this fiscal year. The FY 18 NCPA Legislative and Regulatory Affairs Program budget that the Legislative and Regulatory Affairs Committee has recommended for Commission approval includes \$300,000 for these services.

Because the Law Offices of Susie Berlin represents other public power clients with shared interests in the regulatory arena, the firm splits the cost of its representation on issues among its clients with common interests, which results in a reduction of overall costs for NCPA on most proceedings.

The attached contract includes provisions that would enable individual NCPA members to retain the Law Offices of Susie Berlin at the same hourly rate and in accordance with this contract as needed, subject to approval by the NCPA General Manager.

SELECTION PROCESS: This firm was selected as a result of Formal Bidding Process conducted in accordance with NCPA's procurement policies and procedures. A RFP for outside legal services, including Special Counsel/Regulatory Affairs was issued by NCPA on November 4, 2017. A NCPA member review committee (outlined above) was established to review responses, and two firms were interviewed for this position. The committee selected the Law

Offices of Susie Berlin as the respondent best suited to provide the scope of services outlined. Other key considerations included a lack of potential conflicts of interest with other clients, direct knowledge of and involvement in ongoing proceedings of importance to the agency, and the ability to coordinate representation and share costs among multiple public power agencies currently represented by this firm.

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: 2

- Resolution 17-37
- Legal Services Agreement with Law Offices of Susie Berlin

RESOLUTION 17-37

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING LEGAL SERVICES AGREEMENT WITH
LAW OFFICES OF SUSIE BERLIN**

(reference Staff Report #149:17)

WHEREAS, the Northern California Power Agency (NCPA) advocates on a range of regulatory policy issues before state energy agencies including but not limited to the California Energy Commission, the California Public Utilities Commission and the California Air Resources Board; and

WHEREAS, NCPA manages on behalf of its members contracts with consultants who provide specialized legal and policy expertise as issues warrant; and

WHEREAS, the Law Offices of Susie Berlin provides this specialized legal and policy expertise with regard to representation before state regulatory agencies that have jurisdiction over matters of importance to NCPA; and

WHEREAS, NCPA issued a Request for Proposals for Legal Services, including Special Counsel/Regulatory Affairs, on November 4, 2016, and the designated NCPA member review committee selected the Law Offices of Susie Berlin as the firm most qualified to provide these services to the agency; and

WHEREAS, to assure strong state regulatory representation, NCPA desires to enter into a Legal Services Agreement with the Law Offices of Susie Berlin for five (5) 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 to execute the attached Legal Services Agreement with the Law Offices of Susie Berlin for Special Counsel/Regulatory Affairs services or five (5) years, at an hourly rate of \$335.00 through the balance of FY 2017, increasing to an hourly rate of \$390.00 effective July 1, 2017, not to exceed \$350,000 annually.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2017
 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
 CHAIR

ATTEST: CARY A. PADGETT
 ASSISTANT SECRETARY



**LEGAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
LAW OFFICES OF SUSIE BERLIN**

This agreement for legal services ("Agreement") is entered into on _____ (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, a public joint powers agency, with offices located at 651 Commerce Drive, Roseville, CA, ("Agency") and Law Offices of Susie Berlin, ("Attorneys") (together sometimes referred to as the "Parties"), with offices located at 1346 The Alameda, Suite 7, #141, San Jose, CA 95126.

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.
- 1.3 Assignment of Personnel.** Attorneys shall assign only competent personnel to perform services in connection with this Agreement.
- 1.4 Services Provided.** Upon prior written approval by the Agency or General Manager, Agency Members, through a separate confirmation letter or agreement, may request services consistent with the terms of this Agreement, including the fee schedule and reimbursable expenses, from Attorneys. Any potential conflict of interest issues shall be addressed on a case-by-case basis.
- 1.5 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** three hundred fifty thousand dollars (\$350,000) per year 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. 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 (\$1,000,000.00) 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 for licensed professionals performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim.
- 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) a Certificate of Insurance that demonstrates compliance with all applicable

insurance provisions contained herein and (2) policy endorsements to the 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.

3.4.2 Notice of Reduction in or Cancellation of Coverage. Attorneys agree 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.

3.4.3 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.

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 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;
 - 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

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 Randy S. Howard, General Manager, or his 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:

Susie Berlin
Law Office of Susie Berlin
1346 The Alameda, Suite 7, #141
San Jose, CA 95126

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
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.** To the extent consistent with applicable law, 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

LAW OFFICES OF SUSIE BERLIN

RANDY S. HOWARD, General Manager

C. SUSIE BERLIN, Attorney

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF SERVICES

Attorneys shall provide Agency with specialized legal services for state regulatory monitoring, representation, and advocacy. At the request of the Agency, Attorneys shall do all of the following:

- Represent the Agency before the state regulatory bodies – including, but not limited to, the California Energy Commission, the California Public Utilities Commission, and the California Air Resources Board;
- Work closely with and under the direction of Agency staff and/or the Agency's Legislative and Regulatory Affairs Committee;
- Identify, analyze, and report to the Agency on risks and opportunities in state regulation, governor's initiatives, and regulatory events that may affect the assets and operations of Agency and its members;
- Advise and assist in the development of regulatory strategies to advance the agency's regulatory policy goals;
- Provide periodic analysis and expertise regarding legislative initiatives that may impact regulation of the agency or its members;
- Advocate for the Agency's regulatory goals by developing and delivering written comments, supporting informational documents, public testimony, and other regulatory correspondence;
- Proactively educate regulators, energy agency staff, and the governor's staff on the impact of regulations on the Agency's ability to serve and provide affordable rates to its customers;
- Participate in NCPA Commission, NCPA Legislative and Regulatory Affairs Committee, and related task force and member meetings and conference calls, as needed to provide updates and strategic advice regarding regulatory policy matters; and
- Work in partnership with trade/advocacy organizations, including California Municipal Utilities Association, the Joint Utility Group, and others to advance the Agency's regulatory policy objectives.

EXHIBIT B

FEE SCHEDULE AND REIMBURSABLE EXPENSES

Compensation for all tasks shall not exceed \$350,000 annually. The hourly rates are as follows:

- C. Susie Berlin, \$335 per hour through June 30, 2017. Hourly rate increases to \$390 effective July 1, 2017
- Barry F. McCarthy, \$335 per hour through FY June 30, 2017. Hourly rate increases to \$390 effective July 1, 2017

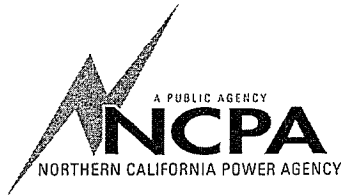
Attorneys may from time to time propose billing rates for personnel that may be added to the Attorneys, including additional associates, but such personnel shall not be assigned to perform work for Agency without prior written notice and approval. Fees and expenses for services performed by retained consultants, subcontractors, experts, or other personnel shall not be billed by the Attorneys without the prior written approval of the Attorneys and the General Manager of Agency

Agency agrees to reimburse the Attorneys for reasonable and necessary business expenses incurred by the Attorneys on behalf of Agency in connection with the services described in this Agreement. Such expenses shall include, but not be limited to, the following:

- Privately owned automobile mileage at the reimbursement rate allowed by the Internal Revenue Service regulations;
- Other travel expenses at actual cost, including but not limited to, airfare, ground transportation fare, meals, and lodging that are incurred while representing Agency; and
- Travel and other out-of-pocket expenses incurred in connection with, or related to, the performance of the Scope of Services shall be billed at cost.

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

2793578.1



Commission Staff Report

Date: April 7, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Ford Construction, Inc. Public Works Agreement - Adit 4 Spoils Facility Repair Project; Applicable to the following project: Hydroelectric Generation Services Facility.

AGENDA CATEGORY: Discussion/Action

FROM: Ken Speer <i>KS</i>	METHOD OF SELECTION:
Assistant General Manager	Public Works Bid
Division: Generation Services	
Department: Hydroelectric	

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

RECOMMENDATION:

Authorize the General Manager to execute a public works agreement with Ford Construction, Inc. and to issue purchase orders and change orders for not to exceed \$2,897,507 for construction of the Adit 4 Spoils Facility Repairs at the NCPA Hydroelectric Project.

BACKGROUND:

The Adit 4 Tunnel Spoils (Spoils) are located approximately 1 ½ miles up canyon from the Collierville Powerhouse in Calaveras County. The Spoils incurred water-related damage in December 2015 and require remediation to stabilize the facility and prevent further erosion to Clark Creek.

NCPA operates the North Fork Stanislaus Hydroelectric Project (FERC Project No. 2409), which was constructed from 1986 to 1989. One of the project features is an 8.5 mile long pressurized water conveyance tunnel between the McKays Point Diversion Dam and the Collierville Power House. The tunnel has two (2) access adits. At one of these adits (Adit No. 4), tunnel rock cuttings Spoils were permanently stockpiled immediately below in a natural drainage in compliance with the Revised Spoils Disposal Plan dated April 1987 under a Right-of-Way Grant (CA 8281) from the United States Department of the Interior, Bureau of Land Management.

The Spoils facility includes approximately ¼ mile of the water conveyance culverts and gunite lined channels atop the Spoils. To mitigate erosion, an interim system of elevated surface culverts was installed to convey the water safely away from the toe of the failure to the erosion-resistant native drainage channel. This interim system will remain in place until the design, permitting, and construction of the permanent erosion work is completed.

ENVIRONMENTAL ANALYSIS:

The repair Project was determined to be categorically exempt from CEQA under Class 1, §15301(b) and (d). A class 1 exemption, *"consists of the operation, repair, maintenance... of existing public or private structures... involving negligible or no expansion of use beyond that existing, including but not limited to: b) Existing facilities of both investor and publicly owned utilities used to provide electric power... and (d) Restoration or rehabilitation of deteriorated or damaged structures..."* A Notice of Exemption was filed with Calaveras County and posted January 27 through February 24, 2017 for the repair Project. No comments were received.

Staff consulted with the California Department of Fish and Wildlife (CDFW) regarding the Project and CDFW determined that no permits would be required. Staff consulted with and notified the United States Army Corps of Engineers that the Project is categorically exempt from the 404 process. Staff consulted with the Regional Water Resources Control Board (RWQCB) and determined that a low-threat discharge permit would be appropriate for the construction dewatering. The RWQCB has reviewed staff's permit application and has indicated that they intend to issue the permit shortly. Staff has also filed a Storm Water Pollution Prevention Plan (SWPPP) with the SWQCB and will follow all established procedures.

FISCAL IMPACT:

The total cost of the Adit 4 Spoils Facility Repair Project is now estimated to be \$3.46M which includes \$285,477 spent to date for design and interim repairs. Previous budget estimates to complete the repair were \$4.15M. Based upon the construction bid, expenditures in 2017 (FY 2018) are now anticipated to be \$3.1M which includes construction, outside construction engineering services, and an 18% contingency. \$500,000 was included in the current fiscal year budget. The proposed FY2018 Hydroelectric budget proposes collecting another \$1,185,000 in FY2018 and using previously collected funds available in the Hydroelectric Capital Development Reserve to fund the Adit 4 Spoils Facility Repair Project until the Capital Development Reserve can be refunded by Insurance Claim payments or collections in the FY2019 Hydroelectric Budget. On February 9, 2017, the Hydroelectric Project insurance underwriters determined that the Adit 4 Spoils Facility was a covered named asset and that the Adit 4 Spoils Facility Repair Project would be covered by insurance, minus the \$500,000 deductible and items considered as a betterment. The betterments portion of the Project are yet to be determined.

The Commission, on August 17, 2016, authorized the General Manager or his designee to issue purchase orders for not to exceed amount of \$500,000 against previously approved Multi-Task Services Agreements for engineering and permitting support associated with the Adit 4 landslide. The current request is for authorization for the General Manager or his designee to issue purchase orders for not to exceed \$2,897,507 for actual construction.

SELECTION PROCESS:

The Project was publicly advertised for pre-qualification February 9 -16, 2017. Five (5) firms expressed an interest in the project, received plans and specifications, and attended the mandatory pre-bid meeting. Five contractors submitted pre-qualification documents. Staff conducted interviews of the references and scored the respective firms' experience/qualifications. Three (3) contractors: KW Emerson, Syblon Reid, and McMillen Jacobs were eminently and clearly qualified for the work, and two (2) contractors: Ford and Drill Tech met the minimum qualifications when project experience was clarified to include projects in work in-progress phase but not yet complete. All contractors were ultimately approved by NCPA to bid on the project.

A bid package for this public works project was issued on February 9, 2017. Bids were opened on March 23, 2017. Three (3) addendums were issued for the Project which included answers to bidders' questions, the project re-design documents (necessitated from progressive site damage which occurred during the January/February storm events), and the SWPPP document.

Contractor	Bid Amount
Syblon Reid	\$3,472,290
K.W. Emerson	\$3,729,028
McMillen Jacobs	\$4,026,691
Ford	\$2,447,507

Ford Construction was determined to be the low, responsible, responsive bidder. The engineer's estimate for the Project was \$3.5M. The low bid came in significantly (\$1M) under the second lowest bid as well as the engineer's estimate. To address potential concerns that

the large bid spread could be indicative of an underbid and could lead to contractor pressure to make up their shortfall with requests for contract change orders or claims in conjunction with the challenging work activities, staff discussed the bid specifics with Ford and specifically requested additional information regarding bid items that could be potentially utilized by the contractor to make up the gap. Ford confirmed that they did not see any vulnerabilities in the design documents and do not intend to make any illegitimate claims or change orders. Ford has had a master services agreement with NCPA for many years and has delivered multiple satisfactory projects to the Hydro facility.

It is the practice of staff to closely manage and monitor the construction progress and enforce the contract, however, in this scenario, additional care will be warranted. With this low-bid scenario, and in consideration of the continuing deterioration of the site due to stormwater erosion, staff recommends an 18% construction contingency, which is 3-8% higher than normal. The contingency is reserved solely for NCPA to utilize in the cases that legitimate site conditions or design changes warrant the need for additional funds. The contract will not contain any reference or connection to the contingency.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on April 5, 2017 and was recommended for Commission approval.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: (2)

- Resolution
- Public Works Agreement with Ford Construction, Inc.

RESOLUTION 17-34

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE PUBLIC WORKS AGREEMENT WITH FORD CONSTRUCTION, INC.

(reference Staff Report #144:17)

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

WHEREAS, the Hydroelectric Facilities Adit 4 Spoils Facility has incurred substantial damage, is currently deteriorating, and requires immediate repair to prevent further damage and ensure the safe and environmentally compliant operation; and

WHEREAS, the design, and public construction bidding is complete; and

WHEREAS, Ford Construction, Inc. was the lowest responsive, responsible bidder to the Request for Proposal issued for the public works Adit 4 Spoils Facility Repair Construction Project with a bid of \$2,447,507; and

WHEREAS, an additional 18% (\$450,000) construction contingency is requested to cover possible change orders and contingencies for a total project cost of not to exceed \$2,897,507; and

WHEREAS, a California Environmental Quality Act Notice of Exemption Class1, §15301(b) and (d) was filed January 27 through February 24, 2017 for the repair Project; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorize the General Manager to execute a public works agreement with Ford Construction, Inc. and to issue purchase orders and change orders for an amount not to exceed \$2,897,507 for construction of the Adit 4 Spoils Facility Repairs at the NCPA Hydroelectric Project.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: CARY A. PADGETT
ASSISTANT SECRETARY

IX. AGREEMENT

This contract ("Contract" or "Agreement") is entered into this _____ day of _____, 20____, 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 _____, a [California Corporation / Limited Liability Company / General Partnership / Limited Partnership / Individual] with offices located at _____, (hereinafter referred to as "Contractor"), collectively referred to as the "Parties"),

WHEREAS, NCPA intends to have constructed the Collierville Power Tunnel Adit 4 Spoils Facility Repair Project ("Project") located at **NCPA's Facilities near Murphys, CA** (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. _____ (if estimated at over \$250,000); 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: Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
NCPA Bid No.: HYD0102**

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 the Work within 10 calendar days from the date of NCPA's "Notice to Proceed," and to diligently prosecute the same to completion within 183 consecutive calendar days commencing after the date of NCPA's Notice to Proceed. Contractor shall complete the work no later than November 30, 2017, except as adjusted by any subsequent change order. Time is of the essence in this Agreement.

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

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

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. It is therefore agreed that the Contractor shall pay to NCPA the sums stipulated for delays in finishing the work beyond the times of completion specified; and the Contractor agrees to pay these liquidated damages, and further agrees that NCPA may deduct the amount thereof from any moneys due or that may become due the Contractor under the Contract Documents. If such moneys are insufficient, the Contractor or its surety or sureties shall pay to NCPA any deficiency within thirty (30) days of invoice submittal by NCPA.

Liquidated damages in the amount of \$2,000 per day for each day of delay shall be imposed on Contractor.

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:

_____ (\$ _____), 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, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution 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

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

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 agreement 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 agreement 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. Not used

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.

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

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.

11.03 Each request for payment submitted by the Contractor shall include backup documentation in support of all quantities and costs for which payment is requested, including but not limited to all material invoices, subcontractor/vendor statements of quantities and/or services provided, equipment rental invoices and signed daily time sheets.

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, with back-up documentation attached, and the total cost figures for the work shall be entered on the billing form under "Other Work". Work itemization with back-up shall be submitted with the Contractor's request for payment.

11.05 Subject to Article 12.00 of the General Conditions Section below, 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 probable filing of claims, damages to NCPA or third parties, liquidated damages, 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 items 13.1 and 13.2 above, 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 Article 10.03 of the General Conditions below.

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

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

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.

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

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:

[INSERT CONTRACTOR ADDRESS AND CONTACT INFORMATION]

Any written notice to NCPA shall be sent to:

Northern California Power Agency
Attn: Project Manager
Jake Eymann
477 Bret Harte Drive
Murphys CA, 95247

and

Northern California Power Agency
Attn: General Manager

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
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 _____
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

NCPA
Collierville Power Tunnel Adit 4 Spoils Facility Repair Project
Public Works Contract
1/23/17

X. 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

April 11, 2017

COMMISSION MEETING DATE: April 20, 2017

SUBJECT: Approval of Fiscal Year 2018 Annual Budget

AGENDA CATEGORY: Discussion/Action

FROM:	Monty Hanks <i>MH</i>	METHOD OF SELECTION:
	Assistant General Manager/CFO	N/A
Division:	Administrative Services	

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

RECOMMENDATION:

The NCPA Commission adopt and approve the FY 2018 Annual Budget as outlined in Resolution 17-35 and as detailed in the attached budgetary support and Annual Budget Document.

BACKGROUND:

In October 2016, the Commission approved budget guidance for the NCPA FY 2018 Annual Budget. Staff began preparation of the proposed budget during the following months. From January through April 6, 2017, staff presented the budget to various Commission Committees as follows:

- Facilities Committee (February 15, March 15)
- Legislative and Regulatory Committee (February 22)
- Utility Directors (March 10 (Retreat), April 6)
- Budget Preview (Commission meeting March 23)
- Lodi Energy Center Project Participants Committee (February 13, March 13)
- Finance Committee (April 5)

Presentations made to the Commission and Committees during review of the proposed FY 2018 Annual Budget are located on the NCPA website at: www.ncpa.com under the Meetings heading/ Committees subheading on the dates indicated. The entire budget document is available on the Agency's extranet site, [NCPA Connect](#).

All changes resulting from the budget review meetings have been incorporated into the proposed FY 2018 Annual Budget.

This proposed budget totals \$361.7 million (net of revenues). Overall results are a 10.1% or \$33.2 million dollar increase over the FY 2017 budget. Budget changes include:

- Overall operating costs (non-personnel related) are 2.5% below 2017 budget levels and below the 2.2% increase target established by the Commission.
- Net reduction of 0.38 FTE composed of 1.0 FTE reduction in the Geothermal project and 0.68 additional FTE in Human Resources/Administration for intern positions.
- \$1.5 million increase for accelerated 15 year funding of the pension liability.
- LEC debt service costs continue at higher levels due to federal budget cuts to the Build America Bonds interest subsidy program (\$0.5 million). Restoration of this funding continues to be a focus of current advocacy efforts in Washington DC.
- Increased projected energy purchase by LEC including regulation down requirements (\$2.0 million)
- Increased Member Contracts related to new contracts in effect for full year (\$7.7 million)
- Increased net Load Aggregation costs related to reduced sales pricing per MWhr (\$7.7 million)
- Higher transmission costs due to addition of BART for SC services (\$8.7 million), projected increases in CAISO High and Low Voltage TAC (\$3.5 million and \$7.5 million, respectively), and change in member low voltage ratio (\$2.1 million).

- Lower fuel costs related to LEC reduced generation (\$29.3 million).
- Reductions at various generating plants of overall operating and maintenance costs (\$4.2 million).
- Reduced LEC revenues resulting from lower projected generation (\$49.1 million)
- Reduction of NCPA Contracts and Market Power Purchases due to elimination of balancing requirements for Pool members (\$20.0 million)
- Decreased Member gas contracts and Net GHG obligations related to reduced generation at LEC (\$3.1 million)

Staff will provide a brief PowerPoint presentation at the Commission meeting outlining the changes made after the March 23, 2017 Commission meeting. A summary of the proposed budget and a copy of the PowerPoint presentation are attached.

FISCAL IMPACT:

Total proposed annual budget cost for FY2018 is approximately \$361.7 million, which represents an increase of 10.1% or a 33.2 million dollar increase over the FY 2017 as summarized in the attached summary schedule.

The Executive Summary section of the budget document contains an analysis of the overall budget.

Allocation of the FY2018 NCPA Budget between members and LEC participants are based on participation levels in NCPA programs and projects and the approved cost allocations. Final funding allocation for each member is attached to this staff report and shown on page 182 of the budget document.

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 Legislative and Regulatory (L&R) Committee reviewed the L&R Program budget at their meeting on February 22, 2017 and unanimously approved the proposed program budget and recommended approval by the full NCPA Commission.

The Facilities Committee reviewed the Generation Services (except LEC), Power Management and Administrative Services/Executive Services budget at their meeting on March 15, 2017. The Committee unanimously recommended approval of the Generation Services budgets. The Committee unanimously recommended approval of the Power Management budget conditional on the reduction of \$19,000 from the Fuel Acquisition and Management program; reduction was made. The Committee recommended approval of the Administrative and Executive Services budget with Palo Alto abstaining from the vote.

The Facilities Committee reviewed and recommended for approval a correction to the FY 2017 allocation that was included in the approved budget for three subcategories of Judicial Action costs: 1) CAISO Rates and Tariff Amendments; 2) PG&E Rates and Tariff Amendments; and 3) Western Rates and Tariff Amendments. The costs were incorrectly allocated in the approved

FY 2017 budget, and the Committee recommended that the costs be allocated using the approved allocation methodology as part of the FY 2017 annual budget settlement process. This does not result in a net change to the budget. Corrected allocations will result in a redistribution of the cost amongst members and non-member participants.

Additionally, the Committee recommended approval of a new alternative allocation methodology for a subcategory of Judicial Action costs for the 2018 budget; the Committee recommended that costs incurred under the subcategory “PG&E Rates and Tariff Amendments” be allocated to members based on their pro-rata shares of CAISO loads and exports. Due to the timing of the change, the new methodology has not been included the budget. The updated methodology will be applied as part of the FY 2018 annual budget settlement process.

The Lodi Energy Center Participants Committee reviewed the project budget on March 13, 2017 and unanimously recommended approval to the full Commission.

On April 5, 2017 the Finance Committee reviewed the impact of the \$1.5 million budgeted funding for NCPA’s Employee Pension Program unfunded liability and is supportive of the funding level.

Respectfully submitted,

A handwritten signature in black ink that reads "D. Doan for". The signature is written in a cursive, somewhat informal style.

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 17-35
- Budget Summary
- Participant Funding Summary
- Pay Schedule
- PowerPoint Presentation (Budget)
- PowerPoint Presentation (Judicial Action)

RESOLUTION 17-35

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY ADOPTING THE FISCAL YEAR 2018 ANNUAL BUDGET

(reference Staff Report #147:17)

WHEREAS, the Amended and Restated Northern California Power Agency Joint Powers Agreement ("the JPA") provides in Article III section 3 that,

"3. None of the debts, liabilities, or obligations of NCPA shall be the debts, liabilities or obligations of any of the parties to this [Joint Powers] Agreement unless assumed in a particular case by resolution of the governing body of the party to be charged"; and

WHEREAS, certain members have assumed obligations of NCPA through approval of agreements by their governing bodies, such as the project third phase agreements, the Pooling Agreement, the Facilities Agreement, the Power Management and Administrative Services Agreement, the Scheduling Coordination Program Agreement, etc.; and

WHEREAS, the JPA provides in Article IV section 3(a) that,

"3(a). Each party hereto agrees that it will annually contribute, in proportion to its respective total retail electric power load (or where no retail load exists, the consumptive power load, or where no consumptive power load exists, other suitable measure as approved by the Commission) for the previous calendar year, to a fund or budget of NCPA which may cover up to one-third of legislative and regulatory activities or other NCPA general expenses not covered by other agreements or revenue sources, as may be approved by the Commission; and that such annual cash contribution to said fund or budget by any party may be up to fifteen cents (\$0.15) per megawatt hour (MWh) of said total retail electric power load or consumptive power load, or where no consumptive power load exists, other suitable measure as approved by the Commission, as submitted by such party to the Federal Energy Regulatory Commission or other governmental regulatory authority"; and

WHEREAS, the Amended and Restated Rules of Procedure for the Commission of the Northern California Power Agency (the NCPA Bylaws) provide in section 11 that,

"11. Budgets.

(a) NCPA Budget. The General Manager shall, not later than at the regular Commission meeting in May of each year, present a proposed budget for the ensuing fiscal year to the Commission, together with a statement of the payments to be required from the Members by such budget. Such budget shall include the various NCPA Project budgets. The Commission shall adopt such budget by resolution, with any changes ordered by it, not later than the regular meeting in June"; and

WHEREAS, in accordance with the NCPA Bylaws, the General Manager of NCPA has presented a proposed budget for Fiscal Year 2018; and

WHEREAS the proposed budget in accordance with the JPA includes a proposed charge to the members of \$0.15 per MWh for a total assessment pursuant to the JPA of \$1,318,035; and

WHEREAS, certain of the members of NCPA have from time to time entered into a variety of agreements for the development and operation of NCPA Projects and Programs by which said members have agreed to be responsible for the costs of said Projects and Programs; and

WHEREAS, costs for each of the NCPA Projects and NCPA Programs have been included in the proposed 2018 NCPA Annual Budget, and the Participants in each such NCPA Project and NCPA Program acknowledge that approval of the NCPA Annual Budget constitutes approval of the annual budget for each of said Programs and Projects; and

WHEREAS, all other costs not included in the JPA assessment have been primarily incurred, by original design, either directly or indirectly on behalf of NCPA Projects or in support of NCPA Programs developed and approved by the members over the years; and

WHEREAS, Project and Program costs have been equitably allocated between and among the NCPA Projects and Programs and such equitable allocation methodology has been approved by the Commission in previous budgets and through specific studies and Commission actions via Resolution 10-16 (Power Management Costs), Resolution 10-106 (Legislative and Regulatory Costs); and

WHEREAS, all such costs are operating and maintenance costs within the meanings and descriptions provided in both the Third-Phase (Take-Or-Pay) Agreements and the Federal Energy Regulatory Commission (FERC) Uniform Chart of Accounts, used to account for the Projects; and

WHEREAS, the Project Participants in all NCPA Projects through recommendation of the NCPA Facilities Committee and the Lodi Energy Center Project Participant Committee have recommended approval of a FY 2018 Annual Budget; and

WHEREAS, the participants in all NCPA Projects through recommendation of the NCPA Facilities Committee have recommended a correction to the allocation that was included in the approved FY 2017 budget for three subcategories of Judicial Action costs: 1) CAISO Rates and Tariff Amendments; 2) PG&E Rates and Tariff Amendments; and 3) Western Rates and Tariff Amendments to be implemented as part of the FY 2017 budget settlement process; and

WHEREAS, the participants in all NCPA Projects through recommendation of the NCPA Facilities Committee have recommended approval of a new alternative allocation methodology for the Judicial Action subcategory of "PG&E Rates and Tariff Amendments" for FY 2018. The Committee recommended that that FY 2018 costs be allocated to members based on their pro-rata shares of CAISO loads and exports. Due to the timing of the change, the new methodology is not included in the budget. The updated methodology will be applied as part of the FY 2018 annual budget settlement process; and

WHEREAS, the participants in the Legislative and Regulatory Programs through recommendation of the Legislative and Regulatory Committee have recommended approval of the Legislative and Regulatory program budget as presented in the 2018 Annual Budget; and

WHEREAS, the FY 2018 Annual NCPA Budget is a comprehensive document that delineates, among other things, each member's fully allocated financial cost responsibility in connection with each and every service provided by the Agency through its various projects and programs; and

WHEREAS, the FY 2018 Annual Budget for individual Projects as recommended by the respective Project participants of the various Projects and the related costs and revenues thereof are reflected in the Agency's proposed FY 2018 Annual NCPA Budget; and

WHEREAS, the FY 2018 Annual NCPA Budget document also contains certain proposed position changes, reclassifications and salary or pay schedules which also require Commission approval; and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the Northern California Power Agency as follows:

Section 1. This Commission hereby finds and determines that the recitals contained herein above are true and correct.

Section 2. This Commission finds that the adoption of this resolution is exempt from the California Environmental Quality Act. It is not an action which will cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment (reference staff report 147:17).

Section 3. This Commission hereby irrevocably adopts, approves, and authorizes the program and project budgets which are an integral part of the Fiscal Year 2018 Annual Budget of the Agency, and it hereby irrevocably adopts, approves, and authorizes the Fiscal Year 2018 Annual Budget of the Agency. The Commission members hereby confirm their commitment and that of their respective member agencies, to provide funding of the Fiscal Year 2018 Annual Budget of the Agency in proportion to their individual shares therein, as shown in the attached summary of budget costs after full allocation of costs to all projects and programs of the Agency.

Section 4. Notwithstanding the generality of the foregoing, the Commission does hereby approve the classification and position changes and salary or pay schedules as noted in the Annual Budget and authorizes the General Manager to implement such changes.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2017 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	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIRPERSON

ATTEST: _____
CARY PADGETT
ASSISTANT SECRETARY

NORTHERN CALIFORNIA POWER AGENCY
ANNUAL BUDGETS

	FISCAL YEAR ENDED JUNE 30			Budget %
	2017	Incl/(Dec)	Proposed 2018	
GENERATION RESOURCES				
NCPA Plants				
Hydroelectric	\$ 29,734,200	(388,460)	\$ 29,345,740	8.1%
Geothermal	2,189,896	620,498	2,810,394	0.8%
Combustion Turbine No. 1	2,487,788	20,154	2,507,942	0.7%
Combustion Turbine No. 2 (STIG)	7,871,923	(245,329)	7,626,594	2.1%
Lodi Energy Center	24,122,136	18,116,256	42,238,392	11.7%
Subtotal	66,405,943	18,123,119	84,529,062	23.3%
Member Resources - Energy	45,637,894	7,761,340	53,389,034	14.7%
Western Resource	1,675,438	(998,073)	677,365	0.2%
NCPA Contracts & Market Power Purchases	19,990,876	(18,031,691)	1,959,285	0.5%
Load Aggregation Costs	39,302,363	(19,984,339)	19,318,025	5.3%
Net GHG Obligations	56,011,961	26,791,561	82,803,522	22.9%
Subtotal	2,539,910	(2,093,993)	445,917	0.1%
TOTAL GENERATION RESOURCES	165,158,342	(6,565,194)	158,593,148	43.8%
	231,564,285	11,557,925	243,122,210	67.1%

	FISCAL YEAR ENDED JUNE 30			Budget %
	2017	Incl/(Dec)	Proposed 2018	
TRANSMISSION				
Independent System Operator				
Grid Management Charge (GMC)	3,799,808	(1,333,299)	2,466,609	0.7%
GMC Wheeling	74,972,258	21,788,037	96,760,295	26.7%
Ancillary Services (AS)	1,421,202	1,105,738	2,526,940	0.7%
Other Charges	807,975	250,463	1,058,438	0.3%
Subtotal	81,001,343	21,810,939	102,812,282	28.4%

	FISCAL YEAR ENDED JUNE 30			Budget %
	2017	Incl/(Dec)	Proposed 2018	
TOTAL TRANSMISSION				
MANAGEMENT SERVICES				
Legislative & Regulatory				
Legislative Representation	1,896,435	78,349	1,974,784	0.5%
Regulatory Representation	794,200	42,483	836,683	0.2%
Western Representation	816,540	11,218	827,758	0.2%
Member Support Services	432,111	1,862	433,973	0.1%
Subtotal	3,939,286	133,912	4,073,198	1.1%
Judicial Action	625,000	-	625,000	0.2%
Judicial Action Direct Cost to Programs	-	(117,342)	(117,342)	0.0%
Power Management				
System Control And Load Dispatch:	2,266,238	94,373	2,360,611	0.7%
Dispatch & Real-time Resource Management	2,226,276	132,041	2,358,317	0.7%
Schedule Coordination	961,103	(7,845)	953,259	0.3%
System Control, And Data Acquisition	167,185	16,513	183,698	0.1%
WECC/NERC Compliance & Participation	5,620,802	235,083	5,855,885	1.6%
Subtotal				

NORTHERN CALIFORNIA POWER AGENCY
ANNUAL BUDGETS

Continued

	FISCAL YEAR ENDED JUNE 30		Budget %
	2017	Incl(Dec)	
Forecasting Planning, Prescheduling & Trading	638,799	(10,672)	0.2%
Forecasting	481,188	23,022	0.1%
Resource Planning, Optimization, Risk Analysis & Mgmt.	129,777	7,654	0.0%
Power & Fuel Transactions	764,650	44,190	0.2%
Pre-Scheduling	378,551	12,806	0.1%
Power Pool Oper. & Settlement Standards	161,471	11,498	0.0%
Facilities Agreement Administration	2,594,436	88,498	0.7%
Subtotal	414,046	9,274	0.1%
Industry Restructuring & Regulatory Affairs	855,468	16,647	0.2%
Contract Adm'n, Interconnection Svcs & External Affairs:	16,806	881	0.0%
Contract Maint, Negotiation and Administration & Litigation	168,479	(9,261)	0.0%
TANCC Representation & Advocacy	95,549	4,942	0.0%
Western Representation & Advocacy	1,136,302	13,208	0.3%
Pooling Agreement Coordination and Administration	17,708	(799)	0.0%
Subtotal	86,550	1,462	0.0%
Green Power Project	125,219	3,420	0.0%
Market Purchase Power Program	(1,327,566)	(34,209)	-0.4%
Power Management Direct Cost to Programs	8,627,497	315,937	2.5%
Subtotal - Power Management	61,612	(3,756)	0.0%
Energy Risk Management	150,195	(3,221)	0.0%
ROC, RMC Meetings & Activities	211,807	(6,977)	0.1%
Counter-party Credit Review & Analysis	396,339	(93,687)	0.1%
Subtotal	464,992	5,197	0.1%
Settlements	861,331	(88,490)	0.2%
Deal Control Validation & Monitoring	310,400	6,168	0.1%
ISO Data Validation & Monitoring	14,575,321	243,208	4.1%
Subtotal	1,383,747	142,160	0.4%
Integrated Systems Support	328,524,696	33,754,232	100.0%
TOTAL MANAGEMENT SERVICES			
PARTICIPANT PASS THROUGH COSTS (TANCC, DUES, ETC)			
TOTAL NET ANNUAL BUDGET COST			
OTHER THIRD PARTY REVENUE			
PM Service Revenue (Allocated via Nexant methodology)	-	535,500	
PM Service Revenue (Allocated via A&G methodology)	-	59,500	
Subtotal		595,000	
TOTAL ADJUSTED NET ANNUAL BUDGET COST	\$ 328,524,696	\$ 33,159,232	\$ 361,683,928

Northern California Power Agency
Participant Funding Requirements (Net)
FY 2018 Budget

	Budget	Altameda	BART	Biggs	Gridley	Headstburg	Lodi	Lompoc	Palo Alto	Pumas	Port of Oakland	Redding	Roseville	Santa Cruz	Tonawanda	Ukiah	TID	All Other
GENERATION RESOURCES																		
Hydro	\$29,345,740	\$2,955,101	\$ -	\$ -	\$ -	\$448,398	\$3,074,814	\$881,970	\$6,796,013	\$601,105	\$ -	\$ -	\$2,998,157	\$11,277,206	\$ -	\$604,577	\$ -	\$ -
Geothermal	2,711,939	487,853	1,282,793	6,166	99,829	278,733	278,733	19,071	1,207,870	1,207,870	1,207,870	1,207,870	213,787	1,207,870	1,207,870	1,207,870	1,207,870	1,207,870
Combustion Turbine No. 1	2,607,942	547,233	4,933	4,933	8,778	148,286	335,886	146,286	335,886	45,662	45,662	45,662	2,786,922	1,044,977	1,044,977	227,972	227,972	227,972
Combustion Turbine No. 2 (STIG)	7,656,934	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053	1,449,053
Lodi Fuel Center	42,238,392	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Member Resources-Energy	84,430,657	5,419,240	2,816,291	114,392	836,788	701,487	4,056,637	869,254	333,501	333,501	333,501	333,501	5,988,755	24,521,757	24,521,757	1,742,632	171,683	20,745,910
Member Resources-Natural Gas	53,389,934	8,949,511	-	-	12,719	46,888	342,598	1,397,978	1,397,978	1,397,978	1,397,978	1,397,978	2,050,787	-	-	-	-	-
Western Resource	1,551,243	124,190	-	-	86,619	26,093	30,395	33,480	1,277,485	240,039	62,588	62,588	-	-	-	-	-	-
NCA Contracts & Market Power Purchases	19,319,026	282,000	13,333,819	10,387	18,613	30,395	4,412,662	938,528	30,395	4,412,662	4,412,662	4,412,662	15,911	26,087,920	26,087,920	4,034,941	33,482	
Load Aggregation Costs	82,503,222	7,726,620	1,107,726	860,589	1,275,192	1,297,556	4,341,978	17,455,074	3,397,219	3,397,219	3,397,219	3,397,219	1,573,687	-	-	-	-	-
Net GHG Obligations	445,917	-	123,876	5,020	38,808	30,784	179,019	38,147	-	-	-	-	-	-	-	-	-	-
TRANSMISSION																		
NCPA Plant Transmission *	158,593,148	16,827,231	14,564,621	619,380	1,598,758	3,109,678	18,159,033	5,487,264	57,504,132	5,694,473	3,587,152	3,587,152	6,998,755	25,081,920	25,081,920	4,342,766	171,683	20,745,910
Geothermal Plant 1	243,023,815	22,246,551	17,382,912	744,651	2,455,438	4,803,498	29,928,248	7,662,837	64,300,156	8,492,651	3,587,152	3,587,152	-	-	-	-	-	-
Geothermal Plant 2	55,487	18,240	-	-	406	3,956	17,712	3,973	2,898	448	448	448	3,956	-	-	-	-	-
Independent System Operator	98,395	30,859	-	-	528	6,544	21,650	6,561	1,323	1,323	1,323	1,323	8,212	-	-	-	-	-
MANAGEMENT SERVICES																		
LEGISLATIVE & REGULATORY																		
Regulatory Representation	1,387,088	80,280	-	50,998	52,600	59,311	87,110	61,253	130,621	62,910	57,050	116,572	154,774	354,664	62,530	58,435	-	-
Western Representation	587,687	34,013	21,590	21,590	22,286	23,858	35,907	28,052	53,342	28,654	24,171	49,390	65,875	150,274	28,493	25,151	-	
JPA Assessment	827,785	23,783	9,998	5,825	13,036	4,988	6,361	11,927	11,927	160,874	160,874	160,874	95,692	189,346	189,346	6,819	-	
Judicial Action	4,073,199	191,881	66,861	80,855	5,355	11,847	20,485	20,485	141,859	23,383	13,441	117,280	184,117	633,872	22,728	17,313	-	
Traffic & Rates Contingency **	457,638	88,634	816	2,940	4,933	11,923	68,801	18,283	116,256	16,720	15,113	15,113	27,398	76,811	76,811	24,048	3,373	
POWER MANAGEMENT																		
Power Mgmt. SCALD, ISS, Energy Risk Mgmt. & Settlements	10,004,113	982,048	717,281	64,086	82,282	166,100	1,089,287	284,546	1,644,171	309,697	399,100	399,100	563,123	3,232,833	-	419,376	128,602	-
Grand Power Program	15,939	11,257	38,432	10,823	10,800	10,887	22,432	-	-	-	-	-	-	-	-	-	-	-
Market Purchase Program	10,233,782	973,305	773,322	82,655	10,037	10,037	30,048	17,190	13,686	12,686	17,190	17,190	593,123	3,232,833	-	13,594	128,602	
Gas Purchase Program	14,818,130	1,233,799	840,999	168,461	200,531	293,287	1,331,338	447,146	2,330,947	476,046	480,502	444,115	1,091,180	4,537,818	122,697	57,508	131,975	-
TAMC SOT	80,256	32,377	180,000	-	3,864	3,864	3,864	4,111	138,022	3,587	-	-	619,488	-	-	4,865	-	-
BAMC Consulting	837,500	-	-	-	3,900	5,834	22,794	11,386	37,238	526	526	41,558	46,898	62,846	11,567	7,547	-	-
Biggs 60kV	271,537	19,271	1,107	1,107	528	626	2,632	2,632	2,632	526	526	2,632	2,632	2,632	526	526	526	-
APPA Dues	20,900	2,632	97	97	514	3,291	2,610	1,008	3,291	714	714	714	4,158	5,566	1,005	664	-	
SEPA Dues	1,701	874	714	714	714	714	714	714	714	714	714	714	714	714	714	714	714	-
DEED Dues	10,000	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	-
CRE Dues	10,000	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	16,750	-
Subscriptions	119,000	5,039	60,000	5,039	2,519	2,519	7,556	6,092	10,078	6,039	10,078	2,500	6,250	3,750	3,750	5,039	-	
Mailing Maintenance	131,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Member Service Projects **	131,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
WRGIS Certificate Transfer Fees**	10,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pass Through Costs	1,525,907	51,734	240,000	11,347	7,588	13,756	67,567	23,847	198,238	9,886	11,516	51,003	80,744	693,978	13,612	19,155	-	-
OTHER THIRD PARTY REVENUE																		
PH Service Revenue (Net/Net)	(635,800)	(42,553)	(34,303)	(2,941)	(4,550)	(6,041)	(48,828)	(13,314)	(73,686)	(44,410)	(16,124)	(16,124)	(23,510)	(222,865)	(110)	(19,917)	-	-
PH Service Revenue (Gross)	(635,800)	(6,489)	(2,533)	(288)	(6,489)	(1,829)	(8,104)	(2,207)	(3,847)	(1,033)	(397)	(394)	(4,285)	(24,655)	(110)	(2,439)	-	-
PH Service Revenue (Net/Net)	(635,800)	(49,072)	(36,836)	(3,229)	(6,489)	(1,829)	(8,104)	(15,521)	(78,533)	(15,473)	(16,521)	(16,521)	(27,795)	(247,511)	(110)	(22,459)	-	-
JPA Assessment - Others	47,269	(2,005)	(2,138)	(93)	(200)	(442)	(2,450)	(764)	(5,288)	(872)	(480)	(4,372)	(8,864)	(19,902)	(447)	(645)	7,792	39,677
Non-NCPA Participants	(7,939)	(2,005)	(2,138)	(93)	(200)	(442)	(2,450)	(764)	(5,288)	(872)	(480)	(4,372)	(8,864)	(19,902)	(447)	(645)	7,792	39,677
Credits to Participants	(2,005)	(2,005)	(2,138)	(93)	(200)	(442)	(2,450)	(764)	(5,288)	(872)	(480)	(4,372)	(8,864)	(19,902)	(447)	(645)	7,792	39,677
NET ANNUAL BUDGET COST	\$ 381,583,928	\$ 31,728,752	\$ 27,551,773	\$ 1,278,712	\$ 3,445,277	\$ 6,882,026	\$ 41,820,000	\$ 11,280,888	\$ 83,300,941	\$ 9,789,954	\$ 6,204,258	\$ 480,522	\$ 7,118,188	\$ 94,183,118	\$ 135,952	\$ 9,232,833	\$ 319,759	\$ 20,745,910
FY2017 Net Annual Budget Cost	329,324,598	33,072,335	16,677,982	1,328,548	4,199,458	6,690,719	40,701,453	11,191,587	88,838,207	9,695,184	6,203,595	472,993	7,692,450	79,458,426	126,316	8,842,708	290,440	10,902,297
Net (Debt)	33,159,232	(1,288,583)	8,873,991	(52,376)	(752,720)	(6,594)	1,193,047	199,301	482,634	94,771	1,341	16,529	(574,225)	(14,745,692)	9,036	391,115	29,320	9,883,199

* Geothermal transmission shown separately from Plant due to participant allocation differences.
** Memo only - Estimates included in NET ANNUAL BUDGET COST, but not allocated to Participants due to contingent nature of costs.

Funding Requirements (Net)

Northern California Power Agency
Participant Funding Requirements (Gross)
FY 2018 Budget

GENERATION RESOURCES	Budget	Annexa	BAFT	Biggs	Goldfly	Headstung	Leoti	Lompoc	Palo Alto	Pinnac	Port of Oakland	Redding	Roseville	Serra	Tucker-Danner	Utah	TID	All Other
Hydro	\$53,862,144	\$5,444,132	-	-	-	\$ 877,916	\$ 5,646,667	\$1,292,746	\$ 12,477,949	\$ 920,080	-	-	\$8,007,129	\$ 20,166,644	-	\$1,110,601	\$ -	\$ -
Geothermal	32,021,611	5,006,048	-	72,689	107,639	1,176,474	3,281,822	1,179,716	1,782,822	224,471	-	-	2,554,264	14,274,535	-	1,797,653	2,027,728	-
Combustion Turbine No. 1	2,826,322	573,197	-	5,167	9,194	163,237	351,833	153,337	-	47,723	-	-	3,154,423	1,094,566	-	228,788	-	-
Combustion Turbine No. 2 (S119)	8,822,646	1,638,300	-	-	-	-	-	423,575	-	-	-	-	-	-	-	-	-	-
Local Energy Center	62,567,481	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Member Resource-Energy	159,700,814	13,651,680	4,154,980	189,055	1,239,591	1,035,690	5,995,052	1,294,535	12,477,949	1,888,073	-	-	11,886,216	51,706,644	-	1,326,879	2,027,728	30,885,048
Member Resource-Structural Gas	63,989,624	8,694,811	-	-	242,427	190,372	1,744,698	785,510	39,770,623	1,987,105	-	-	-	-	-	-	-	-
Western Resource	30,719,689	1,424,373	-	49,464	417,303	1,054,924	401,165	908,260	19,637,061	3,680,772	-	-	-	-	-	-	-	-
NCPA Contract	163,186,828	282,600	13,333,819	10,397	18,561	30,395	4,412,662	838,328	34,679,035	5,943,491	-	-	1,797,653	151,911	-	-	-	-
Local Reproduction Costs	233,522,294	15,176,733	14,933,785	871,282	1,307,289	3,007,733	16,974,316	6,754,922	35,679,035	6,943,491	-	-	129,532,879	4,984,727	-	-	-	-
Net Obligations	445,917	-	-	5,020	36,909	30,794	176,019	38,147	-	-	-	-	-	-	-	-	-	-
TRANSMISSION	300,532,305	24,077,617	23,291,280	1,107,456	2,889,842	3,659,894	26,097,732	7,421,335	94,084,319	11,621,428	-	-	6,215,728	129,532,879	-	5,829,377	2,027,728	30,885,048
NCPA Plant Transmission *	102,924,721	8,264,339	9,151,699	357,071	799,464	1,872,638	10,482,333	3,237,278	22,679,461	2,827,933	-	-	2,044,068	38,759,926	-	2,560,328	8,309	-
Geothermal Plant 1	42,228	18,240	-	288	406	2,688	6,644	6,651	-	1,232	-	-	-	-	-	-	-	-
Geothermal Plant 2	98,395	30,659	-	-	628	6,644	21,680	2,888	-	-	-	-	-	-	-	-	-	-
Independent System Operator	103,023,116	8,294,919	9,151,699	357,369	799,922	1,880,232	10,604,583	3,243,939	22,679,461	2,829,016	-	-	12,169	38,759,926	-	2,560,328	8,309	-
MANAGEMENT SERVICES	1,398,312	80,351	-	51,003	62,447	66,380	87,187	61,307	130,737	62,965	-	-	154,911	354,497	-	62,885	59,487	-
LEGISLATIVE & REGULATORY	988,543	23,069	-	21,625	22,322	23,897	38,987	25,994	58,432	26,497	-	-	65,642	150,518	-	26,536	28,222	-
Regulatory Representation	829,638	23,837	-	9,620	13,066	4,989	11,280	6,376	24,249	34,796	-	-	95,909	189,778	-	10,867	6,835	-
Western Representation	1,727,771	52,873	57,386	2,487	5,965	11,887	68,882	20,829	142,044	23,432	-	-	154,422	534,756	-	22,666	17,342	-
JPA Assessment	4,079,382	192,130	66,978	80,953	93,000	97,093	201,266	114,207	671,511	147,845	-	-	500,924	1,320,048	-	122,854	108,886	-
Judicial Action	457,658	69,634	816	2,940	4,093	11,923	68,801	18,283	116,266	18,720	-	-	27,888	76,811	-	24,048	3,373	-
Tariffs & Rates	507,658	69,634	816	2,940	4,093	11,923	68,801	18,283	116,266	18,720	-	-	27,888	76,811	-	24,048	3,373	-
Contingency **	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
POWER MANAGEMENT	10,026,488	964,101	719,519	64,202	82,497	166,465	1,071,570	285,544	1,647,691	310,336	-	-	684,425	3,239,735	-	420,672	128,376	-
Power Mgmt. SCAD, IIS,	17,746	11,388	-	10,950	10,926	10,994	22,684	12,344	-	-	-	-	-	-	-	-	-	-
Energy Risk Mgmt & Settlements	130,141	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Market Power Program	88,131	-	-	7,266	10,021	9,615	30,093	17,213	-	-	-	-	-	-	-	-	-	-
Market Purchase Program	10,251,485	975,489	776,140	83,938	103,904	186,854	1,124,347	315,031	1,647,691	310,336	-	-	584,325	3,239,735	-	445,759	128,376	-
Gas Purchase Program	14,848,956	1,235,253	643,934	166,832	200,968	293,880	1,394,394	448,071	2,332,448	479,823	-	-	1,093,147	4,646,696	-	122,654	67,693	132,250
TANC-SOT	80,296	32,377	-	180,000	3,884	3,849	31,869	4,111	138,032	3,887	-	-	619,468	-	-	4,665	-	-
BAK Consulting	837,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Biggs EOU	3,684	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
APPA Dues	271,437	19,271	-	1,107	3,800	5,894	22,784	11,396	37,338	526	-	-	45,999	82,846	-	11,387	7,547	-
SEPA Dues	20,000	2,632	-	626	526	526	2,632	526	2,632	526	-	-	2,632	2,632	-	526	526	-
DEED Dues	24,000	1,701	-	97	308	514	2,010	1,808	3,291	714	-	-	4,188	5,666	-	1,005	684	-
CEE Dues	10,000	571.4	-	714	714	714	714	714	714	714	-	-	714	714	-	714	714	-
Subscriptions	18,750	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mechanical Maintenance	119,000	5,039	60,000	6,039	2,519	2,519	7,586	6,092	10,078	5,039	-	-	6,290	3,780	-	714	714	-
Member Service Projects **	131,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
WRIGIS Certificate Transfer Fees**	10,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pass Through Costs	1,525,997	61,734	240,000	11,347	7,686	13,756	67,667	23,847	198,335	9,866	-	-	60,744	594,976	-	13,612	19,156	-
JPA Assessment - Others	47,269	(2,009)	(2,133)	(93)	(200)	(442)	(2,450)	(754)	(6,288)	(872)	-	-	(6,964)	(19,902)	-	(843)	(843)	-
Non-NCPA Participants	(67,269)	(2,009)	(2,133)	(93)	(200)	(442)	(2,450)	(754)	(6,288)	(872)	-	-	(6,964)	(19,902)	-	(843)	(843)	-
Credits to Participants	\$ 619,650,648	\$ 46,200,186	\$ 42,839,663	\$ 1,888,822	\$ 5,244,532	\$ 9,073,688	\$ 51,762,054	\$ 15,629,338	\$ 131,667,222	\$ 16,824,634	\$ 8,732,047	\$ 49,189	\$ 12,807,811	\$ 225,119,899	\$ 136,683	\$ 13,026,184	\$ 2,176,919	\$ 30,885,048
LESS: THIRD PARTY REVENUE																		
Market Power Sales	169,044,872	6,902,800	13,726,659	298,728	723,444	271,548	5,220,389	1,140,749	29,975,619	4,795,108	-	-	103,444,959	-	-	659,599	2,405,160	9,814,536
ISO Energy Sales	70,967,243	7,033,887	11,753,181	117,535	483,822	1,793,142	7,128,130	1,939,884	5,052,832	728,789	-	-	2,405,160	48,986	-	6,197	1,794,647	9,814,536
Transmission Sales	2,121,442	18,634	117,535	231	371	4,055	14,310	4,603	11,347	774	-	-	8,701	770,937	-	8,887	191,121	
Energy Credits	2,121,442	291,835	60,937	1,508	9,026	40,678	201,366	68,033	984,882	49,680	-	-	359,840	-	-	359,840	-	
Gas Pipeline Credits	664,326	164,222	-	30,789	182,392	163,689	1,481,716	481,410	6,607,518	1,241,847	-	-	315,880	-	-	315,880	-	
Fuel and Pipeline Transport Credits	10,134,495	647,486	-	158,583	354,938	134,982	305,601	173,184	1,528,911	304	-	-	247,631	-	-	188,632	-	
Western O&M Credits	999,000	49,022	-	3,229	5,488	9,870	57,929	15,821	310,734	110	-	-	37,795	-	-	22,499	-	
PA Service Revenue	700,000	118,178	-	1,939	2,392	25,718	71,980	25,977	76,913	4,807	-	-	55,181	-	-	39,392	44,314	
Effluent Revenue	659,174	60,370	-	1,374	5,795	14,243	84,043	19,244	60,518	8,002	-	-	88,778	-	-	19,007	9,772	
Interest and Other Income	257,989,731	14,936,444	15,137,981	619,683	1,767,670	3,088,728	14,918,502	4,088,430	42,356,292	6,834,480	-	-	57,717,519	324,182,718	-	3,789,351	1,852,720	47,489
NET ANNUAL BUDGET COST	\$81,989,893	\$31,931,713	\$21,571,713	\$1,216,172	\$3,946,728	\$20,882,028	\$113,800,900	\$17,130,889	\$99,500,940	\$7,993,954	\$2,471,111	\$1,048	\$7,176,339	\$24,182,718	\$19,932	\$39,333,823	\$319,776	\$20,785,487

* Geothermal transmission shown separately from Plant due to participant allocation differences.
** Memo Only - Estimates included in NET ANNUAL BUDGET COST, but not allocated to Participants due to contingent nature of costs.
Funding Requirements (Gross)

NORTHERN CALIFORNIA POWER AGENCY
ADMINISTRATIVE GENERAL WAGE STRUCTURE
Effective December 24, 2017

GRADE	JOB CLASSIFICATION/JOB FAMILY	MINIMUM		CONTROL POINT		CTRL PT PLUS 15%	
		ANNUAL	HOURLY	ANNUAL	HOURLY	ANNUAL	HOURLY
15	¹ ACCOUNTANT/ANALYST I	67,080.00	32.25	83,843.00	40.31	96,420.00	46.36
17	¹ ACCOUNTANT/ANALYST II	77,522.00	37.27	96,891.00	46.58	111,425.00	53.57
19	¹ ACCOUNTANT/ANALYST III	89,586.00	43.07	111,970.00	53.83	128,765.00	61.91
9	¹ ACCOUNTING CLERK I	43,472.00	20.90	54,327.00	26.12	62,476.00	30.04
11	¹ ACCOUNTING CLERK II	50,232.00	24.15	62,781.00	30.18	72,199.00	34.71
13	¹ ACCOUNTING CLERK III	58,032.00	27.90	72,552.00	34.88	83,435.00	40.11
9	¹ ADMINISTRATIVE ASSISTANT/OFFICE ADMINISTRATOR I	43,472.00	20.90	54,327.00	26.12	62,476.00	30.04
11	¹ ADMINISTRATIVE ASSISTANT/OFFICE ADMINISTRATOR II	50,232.00	24.15	62,781.00	30.18	72,199.00	34.71
13	¹ ADMINISTRATIVE ASSISTANT/OFFICE ADMINISTRATOR III	58,032.00	27.90	72,552.00	34.88	83,435.00	40.11
30	¹ AGM I/SENIOR DIRECTOR (E.g. Business Development)	198,474.00	95.42	248,081.00	119.27	285,293.00	137.16
31	¹ AGM II (E.g. Power Mgmt, Generation, Leg & Reg, CFO/Admin)	213,346.00	102.57	266,687.00	128.21	306,690.00	147.45
32	¹ AGM III	229,341.00	110.26	286,688.00	137.83	329,691.00	158.51
23	¹ ASSISTANT CONTROLLER	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
25	¹ ASSISTANT MANAGER: INFORMATION SERVICES	138,237.00	66.46	172,803.00	83.08	198,723.00	95.54
6E	¹ ASSISTANT, STUDENT I	26,957.00	12.96	33,691.00	16.20	38,744.00	18.63
6F	¹ ASSISTANT, STUDENT II	33,488.00	16.10	41,854.00	20.12	48,132.00	23.14
6G	¹ ASSISTANT, STUDENT III	41,600.00	20.00	51,994.00	25.00	59,793.00	28.75
6H	¹ ASSISTANT, STUDENT IV	48,069.00	23.11	60,087.00	28.89	69,099.00	33.22
14	¹ COMPUTER TECHNOLOGY ANALYST	62,400.00	30.00	77,993.00	37.50	89,693.00	43.12
17	¹ COMPUTER TECHNOLOGY ANALYST I	77,522.00	37.27	96,891.00	46.58	111,425.00	53.57
19	¹ COMPUTER TECHNOLOGY ANALYST II	89,586.00	43.07	111,970.00	53.83	128,765.00	61.91
21	¹ COMPUTER TECHNOLOGY ANALYST III	103,522.00	49.77	129,395.00	62.21	148,804.00	71.54
23	¹ COMPUTER TECHNOLOGY ANALYST IV	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
20	¹ ENERGY RESOURCE ANALYST III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
16	¹ ENERGY RESOURCE ANALYST I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ ENERGY RESOURCE ANALYST II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
23	¹ ENERGY RESOURCE ANALYST IV	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
16	¹ ENGINEER I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ ENGINEER II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
20	¹ ENGINEER III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
23	¹ ENGINEER IV	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
24	¹ ENGINEER V: SUPERVISING /PLANT	128,606.00	61.83	160,747.00	77.28	184,859.00	88.87
20	¹ ENVIRONMENTAL, HEALTH & SAFETY SPECIALIST	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
16	¹ EXECUTIVE ASSISTANT	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
31	¹ GENERAL COUNSEL	213,346.00	102.57	266,687.00	128.21	306,690.00	147.45
36	¹ GENERAL MANAGER	306,301.00	147.26	382,863.00	184.07	440,293.00	211.68
16	¹ GEOLOGIST I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ GEOLOGIST II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
20	¹ GEOLOGIST III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
23	¹ GEOLOGIST IV	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
24	¹ GEOLOGIST V	128,606.00	61.83	160,747.00	77.28	184,859.00	88.87
16	¹ GOVERNMENT RELATIONS REPRESENTATIVE I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ GOVERNMENT RELATIONS REPRESENTATIVE II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
20	¹ GOVERNMENT RELATIONS REPRESENTATIVE III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
22	¹ GOVERNMENT RELATIONS REPRESENTATIVE IV	111,280.00	53.50	139,100.00	66.87	159,965.00	76.91
16	¹ HUMAN RESOURCES ANALYST I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ HUMAN RESOURCES ANALYST II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
20	¹ HUMAN RESOURCES ANALYST III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
13	¹ HUMAN RESOURCES ASSISTANT	58,032.00	27.90	72,552.00	34.88	83,435.00	40.11
27	¹ HUMAN RESOURCES DIRECTOR	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
25	¹ HUMAN RESOURCES MANAGER	138,237.00	66.46	172,803.00	83.08	198,723.00	95.54
13	¹ LEGISLATIVE PROGRAM ASSISTANT	58,032.00	27.90	72,552.00	34.88	83,435.00	40.11
27	¹ MANAGER, INFORMATION SERVICES	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
27	¹ MANAGER, INFORMATION SERVICES & POWER SETTLEMENTS	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
29	¹ MANAGER, PLANT	184,621.00	88.76	230,773.00	110.95	265,389.00	127.59

**NORTHERN CALIFORNIA POWER AGENCY
ADMINISTRATIVE GENERAL WAGE STRUCTURE
Effective December 24, 2017**

GRADE	JOB CLASSIFICATION/JOB FAMILY	MINIMUM		CONTROL POINT		CTRL PT PLUS 15%	
		ANNUAL	HOURLY	ANNUAL	HOURLY	ANNUAL	HOURLY
25	¹ MANAGER, REGULATORY PROGRAM	138,237.00	66.46	172,803.00	83.08	198,723.00	95.54
26	¹ MANAGER, RELIABILITY COMPLIANCE	148,616.00	71.45	185,763.00	89.31	213,627.00	102.71
17	¹ MATERIALS/WAREHOUSE COORDINATOR I	77,522.00	37.27	96,891.00	46.58	111,425.00	53.57
19	¹ MATERIALS/WAREHOUSE COORDINATOR II	89,586.00	43.07	111,970.00	53.83	128,765.00	61.91
7	¹ OFFICE ASSISTANT I	37,606.00	18.08	47,011.00	22.60	54,063.00	25.99
9	¹ OFFICE ASSISTANT II	43,472.00	20.90	54,327.00	26.12	62,476.00	30.04
16	¹ POWER SETTLEMENTS ANALYST I	72,114.00	34.67	90,131.00	43.33	103,651.00	49.83
18	¹ POWER SETTLEMENTS ANALYST II	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
20	¹ POWER SETTLEMENTS ANALYST III	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
25	¹ POWER SETTLEMENTS MANAGER	138,237.00	66.46	172,803.00	83.08	198,723.00	95.54
23	¹ SCHEDULER/PLANNER, POWER	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
23	¹ SENIOR COMPUTER TECH. ANALYST, POWER (E.g. BILLING)	119,621.00	57.51	149,532.00	71.89	171,962.00	82.67
18	¹ SHAREPOINT ADMINISTRATOR	83,325.00	40.06	104,157.00	50.08	119,782.00	57.59
4	¹ STUDENT HELPER (OFFICE/PLANT)	30,264.00	14.55	37,842.00	18.19	43,518.00	20.92
27	¹ SUPERINTENDENT, GENERATION RESOURCES	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
22	¹ SUPERVISOR I, POWER SETTLEMENTS	111,280.00	53.50	139,100.00	66.87	159,965.00	76.91
20	¹ SUPERVISOR I, (CHEMICAL, GENERAL SERVICES)	96,304.00	46.30	120,368.00	57.87	138,422.00	66.55
24	¹ SUPERVISOR II, (PLANT, ENERGY RISK, ENGINEERING)	128,606.00	61.83	160,747.00	77.28	184,859.00	88.87
27	¹ SUPERVISOR III, (POWER MGT., COORD. OP, REG/ENV COMP)	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
27	¹ TREASURER-CONTROLLER	159,765.00	76.81	199,696.00	96.01	229,649.00	110.41
HEA	² HYDRO TECH	90,414.00	43.47	117,001.00	56.25		
HEA	² HYDRO TECH APPRENTICE	61,250.00	29.45	83,735.00	40.26		
HEA	² HYDRO TECH OPERATOR	122,864.00	59.07	122,864.00	59.07		
IBEW	² CT SPECIALIST - LEAD	128,190.00	61.63	128,190.00	61.63		
IBEW	² CT SPECIALIST I - V	87,815.00	42.22	122,027.00	58.67		
IBEW	² MECHANIC OPERATOR - LEAD	120,523.00	57.94	120,523.00	57.94		
IBEW	² MECHANIC OPERATOR - LEAD (RELIEF)	120,523.00	57.94	120,523.00	57.94		
IBEW	² MECHANIC OPERATOR I - V	87,818.00	42.22	114,789.00	55.19		
IBEW	² OPERATOR TECHNICIAN - LEAD	123,616.00	59.43	123,616.00	59.43		
IBEW	² OPERATOR TECHNICIAN - LEAD (RELIEF)	123,616.00	59.43	123,616.00	59.43		
IBEW	² OPERATOR TECHNICIAN I - V	87,815.00	42.22	117,817.00	56.64		
IBEW	² STOREKEEPER	59,531.00	28.62	71,408.00	34.33		
IBEW	² TECHNICIAN CHEMICAL/PERFORMANCE	108,690.00	52.25	108,690.00	52.25		
IBEW	² TECHNICIAN OPERATOR - LEAD	127,482.00	61.29	127,482.00	61.29		
IBEW	² TECHNICIAN OPERATOR I - V	87,815.00	42.22	121,511.00	58.42		
	³ SCHEDULE COORDINATOR I	69,733.00	33.53	93,112.00	44.77		
	³ SCHEDULE COORDINATOR II	97,981.00	47.11	113,469.00	54.55		
	³ SCHEDULE COORDINATOR III	118,802.00	57.12	137,278.00	66.00		
	³ SYSTEM DISPATCHER	108,261.00	52.05	151,508.00	72.84		
	³ SYSTEM DISPATCHER, LEAD	118,802.00	57.12	159,099.00	76.49		

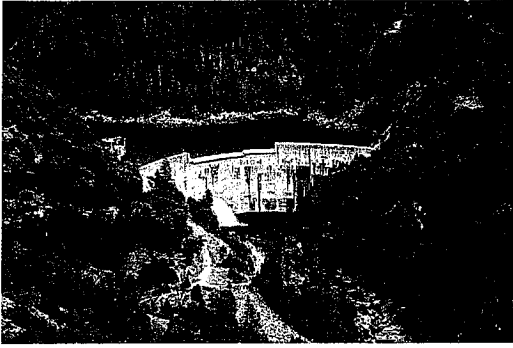
Note ¹ Non-union employees whose whose salaries exceed the control may be granted a lump sum merit increase which is not added to base pay.

Note ² IBEW = International Brotherhood of Electrical Workers
HEA = Hydroelectric Employees Association
These are union classifications subject to the Memorandum of Understanding and overtime, shift differential, relief, upgrade and travel pay may be added to base pay when appropriate.

Note ³ Schedule Coordinators and Dispatchers receive overtime, relief pay in addition to step increases.

NCPA NORTHERN CALIFORNIA POWER AGENCY

Approval of NCPA Annual Budget - FY17/18



Commission Meeting April 20, 2017

NCPA NORTHERN CALIFORNIA POWER AGENCY

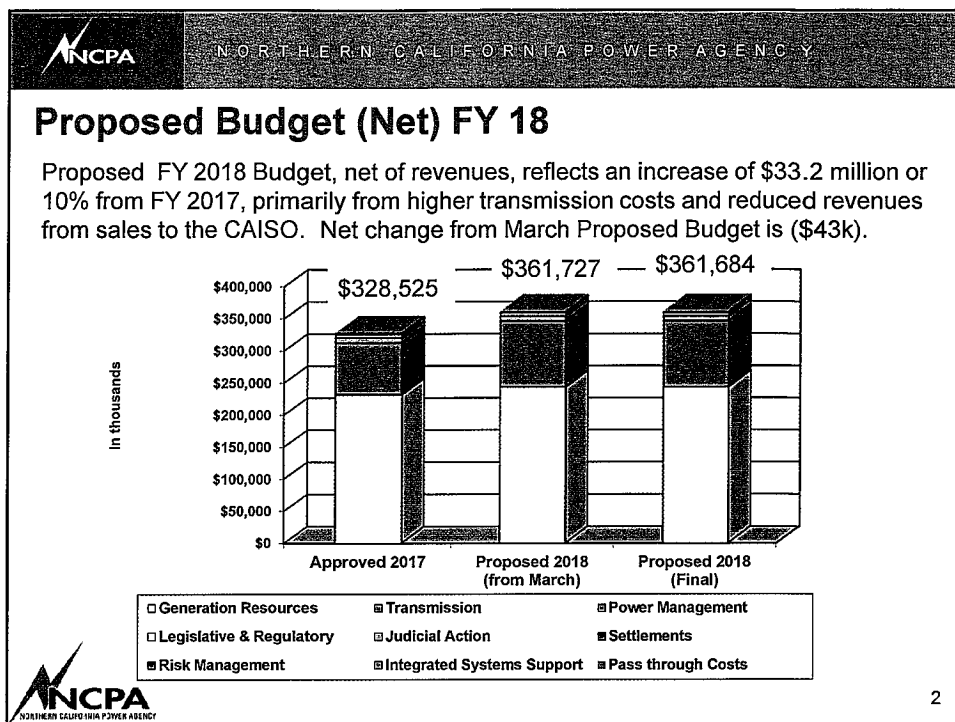
NCPA NORTHERN CALIFORNIA POWER AGENCY

Vetting of the FY2018 budget


Date	Meeting
January	Internal review with Randy
January 9 th	Finance Committee
February 15 th	Facilities Committee
February 22 nd	L&R Committee
March 10 th	UD Retreat
March 15 th	Facilities Committee
March 23 rd	Commission Meeting
April 5 th	Finance Committee
April 6 th	UD Meeting
April 20 th	Commission Meeting (adoption)

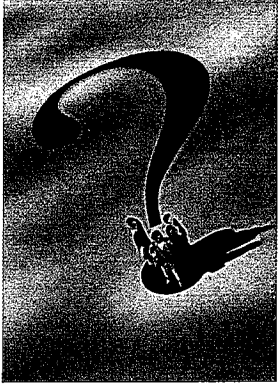
NCPA NORTHERN CALIFORNIA POWER AGENCY


1




-
- Changes from budget presented in March**
- Adjustments to Fuel Management Costs and Outside Services
 - CT1: (\$16,938)
 - CT2: (\$26,220)
 - Total: (\$43,158)
 - Hydro CAISO Charges (reallocation)
 - \$170k in adjustments made to Roseville (adjusted down) but offset with increases to other participating members (adjusted up)
 - Net -0- impact to NCPA budget
 - Miscellaneous Updates (Adit 4, e.g.)
 - No changes to reflect new information
 - End result will be dollars we don't need to collect

 N O R T H E R N C A L I F O R N I A P O W E R A G E N C Y




 N O R T H E R N C A L I F O R N I A P O W E R A G E N C Y

4

 NORTHERN CALIFORNIA POWER AGENCY

Judicial Action Budget Review and Approval


Facilities Committee
April 5, 2017

 NORTHERN CALIFORNIA POWER AGENCY

Background

- Judicial Action Budget
 - Budgeted costs for special/outside counsel related to specific case dockets associated with legislative and regulatory changes and/or pending/ongoing FERC litigation and CAISO stakeholder activities
- Subdivided into four (4) functional areas:
 - CAISO Tariff Rates and Amendments
 - PG&E Rates and IA Amendments
 - Western Rates and Contract Administration
 - Investigations and Refund Proceedings


2

 NORTHERN CALIFORNIA POWER AGENCY

Issues

- During the initial review of the FY 2018 Judicial Action budget, the following two (2) issues were identified for further discussion:
 1. Are the allocation percentages for the following Judicial Action subcategories, as stated in the FY 2017 budget, correct?
 - CAISO Rates and Tariff Amendments
 - PG&E Rates and Tariff Amendments
 - Western Rates and Contract Amendments
 2. The Facilities Committee requested NCPA staff to develop an alternative proposal for allocating costs under the Judicial Action subcategory “PG&E Rates and Tariff Amendments”, to be applied in the FY 2018 budget true-ups

3

 NORTHERN CALIFORNIA POWER AGENCY

Issue No. 1 - Judicial Action Allocation Percentages

- As part of adopting the FY 2017 budget, the Commission approved the following methodologies for allocating Judicial Action costs:
 - CAISO Rates and Tariff Amendments
 - Industry Restructuring Percentages as calculated in the Nexant Cost Allocation Model
 - PG&E Rates and Tariff Amendments
 - Industry Restructuring Percentages as calculated in the Nexant Cost Allocation Model
 - Western Rates and Contract Amendments
 - Normalized Pool + BART Western Base Resource Percentages
- Upon further review by staff, it was determined that the allocation percentages as stated in the FY 2017 budget had not been updated to reflect the current Industry Restructuring or Western Base Resource percentages

4

NCPA NORTHERN CALIFORNIA POWER AGENCY

Issue No. 1 - Judicial Action Allocation Percentages

- Revised FY 2017 allocation percentages based on Nexant Model

Member	Industry Restructuring --%--	Norm. Pool/BART Western Base Resource --%--
Alameda	12.301%	6.228%
BART	0.060%	2.514%
Biggs	0.401%	1.525%
Gridley	0.654%	3.414%
Healdsburg	2.227%	1.298%
Lodi	11.948%	2.940%
Lompoc	3.253%	1.666%
Palo Alto	17.509%	63.559%
Plumas Sierra	3.101%	11.946%
Port of Oakland	2.483%	3.124%
Roseville	4.667%	0.000%
Santa Clara	14.402%	0.000%
Truckee-Donner	0.000%	0.000%
Turlock Irrigation District	0.635%	0.000%
Ukiah	4.007%	1.786%
LEC	22.354%	0.000%
Total	100.000%	100.000%


5

NCPA NORTHERN CALIFORNIA POWER AGENCY

Issue No. 1 - Judicial Action Allocation Percentages

- Recommendation
 - NCPA recommends Facilities Committee approval and recommendation for Commission approval and direction to staff to update the FY 2017 Judicial Action subcategory allocation percentages, as further described herein, as part of the FY 2017 annual budget settlement process that is scheduled to occur in October 2017


6

 **NCPA** N O R T H E R N C A L I F O R N I A P O W E R A G E N C Y

Issue No. 2 – Alternative Allocation Methodology

- **PG&E Rates and Tariff Amendments**
 - For FY 2018, a majority of the costs that will be incurred under this Judicial Action subcategory will be attributed to the following activities:
 - Management of NCPA's FERC complaint filed against PG&E
 - Select participation in the PG&E TO 18 settlement proceedings and subsequent litigation
 - **Goals of Activities**
 - Improve PG&E's transmission planning process
 - Mitigate increases to the CAISO TAC/WAC rates
 - **Beneficiaries of Activities**
 - While all NCPA members may be impacted by these activities, the NCPA members with measured load and exports in the CAISO are directly impacted by the outcome of these proceedings


7

 **NCPA** N O R T H E R N C A L I F O R N I A P O W E R A G E N C Y


Issue No. 2 – Alternative Allocation Methodology

- **Staff Recommendation**
 - NCPA staff recommends that costs incurred during FY 2018 under the Judicial Action subcategory "PG&E Rates and Tariff Amendments" be allocated to Members based on their pro-rata share of CAISO loads and exports
 - Pending adoption of this proposal, the recommended change to the allocation percentages will impact multiple sections of the budget documentation; therefore, to enable a comprehensive approval of the budget material, NCPA staff also recommends that the proposed allocation methodology be applied to actual costs incurred under this Judicial Action subcategory as part of the FY 2018 annual budget settlement process

8

 NORTHERN CALIFORNIA POWER AGENCY					
Issue No. 2 – Alternative Allocation Methodology					
Member	LV-Load MWh	HV-Load MWh	LV-Export MWh	Total	% Share
Alameda	353,408	-	-	353,408	7.634%
Biggs	16,540	-	-	16,540	0.357%
Gridley	30,739	-	-	30,739	0.664%
Healdsburg	78,914	-	-	78,914	1.705%
Lodi	428,819	7,026	-	435,845	9.415%
Lompoc	136,507	-	-	136,507	2.949%
Palo Alto	944,836	-	-	944,836	20.410%
Plumas-Sierra	112,021	-	186	112,207	2.424%
Port of Oakland	87,521	-	-	87,521	1.891%
Santa Clara	1,226,791	1,098,693	-	2,325,484	50.235%
Ukiah	107,216	-	-	107,216	2.316%
Total	3,523,312	1,105,719	186	4,629,217	100.000%

9

 NORTHERN CALIFORNIA POWER AGENCY	
<h2>Questions / Comments</h2>	

10