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# Minutes

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**To:** NCPA Commission  
**From:** Cary A. Padgett, Assistant Secretary to the Commission  
**Subject:** June 23, 2016, NCPA Commission Meeting

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## ***Item #1 – Call Meeting to Order and Introductions***

Chairperson Carol Garcia called the meeting to order at 9:03 am at Mitchell Park Community Center, 3700 Middlefield Road, California, Palo Alto. A quorum was present. Introductions were made. Those in attendance are shown on the attached attendance list.

## ***Item #2 – Approve Minutes of the May 26, 2016, Regular Commission Meeting***

Motion: A motion was made by Gary Plass and seconded by Bob Lingl to approve the Minutes of the May 26, 2016, Regular Commission Meeting. The motion carried unanimously on a voice vote of those members present.

## **PUBLIC FORUM**

Chairperson Garcia 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.

Member of Month was Jane Cirrincione NCPA's Assistant General Manager of Legislative and Regulatory Affairs.

## **REPORTS AND COMMITTEE UPDATES**

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

- Gave an update on the issues surrounding Aliso Canyon.
- In the process of conducting annual NCPA Member visits.
- Gave a brief update on the City of Shasta Lake's membership proposal. This agreement is Item #23 on today's Agenda.
- Provided a brief update on the Placer County Water Agency's agreement with NCPA for Power Management services. This agreement is Item #22 on today's agenda.
- Meeting next week with Merced Irrigation District staff regarding potential Power Management Services.
- Provided an update on the EIM regionalization discussions and activities.

- Discussed CalFire's Press Release announcing over 66 million trees dead in California, which is double from last year's count. NCPA's Legislative and Regulatory Affairs staff continues to stay engaged in the state legislature on this issue.
- A request from BART's Commissioner to have the ability to call-in to Commission meetings due to chronic back issues was discussed at the Executive Committee meeting. Staff is looking at putting something in place and will bring back to the Executive Committee for discussion and then Commission approval.

#### ***Item #4 – Executive Committee***

Committee Chair Carol Garcia reported that the Committee met that morning. The Committee heard a report from the General Manager, discussed the FY 2017 Slate of Officers and one Closed Session item. No reportable action was taken on the Closed Session item.

#### ***Item #5 – Facilities Committee***

Assistant General Manager Dave Dockham reported the Committee met once since the last Commission meeting. The Committee met at its regular scheduled meeting and discussed Items 13-19 on today's Agenda. A quorum of the Committee was present at the meeting. The Committee recommended Commission approval of all items.

#### ***Item #6 – Finance Committee***

Committee Chair Gary Plass reported the Committee did not meet. An RFP to solicit proposals to refund the 2008C Hydroelectric bonds, the Geothermal bonds and a portion of the LEC bonds was issued this month – responses are due next week. A special meeting will be held in July to consider RFP responses. Fitch provided a formal review of NCPA's credit rating - all project ratings were affirmed with no changes from the current levels. The next Committee meeting is on August 10<sup>th</sup> at 10:00 am.

#### ***Item #7 – Legal Committee***

General Counsel Michael Dean reported the Legal Committee met twice and discussed Closed Session Item 26 on today's agenda. No reportable action was taken on that item.

#### ***Item #8 – Legislative & Regulatory Affairs Committee***

Committee Chair Bob Lingl reported the Committee did not meet, but provided an update on legislative issues.

A delegation of NCPA members represented the Agency during the American Public Power Association's National Conference in Phoenix last week.

The NCPA State Legislative Staff Tour is scheduled for July 13-15, and will be hosted by Alameda, BART, Port of Oakland, Silicon Valley Power, and the City of Palo Alto.

The next L&R Affairs Committee meeting is scheduled on August 24<sup>th</sup> at Plumas-Sierra REC.

#### ***Item #9 – Members' Announcements & Meeting Reporting***

No member announcements or reports.

## 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 for discussion.*

**Motion:** A motion was made by Roger Frith and seconded by Gary Plass to approve the Consent Calendar consisting of Items 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20. The motion carried by a majority of those members present on a roll call vote with the abstentions noted below for each item. *BART, Gridley, Lodi, Redding, Truckee Donner, and Plumas-Sierra were absent.*

**Item #10 – NCPA’s Financials for the Month Ended May 31, 2016** – approval by all members.

**Item #11 – Treasurer’s Report for the Month Ended May 31, 2016** – accept by all members.

**Item #12 – Sale or Disposal of Surplus Property** – note and file by all members the disposal of gas flex hoses. **Fiscal Impact:** none.

**Item #13 – Resolution 16-43, Insurance Brokerage Services Request for Proposal Results and Recommendation for Broker Selection** – adopt resolution by all members approving the recommendation of broker selection and the attached brokerage service agreement with Aon Risk Insurance Services West Inc., and authorizes the Agency’s General Manager to execute the brokerage service agreement on behalf of the Agency.

**Fiscal Impact:** NCPA insurance program premiums and brokerage fee are budgeted as part of the aggregate Property, Liability, and Workers Compensation Insurance cost estimates, which are charged off proportionately at approximately 80% for Property Insurance and 20% for Liability Insurance based on total premiums paid. The fees and premiums in total are then allocated to projects based on insured values at each plant site, with the liability insurance charged to Administrative & General costs. The proposed annual fee is \$125,000 per year with a 3% escalator, significantly less than the current cost of \$281,000. The aforementioned annual fee is significantly (more than 50%) below the Commission approved FY 2016-17 annual budget for this item.

**Item #14 – Resolution 16-44, Approve Chemical Waste Management, Inc. – First Amendment to Kettleman Hills Landfill Industrial Waste Services and Disposal Agreement** – adopt resolution by all members authorizing the General Manager or his designee to enter into a First Amendment to the existing 36-month Industrial Waste Services & Disposal Agreement with Chemical Waste Management, Inc., Kettleman Hills Landfill which expires on April 26, 2018, increasing the not to exceed amount from \$150,000 to \$500,000, with any non-substantial changes recommended and approved by the NCPA General Counsel, for use at the Geothermal Facility (GEO).

**Fiscal Impact:** when executed, the agreement will have a not to exceed of \$500,000 over the 36 month term. GEO will use NCPA approved budgets (505-023-000-632-044-000 Solid Hazardous Waste Disposal) as Purchase Orders are issued. The Purchase Orders will reference the terms and conditions of the agreement will be issued following NCPA Procurement policies and procedures. Cost allocation will be based on project participation percentages.

*Palo Alto abstained.*

**Item #15 – Resolution 16-45, Approve Expro Americas, LLC Multi-Task Consulting Services Agreement** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Expro Americas, LLC for wireline tools and operator and related 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.

**Fiscal Impact:** upon execution, the total cost of the agreement is not to exceed of \$1,000,000 over five years. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

**Item #16 – Resolution 16-46, Approve Precision Iceblast Corporation – Five Year Multi-Task General Services Agreement for Inspection and Maintenance 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 with Precision Iceblast Corporation for inspection and maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$850,000 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 \$850,000 over five years to be used out of NCPA approved budgets as services rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

**Item #17 – Resolution 16-47, Approve Quantum Spatial, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Quantum Spatial, Inc. with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

**Fiscal Impact:** upon execution, the total cost of the agreement is not-to-exceed \$2,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

**Item #18 – Resolution 16-48, Approval of the Professional Services Agreement between NCPA and the BAMx Participants; and Amendment No. 1 to the Consulting Services Agreement between NCPA and Flynn Resources Consulting, Inc.** – adopt resolution by all members authorizing the General Manager of NCPA to execute the Professional Services Agreement between Northern California Power Agency and the cities of Palo Alto and Santa Clara, including any non-substantive modifications to the Professional Services Agreement approved by NCPA’s General Counsel; and upon return of the fully executed Professional Services Agreement by each BAMx Member, authorize the General Manager of NCPA to execute Amendment No. 1 to the Consulting Services Agreement between Northern California Power Agency and Flynn Resource Consultants Inc., including any non-substantive modifications to the Consulting Services Agreement approved by NCPA’s General Counsel.

**Fiscal Impact:** total expenditures authorized under the Consulting Services Agreement shall not exceed: (i) \$760,000 during the period of July 1, 2015 through June 30, 2016, and (ii) \$650,000 during the period of July 1, 2016 through June 30, 2017. In addition to costs incurred under the Consulting Services Agreement, NCPA will invoice the BAMx Members \$625 each month for related billing services under the Professional Services Agreement. Payments for services provided under the Consulting Services Agreement and Professional Services Agreement are accounted for in the current fiscal year budget, and all costs incurred for the services shall be allocated to the BAMx Members.

*Port of Oakland abstained.*

**Item #19 – Resolution 16-49, Approval of a Second Phase Agreement for Renewable Energy Power Purchase Agreement** – adopt resolution by all members approving the Second Phase Agreement for Renewable Energy Power Purchase Agreement as an NCPA project; and authorize the General Manager of NCPA to execute the Second Phase Agreement for Renewable Energy

Purchase Power Agreement, on behalf of NCPA, including any non-substantive modifications approved by NCPA's General Counsel.

**Fiscal Impact:** pursuant to the Second Phase Agreement, the Participants agree to pay NCPA for all actual costs, including, but not limited to, administrative costs, including legal fees, associated with the activities under the Second Phase Agreement, which are estimated to be \$35,000 or less.

**Item #20 – Resolution 16-51, Approval to Rescind Previous Smart Grid Project Agreement and Approval of New Smart Grid Project Agreement** – adopt resolution by all members rescinding the previously approved, unexecuted Smart Grid Project Agreement between Northern California Power Agency and Contracting Participants; approving the new form of the Smart Grid Project Agreement, including any non-substantive modifications to the Agreement as approved by NCPA's General Counsel; authorize the General Manager of NCPA to execute the Agreement and revise Exhibit A as individual members execute the Agreement; and approving an addition to the NCPA FY 2017 Budget for an amount to be determined based on the sum of each Contracting Participant's authorized maximum budget amounts in the "Participant Pass-Through Account, Smart Grid Program" to provide funding for this Agreement. Due to the multi-year nature of these activities, this funding authorization will carry over for several years to complete the project.

**Fiscal Impact:** total cost of the project is not to exceed an amount to be determined by the sum of each Contracting Participant's maximum authorized budget amount over the ten year term of the Agreement. This project was not included in either the current or upcoming 2017 fiscal year budget. The budget will be augmented by adding additional funds as determined above, to accounts in the Participant Pass-Through Program. Costs for identified utility-specific work will be directly allocated to the appropriate Contracting Participant, where possible. For costs associated with joint activities for identified tasks performed during a given fiscal year, cost allocation will be based on applicable costs evenly divided among the number of Contracting Participants for a specific task. Allocations for future tasks may be based on different, agreed upon cost allocation methodology among the Contracting Participants of each individual task under the Smart Grid Program.

## **DISCUSSION / ACTION ITEMS**

**Item #21 – Status of NCPA's Energy Risk Management Program** – receive and file by all members the activities and accomplishments of the Energy Risk Management Program for the last year and the goals for the coming year.

**Fiscal Impact:** the Energy Risk Management Program budget for FY16 was \$204,512 including both staff and program costs. Total unaudited expenditures for the FY were \$180,952 as of May 31, 2016 or 88% of budget.

Assistant General Manager of Administrative Services/CFO Donna Stevener provided a presentation on the Energy Risk Management Program. No formal action was required for this item.

**Item #22 – Resolution 16-50, Approval of Services Agreement between NCPA and PCWA** – adopt resolution by all members approving the Services Agreement with Placer County Water Agency; and authorize the General Manager to execute the Services Agreement with Placer County Water Agency, on behalf of NCPA, including any non-substantive modifications approved by NCPA's General Counsel.

**Fiscal Impact:** in consideration for NCPA's provision of services under the Services Agreement, PCWA shall pay NCPA an amount equal to \$410,000 for services rendered during the first one (1) year period of the term of the Services Agreement. For each subsequent one (1) year period of the term of the Services Agreement, PCWA shall pay NCPA an amount equal to the sum of the annual amount charged to PCWA during the prior year escalated at a rate of 2.5% per year. In addition to such compensation, PCWA shall compensate NCPA for all supplemental services supplied to PCWA on a time and materials basis, in accordance with the applicable supplemental services wage schedule contained in the Services Agreement.

NCPA staff Tony Zimmer provided a presentation on the agreement for Power Management services between Placer County Water Agency (PCWA) and NCPA. Andy Fecko and Katie Swanberg of PCWA thanked the Commission for opening up these types of services to non NCPA members, and thanked NCPA staff for their time and effort in putting together this agreement.

**Motion:** A motion was made by Greg Scharff and seconded by Glenn Steiger to adopt Resolution 16-50, Approval of Services Agreement with Placer County Water Agency and NCPA; and authorize the General Manager to execute the Services Agreement with Placer County Water Agency, on behalf of NCPA, including any non-substantive modifications approved by NCPA's General Counsel. The motion carried by a unanimous roll call vote of those members present. *BART, Gridley, Lodi, Redding, Truckee Donner, and Plumas-Sierra were absent.*

**Item #23 – Resolution 16-52, Consider Application for Membership by the City of Shasta Lake and Recommendation to Approve Supplement No. 1 to Amended and Restated NCPA Joint Powers Agreement** – adopt resolution by all members approving that all NCPA members and the City of Shasta Lake take action to approve Supplement No. 1 to Amended and Restated Northern California Power Agency Joint Powers Agreement, adding the City of Shasta Lake (City) as a Party to NCPA.

**Fiscal Impact:** if approved for membership, the City would pay \$128,864 toward the NCPA FY17 Legislative and Regulatory Affairs budget. This amount includes payment of \$28,978 toward the JPA fee.

General Manager Randy Howard provided a brief background on the process regarding the City of Shasta Lake submitting their membership application. Assistant General Manager of Legislative and Regulatory Affairs Jane Cirrincione gave a brief presentation on the City of Shasta Lake New Member Application. The City of Shasta Lake is requesting to only be in the Legislative and Regulatory program at this time – could ask for Power Management services in the future. Commission asked that an elected official be appointed as the City of Shasta Lake's representative on the Commission. General Counsel Michael Dean noted that the Joint Powers Agreement (JPA) implies that each member appoints their Commissioner and it is at the member's discretion to make that appointment. It was noted that Supplement No. 1 requires unanimous signatures by all member's governing bodies.

**Motion:** A motion was made by Gary Plass and seconded by Basil Wong to approve Resolution 16-52, Consider Application for Membership by the City of Shasta Lake and Recommendation to Approve Supplement No. 1 to Amended and Restated NCPA Joint Powers Agreement. The motion carried by a majority on a roll call vote of those members present. *Palo Alto voted no. BART, Gridley, Lodi, Redding, Truckee Donner, and Plumas-Sierra were absent.*

**Item #24 – Election of Officers and Executive Committee Members** – election of a chairman and vice chair of the Commission and election of 3 at large representatives to the Executive Committee. The Nominating Committee nominations for FY 2017 Officers and Executive Committee members are:

Chairman	Bob Lingl
Vice Chair	Gary Plass
Executive Committee member	Mark Chandler
Executive Committee member	Roger Frith
Executive Committee member	Teresa O'Neill

Chairperson Garcia noted that this item is information only and is being differed to the July Commission for approval.

## **INFORMATION ITEMS**

**Item #25 – Hydrology Report** – Assistant General Manager Ken Speer provided a presentation on the water storage at New Spicer Reservoir. It was noted that this will be the last report to the Commission on hydrology unless requested.

## **CLOSED SESSION**

**Item #26 – 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.

## **REPORT FROM CLOSED SESSION**

Upon return to open session, General Counsel Michael Dean reported there was no reportable action on Closed Session Item 26.

## **NEW BUSINESS**

No new business was discussed.

## **ADJOURNMENT**

The June 23, 2016, Commission meeting was adjourned at 11:46 am.

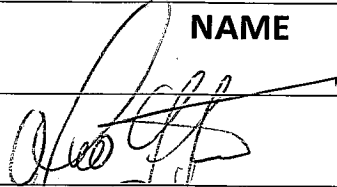
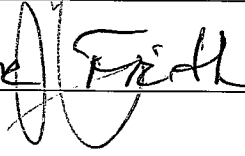
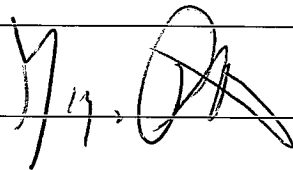
Respectfully submitted,

CARY A. PADGETT  
Assistant Secretary to the Commission

Attachments

Northern California Power Agency  
 Commission Meeting of June 23, 2016  
**COMMISSIONER**  
 Attendance List

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

MEMBER	NAME
ALAMEDA	
BIGGS	Royal Frith
GRIDLEY	
HEALDSBURG	Y. A.
LODI	
LOMPOC	Bob Long
PALO ALTO	Greg Schieff
PORT OF OAKLAND	Basil Wong
PLUMAS-SIERRA REC	
REDDING	
ROSEVILLE	Carol Garcia
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	
SANTA CLARA	Teresa O'Neill <del>John Roakley</del>
TRUCKEE DONNER	
UKIAH	Mel Gaudi







# 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: 06/23/16

Consent Items Listed on the Agenda: # 10 to # 20

Consent Items Removed from the Agenda and Approved Separately:

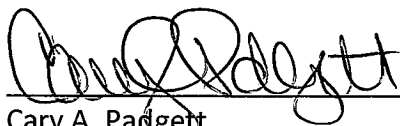
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*Biggs/Heald.*

## ROLL-CALL VOTE BY MEMBERS:

Member	Item Numbers Abstained	Vote	Absent
Alameda		Y	
BART			✓
Biggs		Y	
Gridley			✓
Healdsburg		Y	
Lodi			✓
Lompoc		Y	
Palo Alto	14	Y	
Port of Oakland	18	Y	
Redding			✓
Roseville		Y	
Santa Clara		Y	
Truckee Donner			
Ukiah			✓
Plumas-Sierra		Y	
			✓

ATTEST:

  
 Cary A. Padgett

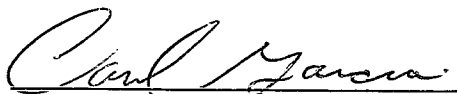
Assistant Secretary to the Commission


Northern California Power Agency  
ROLL CALL VOTE

Topic: Item # 22

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

Passed and adopted this 23<sup>rd</sup> day of June 2016, by the above vote on roll call.

  
CAROL GARCIA  
Chairperson

ATTEST:   
CARY A. PADGETT  
Assistant Secretary

**Northern California Power Agency  
ROLL CALL VOTE**

**Topic:** Item 23

	<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	N		
Plumas-Sierra			X
Port of Oakland	Y		
Redding			X
Roseville	Y		
Santa Clara	Y		
Truckee Donner			X
Ukiah	Y		

Passed and adopted this 23<sup>rd</sup> day of June 2016, by the above vote on roll call.

  
 CAROL GARCIA  
 Chairperson

ATTEST:   
 CARY A. PADGETT  
 Assistant Secretary



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# Commission Staff Report

AGENDA ITEM NO.: **6**

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**Date:** July 27, 2016  
**To:** NCPA Commission  
**Subject:** Draft Finance Committee Special Meeting Minutes – July 12, 2016

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



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# DRAFT

TO: NCPA Finance Committee  
FROM: Donna Stevener, AGM Finance/Administrative Services  
SUBJECT: NCPA Special Finance Committee Meeting Minutes of July 12, 2016

## Finance Committee Attendees:

Committee Members:		Attended:	Consultants:	
Gary Plass	Healdsburg	Call-in	Harry Kightlinger	PFM
Bob Orbeta	Alameda	Call-in	Mike Berwanger	PFM
Jordan Ayers	Lodi	Call-in	Tyler Old	PFM
Monty Hanks	Roseville	Call-in		
<b>NCPA Staff:</b>			Gene Carron	Orrick
Donna Stevener			Larry Sobel	Orrick
Sondra Ainsworth			Marc Bauer	Orrick
Trisha Hubbard				
Michelle Schellentragher			May Qiu	SVP

### 1. & 2. Call Meeting to Order and Roll Call

Chairman Gary Plass called the meeting to order at 11:32 a.m. and roll call was conducted as listed above.

### PUBLIC FORUM

Mr. Plass asked if anyone wished to address the Committee on matters within the jurisdiction of the Committee. No one from the public was present at the site or at any of the teleconference locations.

### REPORTS AND COMMITTEE ACTION ITEMS

#### 4. Evaluate and Recommend Selection of Banker for the Direct Purchase Request for Proposal (RFP)

Ms. Stevener reminded the Committee that at the last Finance Committee meeting a banking proposal had been presented regarding the refunding of some of the Hydroelectric bonds that was interesting to the Committee. At the meeting, the Committee decided to issue a Request for Proposal (RFP) for a Direct Purchase Loan to refinance portions of the Geothermal, Hydroelectric and Lodi Energy Center Bonds. Our Financial Advisor, PFM, prepared an RFP and distributed it to over 60 banks, with 10 responding by the due date of June 21<sup>st</sup>. PFM

and staff evaluated the RFP responses. Ms. Stevener then turned the presentation over to Mike Berwanger, PFM, to provide a recap of the responses and answer questions.

Mr. Berwanger indicated that since this was a Direct Purchase Refinancing, the list of banks was much broader than we typically use in a public sale scenario and the respondents were banks we don't usually see responses from, including Deutsche Bank, Captial One and others. In addition, Goldman Sachs, Wells Fargo, US Bank, and Bank of America also provided responses. The good news is that rates have dropped 25 basis points on the long end of the curve since our last Finance Committee meeting. This drop was primarily due to the United Kingdom voting to leave the European Union (Brexit). PFM prepared cost savings analyses on each submitted proposal using rates as of June 21<sup>st</sup>, therefore any expected savings could be better than shown due to the recent rate drop.

All of the proposed refundings apply to bonds that are refundable in the future (2018 and later) and some of the proposals are quite complex. PFM provided savings comparisons between the Direct Purchase, Private Placement and Public Sale structures and reviewed them with the Committee. Mr. Berwanger explained the differences between the various structures and the varying amount of public disclosure required for each type. A public sale would require a full official statement, a private placement (10 – 15 investors) a shorter official statement type document and a direct purchase has no disclosure since it is a direct loan with the bank.

PFM recommended that the Committee consider the proposed Geothermal refunding as the most attractive offer from the RFP responses. The question is which structure to use. A Direct Purchase would be the most streamlined process (6 – 8 weeks), no official statement required, and less market risk (proposal is a fixed rate established with a spread to an index), although slightly lower potential savings. The Private Placement and public sale structures require disclosure preparation by NCPA and the participants, higher cost of issuance, would take longer (3 – 4 months) to complete and bears full market risk. After discussion of the options, the Committee decided that the Direct Purchase option would be the best structure at this time and the following motion was made:

Motion:

Motion was made to accept the proposal for a fixed rate refunding by Bank of America N.A. for the Geothermal project and to recommend that the Commission authorize a direct loan with the Bank of America for a term of 8 years for the refinancing of the 2009A Geothermal Project bonds.

1<sup>st</sup> Jordan Ayers

2<sup>nd</sup> Monty Hanks

<i>Representative</i>	<i>Member Org</i>	<i>Vote</i>
Gary Plass, Chairman	Healdsburg	Yes
Bob Orbeta	Alameda	Yes
Jordan Ayers	Lodi	Yes
Monty Hanks	Roseville	Yes

Voting Results: 4 Ayes, 0 Noes, 0 Abstain, 0 Absent

Mr. Plass left the meeting at 12:05 p.m.

The Committee then continued discussion of the Lodi Energy Center and Hydroelectric proposal responses. Most of the proposals for these projects were in the 5 – 6% range, barely above the minimum 5% present value savings criteria in our debt management policy. For the Lodi Energy Center, the call date is 10 years away and the efficiency of the transaction is really low. The Hydroelectric project had one proposal in the 7% range, however the proposal had some complicated tax issues that need further refinement to meet our bond counsel approval. After much discussion, the Committee indicated they were not interested in pursuing a refunding of these projects at this time and asked staff to continue to monitor the refunding opportunities and keep them apprised.

### **ADJOURNMENT**

Meeting was adjourned at approximately 12:14 p.m.





# Commission Staff Report

July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** June 2016 Financial Report (Unaudited)

**AGENDA CATEGORY:** Consent

<b>FROM:</b>	Sondra Ainsworth <i>[Signature]</i>	<b>METHOD OF SELECTION:</b>
	Treasurer-Controller	N/A
<b>Division:</b>	Administrative Services	<i>If other, please describe:</i>
<b>Department:</b>	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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

**RECOMMENDATION:**

Approval by all members.

**NOTICE:**

The disbursements of the Northern California Power Agency for the month reported herein, will be approved at the July 27, 2016 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 June 2016 financial reports are also included.

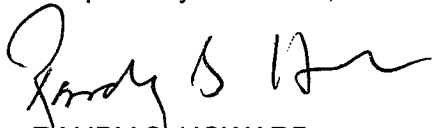
**FISCAL IMPACT:**

This report has no direct budget impact to the Agency.

**ENVIRONMENTAL ANALYSIS:**

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

Respectfully submitted,



RANDY S. HOWARD  
General Manager

Attachments:

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

**Schedule of Disbursements  
(Unaudited)**

**For the Month of June 2016**

**Operations:**

Geothermal	\$	1,200,908
Hydroelectric		2,529,353
CT#1 Combustion Turbines		90,538
CT#2 STIG		512,144
Lodi Energy Center		3,205,025
NCPA Operating		<u>19,391,359</u>
Total	\$	<u><u>26,929,327</u></u>

NORTHERN CALIFORNIA POWER AGENCY  
 REPORT OF BUDGET VS. ACTUAL COST  
 FOR THE PERIOD ENDED JUNE 30, 2016

PERCENT OF YEAR ELAPSED 100%
------------------------------------

	This Month	Actual Year To-Date	FY 2016 Budget	% Used	
<b>GENERATION RESOURCES</b>					
<b>NCPA Plants</b>					
Hydroelectric					
Other Plant Cost	\$ 1,010,443	\$ 11,926,933	\$ 13,204,025	90%	
Debt Service (Net)	2,494,303	37,267,735	37,934,653	98%	
Annual Budget Cost	3,504,746	49,194,668	51,138,678	96%	
<b>Geothermal</b>					
Other Plant Cost	3,325,794	27,695,944	27,368,698	101%	
Debt Service (Net)	425,744	5,108,929	5,108,929	100%	
Annual Budget Cost	3,751,538	32,804,873	32,477,627	101%	
Combustion Turbine No. 1	647,150	3,033,533	2,877,315	105%	(a)
<b>Combustion Turbine No. 2 (Stig)</b>					
Fuel and Pipeline Transport Charges	73,332	775,695	953,150	81%	
Other Plant Cost	182,043	1,927,237	1,798,534	107%	(b)
Debt Service (Net)	473,293	5,679,515	5,679,515	100%	
Annual Budget Cost	728,668	8,382,447	8,431,199	99%	
<b>Lodi Energy Center</b>					
Fuel	1,644,590	23,443,242	49,851,536	47%	
Other Plant Cost	1,973,362	23,209,519	19,739,576	118%	(c)
Debt Service (Net)	2,167,729	26,411,441	26,440,994	100%	
Annual Budget Cost	5,785,681	73,064,202	96,032,106	76%	
Member Resources - Energy	3,951,050	39,009,718	39,011,876	100%	
Member Resources - Natural Gas	301,457	6,030,464	5,748,516	105%	(d)
Western Resources	5,060,342	28,402,568	29,537,384	96%	
Market Power Purchases	2,089,143	32,621,792	42,915,828	76%	
Load Aggregation Costs - ISO	16,936,448	180,952,829	238,603,172	76%	
Net GHG Obligations	-	4,427,000	3,029,825	146%	(e)
	42,756,223	457,924,094	549,803,526	83%	
<b>TRANSMISSION</b>					
<b>Independent System Operator</b>					
Grid Management Charge	332,652	3,483,974	3,393,692	103%	
Wheeling Access Charge	7,118,065	78,607,583	70,278,323	112%	(f)
Ancillary Services	456,954	2,875,891	1,419,670	203%	(g)
Other Charges	(769,231)	(2,660,089)	920,067	-289%	
	7,138,440	82,307,359	76,011,752	108%	

NORTHERN CALIFORNIA POWER AGENCY  
 REPORT OF BUDGET VS. ACTUAL COST  
 FOR THE PERIOD ENDED JUNE 30, 2016

PERCENT OF YEAR ELAPSED 100%
------------------------------------

	This Month	Actual Year To-Date	FY 2016 Budget	% Used	
<b>MANAGEMENT SERVICES</b>					
<b>Legislative &amp; Regulatory</b>					
Legislative Representation	240,581	1,663,291	1,821,212	91%	
Regulatory Representation	92,633	721,756	767,394	94%	
Western Representation	80,300	557,083	672,956	83%	
Member Support Services	36,816	382,876	459,903	83%	
Judicial Action	21,315	515,001	745,000	69%	
<b>Power Management</b>					
System Control & Load Dispatch	609,875	4,914,022	5,585,170	88%	
Forecasting, Planning, Prescheduling & Trading	209,832	2,118,644	2,478,635	85%	
Industry Restructuring & Regulatory Affairs	24,296	302,726	403,758	75%	
Contract Admin, Interconnection Svcs & External Affairs	89,162	808,587	1,052,202	77%	
Green Power Project	661	6,692	36,418	18%	
Gas Purchase Program	5,642	56,649	69,182	82%	
Market Purchase Project	7,671	79,946	114,093	70%	
Energy Risk Management	7,123	193,396	204,512	95%	
Settlements	37,103	504,011	667,611	75%	
Integrated Systems Support	107,076	264,030	532,705	50%	
Participant Pass Through Costs	363,470	1,549,365	1,444,264	107%	(h)
Shared Services Pass Through	-	36,404	-	N/A	
Prospective Member	663	3,027	-	N/A	
	<b>1,934,219</b>	<b>14,677,506</b>	<b>17,055,015</b>	<b>86%</b>	
<b>TOTAL ANNUAL BUDGET COST</b>	<b>51,828,882</b>	<b>554,908,959</b>	<b>642,870,293</b>	<b>86%</b>	
<b>LESS: THIRD PARTY REVENUE</b>					
Plant ISO Energy Sales	6,770,528	80,918,643	118,904,279	68%	(i)
Load Aggregation Energy Sales	12,116,657	129,312,994	178,771,257	72%	(j)
Ancillary Services Sales	461,598	5,794,645	4,078,239	142%	
Transmission Sales	9,198	110,376	110,376	100%	
Western Credits, Interest and Other Income	3,811,819	18,205,041	16,003,668	114%	
	<b>23,169,800</b>	<b>234,341,699</b>	<b>317,867,819</b>	<b>74%</b>	
<b>NET ANNUAL BUDGET COST TO PARTICIPANTS</b>	<b>\$ 28,659,082</b>	<b>\$ 320,567,260</b>	<b>\$ 325,002,474</b>	<b>99%</b>	

- (a) Variance due to unbudgeted fuel costs. Fuel costs related to additional generation are offset by increased revenues.
- (b) Variance due to higher than budgeted generation. Costs related to additional generation are offset by increased revenues.
- (c) Variance due to unbudgeted CA ISO energy purchases.
- (d) MWh scheduled 131% of budget.
- (e) Purchases made several months in advance. Purchases for July and August are included in this amount.
- (f) Budget variance caused by the December through April outage of SVP's high voltage facility which resulted in increased market purchases.
- (g) Ancillary services requirements increased two to three times. Budgeted price per MWh were \$5-\$10 while actuals were in the \$15-\$20 per MWh range.
- (h) Variance due to unbudgeted meter replacement costs.
- (i) LEC forced outage 2/6/16 to 3/2/16. LEC at 67% of budgeted generation at 6/30/16.
- (j) Market prices down due to increased hydro and solar generation and mild temperatures.

COMBINED STATEMENTS OF NET POSITION

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	June 30,	
	2016	2015
ASSETS	(in thousands)	
CURRENT ASSETS		
Cash and cash equivalents	\$ 48,174	\$ 45,593
Investments	21,977	24,067
Accounts receivable		
Participants	-	24
Other	495	2,127
Interest receivable	101	86
Inventory and supplies - at average cost	9,062	8,149
Prepaid expenses	1,117	1,455
TOTAL CURRENT ASSETS	<u>80,926</u>	<u>81,501</u>
RESTRICTED ASSETS		
Cash and cash equivalents	56,629	57,586
Investments	155,307	146,922
Interest receivable	318	261
TOTAL RESTRICTED ASSETS	<u>212,254</u>	<u>204,769</u>
ELECTRIC PLANT		
Electric plant in service	1,500,807	1,500,076
Less: accumulated depreciation	(911,976)	(881,412)
	<u>588,831</u>	<u>618,664</u>
Construction work-in-progress	106	44
TOTAL ELECTRIC PLANT	<u>588,937</u>	<u>618,708</u>
OTHER ASSETS		
Regulatory assets	250,002	249,659
Unused vendor credits	55	-
TOTAL OTHER ASSETS	<u>250,057</u>	<u>249,659</u>
TOTAL ASSETS	1,132,174	1,154,637
DEFERRED OUTFLOWS OF RESOURCES		
Excess cost on refunding of debt	54,348	62,114
Pension contribution	9,093	5,310
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u>63,441</u>	<u>67,424</u>
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	<u>\$ 1,195,615</u>	<u>\$ 1,222,061</u>

COMBINED STATEMENTS OF NET POSITION

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	June 30,	
	2016	2015
	(in thousands)	
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 22,426	\$ 23,462
Member advances	993	993
Operating reserves	17,342	21,185
Current portion of long-term debt	37,250	35,615
Accrued interest payable	11,402	11,969
TOTAL CURRENT LIABILITIES	89,413	93,224
NON-CURRENT LIABILITIES		
Net pension liability	57,774	57,260
Operating reserves and other deposits	135,559	126,185
Interest rate swap liability	22,261	16,535
Long-term debt, net	776,982	816,936
TOTAL NON-CURRENT LIABILITIES	992,576	1,016,916
TOTAL LIABILITIES	1,081,989	1,110,140
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	79,200	76,984
Pension earnings	6,599	4,946
TOTAL DEFERRED INFLOWS OF RESOURCES	85,799	81,930
NET POSITION		
Net investment in capital assets	(62,125)	(60,971)
Restricted	67,711	64,688
Unrestricted	22,241	26,274
TOTAL NET POSITION	27,827	29,991
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 1,195,615	\$ 1,222,061

COMBINED STATEMENTS OF REVENUES, EXPENSES  
AND CHANGES IN NET POSITION

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS

UNAUDITED

	Years Ended June 30,	
	2016	2015
	(in thousands)	
SALES FOR RESALE		
Participants	\$ 326,115	\$ 287,845
Other Third-Party	124,544	136,042
TOTAL SALES FOR RESALE	450,659	423,887
OPERATING EXPENSES		
Purchased power	182,556	153,033
Operations	69,035	90,617
Transmission	83,297	60,139
Depreciation	30,645	31,140
Maintenance expenses	22,074	21,659
Administrative and general	17,195	22,084
TOTAL OPERATING EXPENSES	404,802	378,672
NET OPERATING REVENUES	45,857	45,215
OTHER (EXPENSES) REVENUES		
Interest expense	(48,454)	(44,885)
Interest income	2,315	1,429
Other	6,056	5,196
TOTAL OTHER EXPENSES	(40,083)	(38,260)
FUTURE RECOVERABLE AMOUNTS	342	(2,292)
REFUNDS TO PARTICIPANTS	(8,279)	(6,905)
INCREASE (DECREASE) IN NET POSITION	(2,163)	(2,242)
NET POSITION, Beginning of year	29,990	32,233
NET POSITION, Period ended	\$ 27,827	\$ 29,991



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

June 30, 2016

	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					
<b>CURRENT ASSETS</b>													
Cash and cash equivalents	\$ 1	\$ -	\$ -	\$ 1	\$ 71	\$ -	\$ -	\$ -	\$ 231	\$ -	\$ 47,869	\$ 21,977	\$ 48,174
Investments	-	-	-	-	-	-	-	-	-	-	-	-	21,977
Accounts receivable	2	-	-	-	-	-	-	445	-	-	-	-	48
Others	-	-	-	-	22	-	-	39	-	-	-	-	40
Interest receivable	4,090	1,079	642	1,402	1,849	-	-	-	-	-	-	-	9,062
Inventory and supplies - at average cost	241	232	27	30	206	-	-	-	16	-	-	-	1,117
Prepaid expenses	14,802	13,776	1,831	(1,158)	13,481	-	-	15,228	5,431	-	(63,591)	-	-
Due from Agency and other programs*	19,136	15,087	2,501	275	15,629	-	-	15,712	5,678	-	6,908	-	80,926
<b>TOTAL CURRENT ASSETS</b>													
	25,489	57,803	5,859	-	25,583	-	-	21,218	-	-	76,302	-	212,254
<b>RESTRICTED ASSETS</b>													
Cash and cash equivalents	6,036	14,750	1,473	-	7,949	-	-	2,549	-	-	23,872	-	56,629
Investments	19,390	42,944	4,370	-	17,612	-	-	18,669	-	-	52,322	-	155,307
Interest receivable	63	109	16	-	22	-	-	-	-	-	108	-	318
<b>TOTAL RESTRICTED ASSETS</b>													
	25,489	57,803	5,859	-	25,583	-	-	21,218	-	-	76,302	-	212,254
<b>ELECTRIC PLANT</b>													
Electric plant in service	568,779	393,936	64,826	36,245	423,459	7,736	-	-	577	-	5,249	-	1,500,807
Less: accumulated depreciation	(528,111)	(242,980)	(43,944)	(34,117)	(52,334)	(7,731)	-	-	(311)	-	(2,448)	-	(911,976)
	40,668	150,956	20,882	2,128	371,125	5	-	-	266	-	2,801	-	588,831
Construction work-in-progress	-	-	-	-	101	-	-	-	-	-	5	-	106
<b>TOTAL ELECTRIC PLANT</b>													
	40,668	150,956	20,882	2,128	371,226	5	-	-	266	-	2,806	-	588,937
<b>OTHER ASSETS</b>													
Regulatory assets	1,946	159,012	13,077	-	19,158	(5)	-	-	-	-	56,814	-	250,002
Unused vendor credits	55	-	-	-	-	-	-	-	-	-	-	-	55
<b>TOTAL OTHER ASSETS</b>													
	2,001	159,012	13,077	-	19,158	(5)	-	-	-	-	56,814	-	250,057
<b>TOTAL ASSETS</b>													
	87,294	382,858	43,319	2,403	431,596	-	-	36,930	5,944	-	142,830	-	1,132,174
<b>DEFERRED OUTFLOWS OF RESOURCES</b>													
Excess cost on refunding of debt	-	52,091	2,257	-	-	-	-	-	-	-	-	-	54,348
Pension contribution	-	-	-	-	-	-	-	-	-	-	9,093	-	9,093
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>													
	-	52,091	2,257	-	-	-	-	-	-	-	9,093	-	63,441
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>													
	\$ 87,294	\$ 434,949	\$ 44,576	\$ 2,403	\$ 431,596	\$ -	\$ -	\$ 36,930	\$ 5,944	\$ -	\$ 151,923	\$ -	\$ 1,195,615

\* Eliminated in Combination

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

June 30, 2016

	GENERATING & TRANSMISSION RESOURCES									
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission	Purchased Power & Transmission	Associated Member Services	Other Agency	Combined
<b>LIABILITIES</b>										
<b>CURRENT LIABILITIES</b>										
Accounts payable	\$ 172	\$ 587	\$ -	\$ -	\$ 1,486	\$ -	\$ 13,687	\$ -	\$ 6,494	\$ 22,426
Member advances	791	-	-	-	-	-	-	202	-	993
Operating reserves	6,041	250	513	250	10,288	-	-	-	-	17,342
Current portion of long-term debt	3,580	20,050	3,670	-	9,950	-	-	-	-	37,250
Accrued interest payable	766	8,428	837	-	1,371	-	-	-	-	11,402
<b>TOTAL CURRENT LIABILITIES</b>	<b>11,350</b>	<b>29,315</b>	<b>5,020</b>	<b>250</b>	<b>23,095</b>	<b>-</b>	<b>13,687</b>	<b>202</b>	<b>6,494</b>	<b>89,413</b>
<b>NON-CURRENT LIABILITIES</b>										
Net pension liability	-	-	-	-	-	-	-	-	57,774	57,774
Operating reserves and other deposits	15,712	14,628	-	-	5,755	-	21,257	1,903	76,304	135,559
Interest rate swap liability	-	22,261	-	-	-	-	-	-	-	22,261
Long-term debt, net	31,014	355,820	38,357	-	351,791	-	-	-	-	776,982
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>46,726</b>	<b>392,709</b>	<b>38,357</b>	<b>-</b>	<b>357,546</b>	<b>-</b>	<b>21,257</b>	<b>1,903</b>	<b>134,078</b>	<b>992,576</b>
<b>TOTAL LIABILITIES</b>	<b>58,076</b>	<b>422,024</b>	<b>43,377</b>	<b>250</b>	<b>380,641</b>	<b>-</b>	<b>34,944</b>	<b>2,105</b>	<b>140,572</b>	<b>1,081,989</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>										
Regulatory credits	20,571	4,052	1,075	2,285	47,806	-	-	266	3,145	79,200
Pension earnings	-	-	-	-	-	-	-	-	6,599	6,599
<b>TOTAL DEFERRED INFLOWS OF RESOURCES</b>	<b>20,571</b>	<b>4,052</b>	<b>1,075</b>	<b>2,285</b>	<b>47,806</b>	<b>-</b>	<b>-</b>	<b>266</b>	<b>9,744</b>	<b>85,799</b>
<b>NET POSITION</b>										
Net investment in capital assets	(7,246)	(34,427)	(6,839)	-	(13,513)	-	-	-	-	(62,125)
Restricted	8,137	45,377	5,022	-	7,110	-	-	2,065	-	67,711
Unrestricted	7,856	(2,077)	1,941	(132)	9,552	-	1,986	1,508	1,607	22,241
<b>TOTAL NET POSITION</b>	<b>8,647</b>	<b>8,873</b>	<b>124</b>	<b>(132)</b>	<b>3,149</b>	<b>-</b>	<b>1,986</b>	<b>3,573</b>	<b>1,607</b>	<b>27,827</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$ 87,294</b>	<b>\$ 434,949</b>	<b>\$ 44,576</b>	<b>\$ 2,403</b>	<b>\$ 431,596</b>	<b>\$ -</b>	<b>\$ 36,930</b>	<b>\$ 5,944</b>	<b>\$ 151,923</b>	<b>\$ 1,195,615</b>

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 Year Ended June 30, 2016

	GENERATING & TRANSMISSION RESOURCES										Other Agency	Combined	
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission	Purchased Power & Transmission	Associated Member Services					
<b>SALES FOR RESALE</b>													
Participants	\$ 8,094	\$ 37,076	\$ 7,360	\$ 2,718	\$ 29,125	\$ -	\$ 221,529	\$ 20,078	\$ -	\$ 135	\$ -	\$ 326,115	
Other third-party	29,803	16,999	329	571	38,979	-	37,863	-	-	-	-	124,544	
<b>TOTAL SALES FOR RESALE</b>	<b>37,897</b>	<b>54,075</b>	<b>7,689</b>	<b>3,289</b>	<b>68,104</b>	<b>-</b>	<b>259,392</b>	<b>20,078</b>	<b>-</b>	<b>135</b>	<b>-</b>	<b>450,659</b>	
<b>OPERATING EXPENSES</b>													
Purchased power	-	-	-	-	4,827	-	177,729	-	-	-	-	182,556	
Operations	14,800	3,844	1,241	1,026	30,016	-	6,030	12,078	-	-	-	69,035	
Transmission	880	817	52	(28)	500	-	81,072	4	-	-	-	83,297	
Depreciation	3,898	9,415	2,212	178	14,601	16	-	34	-	291	-	30,645	
Maintenance expenses	7,927	3,837	882	1,492	7,841	-	-	95	-	-	-	22,074	
Administrative and general	3,913	3,107	536	575	4,187	-	-	6,731	-	(1,854)	-	17,195	
Intercompany (sales) purchases, net*	(532)	190	67	97	241	-	-	(63)	-	-	-	-	
<b>TOTAL OPERATING EXPENSES</b>	<b>30,886</b>	<b>21,210</b>	<b>4,990</b>	<b>3,340</b>	<b>62,213</b>	<b>16</b>	<b>264,831</b>	<b>18,879</b>	<b>-</b>	<b>(1,563)</b>	<b>-</b>	<b>404,802</b>	
<b>NET OPERATING REVENUES</b>	<b>7,011</b>	<b>32,865</b>	<b>2,699</b>	<b>(51)</b>	<b>5,891</b>	<b>(16)</b>	<b>(5,439)</b>	<b>1,199</b>	<b>1,698</b>	<b>-</b>	<b>-</b>	<b>45,857</b>	
<b>OTHER (EXPENSES) REVENUES</b>													
Interest expense	(1,480)	(28,770)	(2,003)	-	(16,201)	-	-	-	-	-	-	(48,454)	
Interest income	312	408	38	-	351	-	398	37	-	771	-	2,315	
Other	271	23	762	39	4,523	-	-	219	-	219	-	6,056	
<b>TOTAL OTHER (EXPENSES) REVENUES</b>	<b>(897)</b>	<b>(28,339)</b>	<b>(1,203)</b>	<b>39</b>	<b>(11,327)</b>	<b>-</b>	<b>398</b>	<b>256</b>	<b>-</b>	<b>990</b>	<b>-</b>	<b>(40,083)</b>	
<b>FUTURE RECOVERABLE AMOUNTS</b>													
	(1,058)	625	(1,542)	-	2,767	16	-	-	-	(466)	-	342	
<b>REFUNDS TO PARTICIPANTS</b>													
INCREASE (DECREASE) IN NET POSITION	(2,017)	(3,373)	8	339	1,286	-	(754)	(3,073)	(695)	-	-	(8,279)	
	3,039	1,778	(38)	327	(1,383)	-	(5,795)	(1,618)	1,527	-	-	(2,163)	
<b>NET POSITION, Beginning of year</b>	5,608	7,095	162	(459)	4,532	-	7,781	5,191	80	-	-	29,990	
<b>NET POSITION, Period ended</b>	<b>\$ 8,647</b>	<b>\$ 8,873</b>	<b>\$ 124</b>	<b>\$ (132)</b>	<b>\$ 3,149</b>	<b>\$ -</b>	<b>\$ 1,986</b>	<b>\$ 3,573</b>	<b>\$ 1,607</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 27,827</b>	

\* Eliminated in Combination

NORTHERN CALIFORNIA POWER AGENCY & ASSOCIATED POWER CORPORATIONS  
 AGED ACCOUNTS RECEIVABLE  
 June 30, 2016

Status	Participant / Customer	Description	Amount
CURRENT			\$ 494,895
PAST DUE:			
1 - 30			
31 - 60			
61 - 90			
91 - 120			
Over 120 Days			
PARTICIPANT and OTHER RECEIVABLES (net)			<u>\$ 494,895</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.



# Commission Staff Report

July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** Treasurer's Report for the Month Ended June 30, 2016

**AGENDA CATEGORY:** Consent

<b>FROM:</b>	Sondra Ainsworth	<b>METHOD OF SELECTION:</b>
	Treasurer-Controller	N/A
<b>Division:</b>	Administrative Services	<i>If other, please describe:</i>
<b>Department:</b>	Accounting & Finance	

<b>IMPACTED MEMBERS:</b>		
All Members	City of Lodi	City of Ukiah
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alameda Municipal Power	City of Lompoc	Plumas-Sierra REC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bay Area Rapid Transit	City of Palo Alto	Port of Oakland
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City of Biggs	City of Redding	Truckee Donner PUD
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City of Gridley	City of Roseville	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City of Healdsburg	City of Santa Clara	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If other, please specify.</i>		
_____		
_____		
<i>Place an X in the box next to the applicable Member(s) above.</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 \$40,873,129 of which approximately \$243,179 was applicable to Special and Reserve Fund Deposits, \$15,804,639 to Debt Service and \$24,825,311 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 \$241,210,323 at month end. The current market value of the portfolio totaled \$242,400,059.

The overall portfolio had a combined weighted average interest rate of 0.906% with a bond equivalent yield (yield to maturity) of 0.918%. Investments with a maturity greater than one year totaled \$132,809,000. June maturities totaled \$64 million and monthly receipts totaled \$36 million. During the month \$40 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 decreased by 4 basis point (from 0.31% to 0.27%) and rates on one year T-Bills decreased 22 basis points (from 0.67% to 0.45%).

To the best of my knowledge and belief, all securities held by NCPA as of June 30, 2016 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

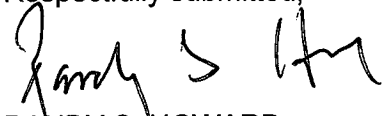
**FISCAL IMPACT:**

This report has no direct budget impact to the Agency.

**ENVIRONMENTAL ANALYSIS:**

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

Respectfully submitted,



RANDY S. HOWARD  
General Manager

Attachment

SR: 175:16

# NORTHERN CALIFORNIA POWER AGENCY

## TREASURER'S REPORT

JUNE 30, 2016

### TABLE OF CONTENTS

	<u>PAGE</u>
CASH & INVESTMENT BALANCE	1
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INVESTMENT MATURITIES ANALYSIS	5
DETAIL REPORT OF INVESTMENTS	APPENDIX

Northern California Power Agency  
Treasurer's Report  
Cash & Investment Balance  
June 30, 2016

	CASH	INVESTMENTS	TOTAL	PERCENT
<b>NCPA FUNDS</b>				
Operating	\$ 23,811,008	\$ 66,597,857	90,408,865	32.05%
Special Deposits	998,199	1	998,200	0.35%
Construction	16,104	4,855,027	4,871,131	1.73%
Debt Service	15,804,639	21,661,880	37,466,519	13.28%
Special & Reserve	243,179	148,095,558	148,338,737	52.59%
	<u>\$ 40,873,129</u>	<u>\$ 241,210,323</u>	<u>\$ 282,083,452</u>	<u>100.00%</u>

Portfolio Investments at Market Value

\$ 242,400,059

NOTE A -Investment amounts shown at book carrying value.



Northern California Power Agency  
Treasurer's Report  
Cash Activity Summary  
June 30, 2016

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>NCPA FUNDS</b>							
Operating	\$ 35,030,092	\$ 32,271	\$ 8,062,130	\$ (14,722,242)	\$ (7,780,316)	\$ (11,983,103)	\$ 8,638,832
Special Deposits	910,686	3	-	(7,080,013)	-	6,407,264	237,940
Construction	-	-	-	-	-	-	-
Debt Service	-	280	24,475,476	(21,065,439)	-	5,324,508	8,734,825
Special & Reserve	64,837	158,639	31,564,610	-	(32,039,417)	251,331	-
	<u>\$ 36,005,615</u>	<u>\$ 191,193</u>	<u>\$ 64,102,216</u>	<u>\$ (42,867,694)</u>	<u>\$ (39,819,733)</u>	<u>\$ -</u>	<u>\$ 17,611,597</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  
June 30, 2016**

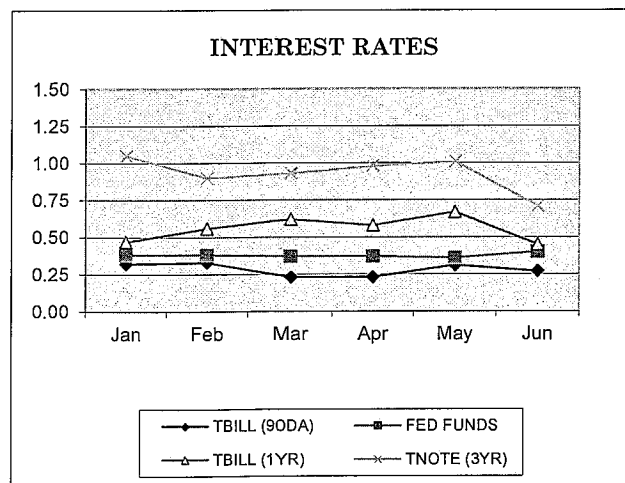
	PURCHASED	SOLD OR MATURED	(NON-CASH)	(NON-CASH)	INVESTMENTS	
			DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
<b>NCPA FUNDS</b>						
Operating	\$ 7,780,316	\$ (8,062,130)	\$ (3,174)	\$ -	\$ -	\$ (284,988)
Special Deposits	-	-	-	-	-	-
Construction	-	-	(704)	-	-	(704)
Debt Service	-	(24,475,476)	7,585	-	-	(24,467,891)
Special & Reserve	32,039,417	(31,564,610)	(4,009)	-	-	470,798
	<u>\$ 39,819,733</u>	<u>\$ (64,102,216)</u>	<u>\$ (302)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (24,282,785)</u>
Less Non- Cash Activity						
Disc/(Prem) Amortization & Gain/(Loss) on Sale						<u>302</u>
Net Change in Investment --Before Non-Cash Activity						<u>\$ (24,282,483)</u>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency  
Interest Rate/Yield Analysis  
June 30, 2016**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<u>0.906%</u>	<u>0.918%</u>
<b>OPERATING FUNDS:</b>	0.897%	0.858%
<b>PROJECTS:</b>		
Geothermal	1.120%	1.117%
Capital Facilities	0.989%	0.983%
Hydroelectric	1.075%	1.053%
Lodi Energy Center	0.937%	0.880%

<b>KEY INTEREST RATES</b>		
	<u>CURRENT</u>	<u>PRIOR YEAR</u>
Fed Fds (Ovrnight)	0.40%	0.12%
T-Bills (90da.)	0.27%	0.01%
Agency Disc (90da.)	0.36%	0.09%
T-Bills (1yr.)	0.45%	0.27%
Agency Disc (1yr.)	0.46%	0.28%
T-Notes (3yr.)	0.71%	1.03%



**Northern California Power Agency  
Total Portfolio  
Investment Maturities Analysis  
June 30, 2016**

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	\$ 16,062	\$ 7,526	\$865	\$ 651	\$ 14,538	\$ 127,438	\$ 5,371	\$ 172,451	65.14%
US Bank Trust Money Market	5,593							5,593	2.11%
Commercial Paper	5,000							5,000	1.89%
Investment Trusts (LAIF)	50,104							50,104	18.92%
U.S.Treasury Market Acct. *	31,597							31,597	11.93%
U.S.Treasury Bill									0.00%
Certificates of Deposit	10							10	0.00%
<b>Total Dollars</b>	<b>\$108,366</b>	<b>\$7,526</b>	<b>\$865</b>	<b>\$651</b>	<b>\$14,538</b>	<b>\$127,438</b>	<b>\$5,371</b>	<b>\$264,755</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>40.93%</b>	<b>2.84%</b>	<b>0.33%</b>	<b>0.25%</b>	<b>5.49%</b>	<b>48.13%</b>	<b>2.03%</b>	<b>100.00%</b>	

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  
06/30/2016

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	16,248,436	0.462	07/01/2013	16,248,436		1	0.462	16,248,436	SYS70000	70000	16,248,436
Union Bank of Califo	UBOC	7,786,156	0.002	07/01/2013	7,786,156		1	0.002	7,786,156	SYS70014	70014	7,786,156
US Bank	USB	23,811,006	0.001	06/30/2013	23,811,006		1	0.001	23,811,006	SYS70050	70050	23,811,006
US Bank	USB	10,000	0.050	04/07/2016	10,000	07/07/2016	6	0.050	10,000	30299	30299	10,000
Federal Farm Credit	UBOC	3,626,000	1.290	12/21/2015	3,624,948	11/19/2018	871	1.300	3,668,678	3133EFPJ0	26280	3,625,139
Federal Home Loan Mt	UBOC	9,870,000	1.750	06/09/2015	9,983,900	05/30/2019	1,063	1.450	10,141,425	3137EADG1	26231	9,953,495
Federal Home Loan Mt	UBOC	3,398,000	1.600	04/29/2016	3,398,000	10/29/2020	1,581	1.600	3,398,408	3134G9B72	26331	3,398,000
<b>Fund Total and Average</b>		<b>\$ 69,749,598</b>	<b>0.510</b>		<b>\$ 69,862,448</b>		<b>274</b>	<b>0.468</b>	<b>\$ 70,054,109</b>			<b>\$ 69,832,232</b>

MPP GHG Auction Acct

Local Agency Investm		231,447	0.462	07/01/2013	231,447		1	0.462	231,447	SYS70045	70045	231,447
<b>Fund Total and Average</b>		<b>\$ 231,447</b>	<b>0.463</b>		<b>\$ 231,447</b>		<b>1</b>	<b>0.463</b>	<b>\$ 231,447</b>			<b>\$ 231,447</b>

SCPA Balancing Account

Local Agency Investm	LAIF	1,605,395	0.462	07/01/2013	1,605,395		1	0.462	1,605,395	SYS70022	70022	1,605,395
Union Bank of Califo	UBOC	0	0.005	07/01/2013	0		1	0.005	0	SYS70023	70023	0
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	665	1.000	4,516,900	3130A5572	26223	4,510,000
Federal National Mtg	UBOC	3,962,000	1.625	12/18/2014	4,000,630	11/27/2018	879	1.369	4,046,351	3135GOYT4	26187	3,985,575
Federal National Mtg	UBOC	5,098,000	1.350	04/28/2016	5,098,000	10/28/2019	1,214	1.350	5,101,824	3135GOJ95	26330	5,098,000
Federal Home Loan Mt	UBOC	5,075,000	1.700	10/28/2015	5,075,000	10/28/2020	1,580	1.700	5,076,370	3134G73K5	26271	5,075,000
<b>Fund Total and Average</b>		<b>\$ 20,250,395</b>	<b>1.344</b>		<b>\$ 20,289,025</b>		<b>1022</b>	<b>1.293</b>	<b>\$ 20,346,840</b>			<b>\$ 20,273,970</b>

General Operating Reserve

Local Agency Investm	LAIF	23,872,203	0.462	07/01/2013	23,872,203		1	0.462	23,872,203	SYS70000	70002	23,872,203
Union Bank of Califo	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70019	70019	0
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYS70051	70051	0
Federal National Mtg	UBOC	3,265,000	0.750	12/16/2014	3,261,466	04/20/2017	293	0.770	3,269,591	3135GOZB2	26186	3,262,475
Federal Farm Credit	UBOC	7,305,000	0.770	12/05/2012	7,305,000	06/05/2017	339	0.770	7,305,584	3133EC5L4	25942	7,305,000
Federal National Mtg	UBOC	5,970,000	1.625	12/23/2014	6,009,701	11/27/2018	879	1.450	6,097,101	3135GOYT4	26188	5,994,314
Federal Farm Credit	UBOC	9,376,000	1.420	10/22/2015	9,376,000	10/22/2019	1,208	1.420	9,376,188	3133EFLB1	26270	9,376,000
Federal National Mtg	UBOC	4,982,000	1.750	08/28/2015	5,047,364	11/26/2019	1,243	1.430	5,122,144	3135GOZ72	26246	5,034,402
Federal Home Loan Mt	UBOC	1,300,000	1.500	06/08/2016	1,300,000	05/26/2020	1,425	1.499	1,300,416	3134G9ND5	26336	1,300,000



Northern California Power Agency  
Treasurer's Report  
06/30/2016

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 Farm Credit	UBOC	4,260,000	1.680	10/29/2015	4,260,000	10/29/2020	1,581	1.680	4,260,085	3133EFMG9	26272	4,260,000
Federal National Mtg	UBOC	5,162,000	1.625	05/25/2016	5,162,000	05/25/2021	1,789	1.625	5,166,543	3136G3NL5	26332	5,162,000
Federal Farm Credit	UBOC	10,629,000	1.690	06/02/2016	10,629,000	06/02/2021	1,797	1.690	10,671,622	3133EGDH5	26335	10,629,000
Fund Total and Average		\$ 76,119,203	1.135		\$ 76,222,734		830	1.101	\$ 76,441,477			\$ 76,195,394
GRAND TOTALS:		\$ 166,350,643	0.897		\$ 166,605,652		619	0.858	\$ 167,083,873.			\$ 166,533,043

\*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 06/30/2016

- Investment #25942 - FFCB - Callable anytime.
- Investment #26223 - FHLMC - Callable on 4/27/2017 Only.
- Investment #26270 - FFCB - Callable anytime.
- Investment #26271 - FHLMC - Callable quarterly.
- Investment #26272 - FFCB - Callable anytime.
- Investment #26330 - FNMA - Callable quarterly.
- Investment #26331 - FHLMC - Callable quarterly.
- Investment #26332 - FNMA - Callable quarterly.
- Investment #26335 - FFCB - Callable 6/2/17, then anytime
- Investment #26336 - FHLMC - Callable quarterly.



Northern California Power Agency  
Treasurer's Report

06/30/2016

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	327	0.722	872,358	3130A1NN4	26334	871,181
<b>Fund Total and Average</b>		<b>\$ 870,000</b>	<b>0.875</b>		<b>\$ 871,305</b>		<b>327</b>	<b>0.723</b>	<b>\$ 872,358</b>			<b>\$ 871,181</b>

Geothermal Debt Service

Federal Home Loan Ba	USBT	326,000	0.350	02/26/2016	325,601	07/01/2016	0	0.355	326,000	313384YV5	26305	326,000
Federal National Mtg	USBT	992,000	0.390	01/27/2016	990,324	07/01/2016	0	0.396	992,000	313588YV1	26293	992,000
<b>Fund Total and Average</b>		<b>\$ 1,318,000</b>	<b>0.380</b>		<b>\$ 1,315,925</b>		<b>0</b>	<b>0.386</b>	<b>\$ 1,318,000</b>			<b>\$ 1,318,000</b>

Geo 2012A Debt Service

Federal National Mtg	USBT	79,000	0.390	01/27/2016	78,866	07/01/2016	0	0.396	79,000	313588YV1	26292	79,000
<b>Fund Total and Average</b>		<b>\$ 79,000</b>	<b>0.390</b>		<b>\$ 78,866</b>		<b>0</b>	<b>0.396</b>	<b>\$ 79,000</b>			<b>\$ 79,000</b>

Geothermal Special Reserve

Local Agency Investm	LAIF	0	0.356	07/01/2013	0		1	0.356	0	SYST0032	70032	0
Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYST0015	70015	0
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYST0063	70063	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	878	1.150	1,500,525	3134G8KVO	26302	1,500,000
<b>Fund Total and Average</b>		<b>\$ 1,500,000</b>	<b>1.150</b>		<b>\$ 1,500,000</b>		<b>878</b>	<b>1.150</b>	<b>\$ 1,500,525</b>			<b>\$ 1,500,000</b>

Geo Decommissioning Reserve

Local Agency Investm	LAIF	3,673,313	0.462	07/01/2013	3,673,313		1	0.462	3,673,313	SYST0027	70027	3,673,313
Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYST0034	70034	0
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SYST0059	70059	0
Federal National Mtg	UBOC	4,128,000	0.625	01/24/2014	4,129,569	08/26/2016	56	0.635	4,128,949	3135G0YE7	26084	4,128,093
Federal Home Loan Mt	UBOC	865,000	0.625	12/20/2012	865,000	12/05/2016	157	0.624	866,176	3134G3Z37	25946	865,000
Federal Farm Credit	UBOC	5,488,000	1.900	08/28/2015	5,498,976	08/24/2020	1,515	1.857	5,497,714	3133EFAR8	26247	5,497,124
<b>Fund Total and Average</b>		<b>\$ 14,154,313</b>	<b>1.078</b>		<b>\$ 14,166,858</b>		<b>614</b>	<b>1.064</b>	<b>\$ 14,166,152</b>			<b>\$ 14,163,530</b>

GEO Debt Service Reserve Acct

Federal Home Loan Mt	USBT	1,109,000	1.750	06/02/2015	1,125,979	05/30/2019	1,063	1.354	1,139,498	3137EADG1	26228	1,121,386
Federal Home Loan Mt	USBT	2,515,000	1.250	02/27/2015	2,483,839	10/02/2019	1,188	1.530	2,544,878	3137EADM8	26197	2,492,952





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GEO Debt Service Reserve Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
	Fund Total and Average	\$ 3,624,000	1.405		\$ 3,609,818		1149	1.476	\$ 3,684,376			\$ 3,614,338
<b>Geo 2012A DSR Account</b>												
Federal National Mtg	USBT	1,517,000	1.625	05/25/2016	1,517,000	05/25/2021	1,789	1.625	1,518,335	3136G3N15	26333	1,517,000
	Fund Total and Average	\$ 1,517,000	1.625		\$ 1,517,000		1789	1.625	\$ 1,518,335			\$ 1,517,000
	<b>GRAND TOTALS:</b>	\$ 23,062,313	1.120		\$ 23,059,772		744	1.117	\$ 23,138,746.			\$ 23,063,049

\*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 06/30/2016

Investment #26247 - FHLB - Callable 8/24/16, then any time  
Investment #26302 - FHLMC - Callable quarterly.  
Investment #26333 - FNMA - Callable quarterly.



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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	2,088,236	0.462	07/01/2013	2,088,236		1	0.462	2,088,236	SYS70028	70028	2,088,236
Union Bank of Califo	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYS70031	70031	0
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	728	0.950	3,994,557	3134G9A80	26339	3,993,000
Federal Home Loan Mt	UBOC	3,221,000	1.150	02/29/2016	3,221,000	11/26/2018	878	1.150	3,222,127	3134G8KYO	26304	3,221,000
Federal National Mig	UBOC	5,320,000	1.350	06/30/2016	5,320,000	12/30/2019	1,277	1.350	5,325,533	3136G3VH5	26340	5,320,000
<b>Fund Total and Average</b>		<b>\$ 14,622,236</b>	<b>1.070</b>		<b>\$ 14,622,236</b>		<b>857</b>	<b>1.070</b>	<b>\$ 14,630,453</b>			<b>\$ 14,622,236</b>

Hydro Initial Facilities

Federal National Mig	USB	1,529,000	1.625	12/12/2014	1,539,244	11/27/2018	879	1.450	1,561,552	3135GOY74	26189	1,535,226
Federal Farm Credit	USB	2,437,000	1.250	02/02/2016	2,450,501	01/22/2019	935	1.060	2,464,684	3133EFVQ7	26300	2,448,621
<b>Fund Total and Average</b>		<b>\$ 3,966,000</b>	<b>1.395</b>		<b>\$ 3,989,745</b>		<b>913</b>	<b>1.210</b>	<b>\$ 4,026,236</b>			<b>\$ 3,983,847</b>

Hydro Debt Service

Federal Home Loan Ba	USBT	2,915,000	0.350	02/26/2016	2,911,429	07/01/2016	0	0.355	2,915,000	3133B4YV5	26308	2,915,000
Federal National Mig	USBT	11,750,000	0.390	01/27/2016	11,730,143	07/01/2016	0	0.396	11,750,000	313568YV1	26294	11,750,000
<b>Fund Total and Average</b>		<b>\$ 14,665,000</b>	<b>0.382</b>		<b>\$ 14,641,572</b>		<b>0</b>	<b>0.388</b>	<b>\$ 14,665,000</b>			<b>\$ 14,665,000</b>

Hydro Debt Service Resrv 2010A

Federal Farm Credit	USB	5,528,000	1.750	08/28/2015	5,546,187	08/04/2020	1,495	1.680	5,674,492	3133EE5Z9	26243	5,543,084
<b>Fund Total and Average</b>		<b>\$ 5,528,000</b>	<b>1.750</b>		<b>\$ 5,546,187</b>		<b>1495</b>	<b>1.680</b>	<b>\$ 5,674,492</b>			<b>\$ 5,543,084</b>

Hydro 2012A Rebate Account

Federal Home Loan Mt	USB	651,000	1.000	02/09/2012	649,392	03/08/2017	250	1.050	653,135	3137EADCC	25853	650,783
<b>Fund Total and Average</b>		<b>\$ 651,000</b>	<b>1.000</b>		<b>\$ 649,392</b>		<b>250</b>	<b>1.050</b>	<b>\$ 653,135</b>			<b>\$ 650,783</b>

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 Califo	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



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Hydro Special Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equity Yield	Market Value	CUSIP	Investment #	Carrying Value
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	878	1.150	1,500,525	313468KVO	26303	1,500,000
<b>Fund Total and Average</b>		<b>\$ 1,500,000</b>	<b>1.150</b>		<b>\$ 1,500,000</b>		<b>878</b>	<b>1.150</b>	<b>\$ 1,500,525</b>			<b>\$ 1,500,000</b>
<b>Hydro 2012 DSRA</b>												
Federal Farm Credit	USB	100,000	1.750	08/28/2015	100,329	08/04/2020	1,495	1.680	102,650	3133EE529	26244	100,273
Federal Home Loan Mt	USB	3,928,000	2.375	02/09/2012	3,926,232	01/13/2022	2,022	2.380	4,160,341	3137EADB2	25852	3,927,015
<b>Fund Total and Average</b>		<b>\$ 4,028,000</b>	<b>2.359</b>		<b>\$ 4,026,561</b>		<b>2009</b>	<b>2.363</b>	<b>\$ 4,262,991</b>			<b>\$ 4,027,288</b>
<b>GRAND TOTALS:</b>		<b>\$ 44,960,236</b>	<b>1.075</b>		<b>\$ 44,975,683</b>		<b>756</b>	<b>1.053</b>	<b>\$ 45,412,832.</b>			<b>\$ 44,992,238</b>

\*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 06/30/2016

Investment #26303 – FHL/MC - Callable quarterly.  
Investment #26339 – FHL/MC - Callable quarterly.  
Investment #26340 – FNMA - Callable quarterly.



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Cap Facilities Debt Service

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Federal Home Loan Ba	USBT	473,000	0.319	04/25/2016	472,601	07/29/2016	28	0.324	472,939	313394ZZ5	26327	472,882
Federal Home Loan Mt	USBT	473,000	0.450	01/27/2016	471,912	07/29/2016	28	0.457	472,939	313396ZZ9	26295	472,834
Federal Home Loan Mt	USBT	1,507,000	0.420	02/09/2016	1,503,994	07/29/2016	28	0.426	1,506,804	313396ZZ9	26301	1,506,508
Federal National Mtg	USBT	473,000	0.410	02/26/2016	472,154	08/01/2016	31	0.416	472,901	313588AA7	26309	472,833
Federal National Mtg	USBT	472,000	0.349	03/29/2016	471,426	08/01/2016	31	0.355	471,901	313588AA7	26317	471,858
<b>Fund Total and Average</b>		<b>\$ 3,398,000</b>	<b>0.399</b>		<b>\$ 3,392,087</b>		<b>29</b>	<b>0.405</b>	<b>\$ 3,397,484</b>			<b>\$ 3,396,915</b>

Cap. Fac. Debt Svc Reserve

Federal Home Loan Mt	USB	1,443,000	2.375	02/13/2012	1,447,430	01/13/2022	2,022	2.340	1,528,353	3137EADB82	25945	1,445,472
<b>Fund Total and Average</b>		<b>\$ 1,443,000</b>	<b>2.375</b>		<b>\$ 1,447,430</b>		<b>2022</b>	<b>2.340</b>	<b>\$ 1,528,353</b>			<b>\$ 1,445,472</b>
<b>GRAND TOTALS:</b>		<b>\$ 4,841,000</b>	<b>0.989</b>		<b>\$ 4,839,517</b>		<b>624</b>	<b>0.983</b>	<b>\$ 4,925,837.</b>			<b>\$ 4,842,387</b>

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Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016



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LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		71,214	0.463	07/01/2013	71,214		1	0.463	71,214	SYS70046	70046	71,214
<b>Fund Total and Average</b>		<b>\$ 71,214</b>	<b>0.463</b>		<b>\$ 71,214</b>		<b>1</b>	<b>0.463</b>	<b>\$ 71,214</b>			<b>\$ 71,214</b>

LEC Construction Revolving

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

LEC Issue#1 2010A DS Fund

US Bank Trust	USB	693,632	0.100	07/01/2013	693,632		1	0.100	693,632	SYS79003	79003	693,632
<b>Fund Total and Average</b>		<b>\$ 693,632</b>	<b>0.100</b>		<b>\$ 693,632</b>		<b>1</b>	<b>0.100</b>	<b>\$ 693,632</b>			<b>\$ 693,632</b>

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	726,129	0.100	07/01/2013	726,129		1	0.100	726,129	SYS79004	79004	726,129
<b>Fund Total and Average</b>		<b>\$ 726,129</b>	<b>0.100</b>		<b>\$ 726,129</b>		<b>1</b>	<b>0.100</b>	<b>\$ 726,129</b>			<b>\$ 726,129</b>

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	434,280	0.100	07/01/2013	434,280		1	0.100	434,280	SYS79011	79011	434,280
<b>Fund Total and Average</b>		<b>\$ 434,280</b>	<b>0.100</b>		<b>\$ 434,280</b>		<b>1</b>	<b>0.100</b>	<b>\$ 434,280</b>			<b>\$ 434,280</b>

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	348,923	0.100	07/01/2013	348,923		1	0.100	348,923	SYS79012	79012	348,923
<b>Fund Total and Average</b>		<b>\$ 348,923</b>	<b>0.100</b>		<b>\$ 348,923</b>		<b>1</b>	<b>0.100</b>	<b>\$ 348,923</b>			<b>\$ 348,923</b>

LEC Issue #1 2010 DSR Fund

US Bank Trust	USB	40,822	0.100	07/01/2013	40,822		1	0.100	40,822	SYS79005	79005	40,822
Federal National Mig	USB	4,170,000	0.875	05/30/2014	4,171,960	08/28/2017	423	0.977	4,181,509	3135GOMZ3	26136	4,170,700
Federal Farm Credit	USB	4,360,000	1.660	06/09/2016	4,360,000	05/25/2021	1,789	1.659	4,372,775	3133EGGBZ7	26337	4,360,000
<b>Fund Total and Average</b>		<b>\$ 8,570,822</b>	<b>1.271</b>		<b>\$ 8,572,782</b>		<b>1116</b>	<b>1.321</b>	<b>\$ 8,595,106</b>			<b>\$ 8,571,522</b>



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LEC Iss#1 2010B BABS Subs Resv

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	2,262,276	0.100	07/01/2013	2,262,276		1	0.100	2,262,276	SYS79006	79006	2,262,276
Fund Total and Average		\$ 2,262,276	0.100		\$ 2,262,276		1	0.100	\$ 2,262,276			\$ 2,262,276

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	1,087,077	0.100	07/01/2013	1,087,077		1	0.100	1,087,077	SYS79013	79013	1,087,077
Fund Total and Average		\$ 1,087,077	0.100		\$ 1,087,077		1	0.100	\$ 1,087,077			\$ 1,087,077

LEC O & M Reserve

Local Agency Investim		2,313,807	0.462	07/01/2013	2,313,807		1	0.462	2,313,807	SYS70047	70047	2,313,807
Union Bank of Califo	UBOC	0	0.002	07/18/2013	0		1	0.002	0	SYS70041	70041	0
Federal Home Loan Ba	UBOC	3,100,000	0.625	06/27/2016	3,099,380	06/27/2017	361	0.645	3,100,806	3130ABLCS	26338	3,099,387
Federal National Mig	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	963	1.220	3,014,156	3135G0ZA4	26248	2,982,364
Federal National Mig	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	1,460	1.300	3,002,370	3136G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,346,807	1.097		\$ 11,411,329		735	0.931	\$ 11,431,139			\$ 11,395,558

GRAND TOTALS:

		\$ 25,541,161	0.937		\$ 25,607,643		701	0.880	\$ 25,649,777			\$ 25,590,612
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Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016

Investment # 26337 - FFCB - Callable on 5/25/17, then any time.  
Investment # 26341 - FNMA - Callable on 6/30/17 only.



# Commission Staff Report

July 14, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** Approval of Amendment No. 1 to the Alameda Single Member Services Agreement for Special Transactions and Confirmation of Advisory Services

**AGENDA CATEGORY:** Consent

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

**IMPACTED MEMBERS:**

All Members	<input type="checkbox"/>	City of Lodi	<input type="checkbox"/>	City of Ukiah	<input type="checkbox"/>
Alameda Municipal Power	<input checked="" 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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

**RECOMMENDATION:**

NCPA staff recommends that the Commission:

1. Adopt and approve Amendment No. 1 to the Single Member Services Agreement for Special Transactions by and between the City of Alameda and Northern California Power Agency; and
2. Adopt and approve the Confirmation of Advisory Services under which NCPA shall provide Advisory Services in support of the City of Alameda's desire to sell its entitlement share of the output of the Butte Landfill Project and the High Winds Project to a third party; and
3. Authorize the General Manager of NCPA to execute the Amendment No. 1 to the Single Member Services Agreement for Special Transactions and the Confirmation of Advisory Services, on behalf of NCPA, including any non-substantive modifications to the Amendment No. 1 to the Single Member Services Agreement for Special Transactions and the Confirmation for Advisory Services, as approved by NCPA's General Counsel.

**BACKGROUND:**

The Single Member Services Agreement for Special Transactions by and between the City of Alameda ("Alameda") and the Northern California Power Agency ("NCPA") (the "Alameda SMSA") contains the terms and conditions under which NCPA may supply certain Services to Alameda, including, but not limited to, Advisory Services. The Alameda SMSA contains an effective date of July 5, 2006, and is set to terminate automatically ten (10) years from its effective date. NCPA and Alameda desire to extend the term of the Alameda SMSA and associated Confirmations to enable NCPA's continued provision of Services and Transactions to Alameda, as contemplated under the Alameda SMSA.

Alameda has also requested NCPA to provide certain Advisory Services pursuant to the terms and conditions of the Alameda SMSA.

**AMENDMENT NO. 1 TO THE ALAMEDA SMSA**

To enable NCPA and Alameda to extend the effective term of the Alameda SMSA, NCPA, in coordination with Alameda, has developed Amendment No. 1 to the Alameda SMSA to extend the term of the Alameda SMSA through June 30, 2026.

Amendment No. 1 to the Alameda SMSA has been attached to this staff report for your reference.

**CONFIRMATION FOR ADVISORY SERVICES**

Pursuant to the Alameda SMSA, NCPA may provide certain Advisory Services to Alameda upon receipt of a written Confirmation requesting such Advisory Services. Advisory Services include technical, economic, financial, legal, risk and credit analysis, and other advice of a professional manner. Alameda has submitted an Advisory Services request to NCPA, seeking NCPA's assistance to sell Alameda's entitlement share of the output of the Butte Landfill Project and the High Winds Project (the "Projects") to a third party. In response to Alameda's request, NCPA has prepared a Confirmation of Advisory Services under which NCPA has agreed to assist



Alameda by: (i) performing certain market review and quantitative analysis to develop desired terms of sale for marketing Alameda's entitlement share of the Projects, (ii) assisting Alameda with the development of a Request for Offers to seek bids from prospective buyers, and (iii) pending receipt of bids from prospective buyers, assisting Alameda in evaluating offers and development of an agreement under which Alameda may sell its entitlement share of output in the Projects.

The Confirmation of Advisory Services has been attached to this staff report for your reference.

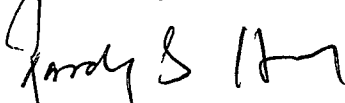
**FISCAL IMPACT:**

Pursuant to the terms and conditions of the Alameda SMSA, NCPA shall invoice Alameda for all costs associated with work performed under the Confirmation of Advisory Services. Such services shall be invoiced on a time and materials basis at NCPA's cost, including all benefits paid to NCPA employees.

**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: 3

**RESOLUTION 16-53**

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY  
APPROVAL OF AMENDMENT NO. 1 TO THE ALAMEDA SINGLE MEMBER  
SERVICES AGREEMENT FOR SPECIAL TRANSACTIONS AND CONFIRMATION  
OF ADVISORY SERVICES**

**(reference Staff Report #173:16)**

WHEREAS, the Single Member Services Agreement for Special Transactions by and between the City of Alameda ("Alameda") and the Northern California Power Agency ("NCPA") (the "Alameda SMSA") contains the terms and conditions under which NCPA may supply certain Services to Alameda, including, but not limited to, Advisory Services; and

WHEREAS, the Alameda SMSA contains an effective date of July 5, 2006, and is set to terminate automatically ten (10) years from its effective date; and

WHEREAS, NCPA and Alameda desire to extend the term of the Alameda SMSA and associated Confirmations to enable NCPA's continued provision of Services and Transactions to Alameda, as contemplated under the Alameda SMSA; and

WHEREAS, to enable NCPA and Alameda to extend the effective term of the Alameda SMSA, NCPA, in coordination with Alameda, has developed Amendment No. 1 to the Alameda SMSA to extend the term of the Alameda SMSA through June 30, 2026; and

WHEREAS, pursuant to the Alameda SMSA, NCPA may provide certain Advisory Services to Alameda upon receipt of a written Confirmation requesting such Advisory Services; and

WHEREAS, Advisory Services include technical, economic, financial, legal, risk and credit analysis, and other advice of a professional manner; and

WHEREAS, Alameda has submitted an Advisory Services request to NCPA, seeking NCPA's assistance to sell Alameda's entitlement share of the output of the Butte Landfill Project and the High Winds Project (the "Projects") to a third party; and

WHEREAS, in response to Alameda's request, NCPA has prepared a Confirmation of Advisory Services under which NCPA has agreed to assist Alameda by: (i) performing certain market review and quantitative analysis to develop desired terms of sale for marketing Alameda's entitlement share of the Projects, (ii) assisting Alameda with the development of a Request for Offers to seek bids from prospective buyers, and (iii) pending receipt of bids from prospective buyers, assisting Alameda in evaluating offers and development of an agreement under which Alameda may sell its entitlement share of output in the Projects; and

WHEREAS, pursuant to the terms and conditions of the Alameda SMSA, NCPA shall invoice Alameda for all costs associated with work performed under the Confirmation of Advisory Services, and such services shall be invoiced on a time and materials basis at NCPA's cost, including all benefits paid to NCPA employees; 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:

1. Adopts and approves Amendment No. 1 to the Single Member Services Agreement for Special Transactions by and between the City of Alameda and Northern California Power Agency; and
2. Adopts and approves the Confirmation of Advisory Services under which NCPA shall provide Advisory Services in support of the City of Alameda's desire to sell its entitlement share of the output of the Butte Landfill Project and the High Winds Project to a third party; and
3. Authorizes the General Manager of NCPA to execute the Amendment No. 1 to the Single Member Services Agreement for Special Transactions and the Confirmation of Advisory Services, on behalf of NCPA, including any non-substantive modifications to the Amendment No. 1 to the Single Member Services Agreement for Special Transactions and the Confirmation for Advisory Services, as approved by NCPA's General Counsel.

PASSED, ADOPTED and APPROVED this \_\_\_ day of \_\_\_\_\_, 2016 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	_____	_____	_____

\_\_\_\_\_  
 CAROL GARCIA  
 CHAIRPERSON

ATTEST: \_\_\_\_\_  
 CARY A. PADGETT  
 ASSISTANT SECRETARY

**SINGLE MEMBER SERVICES AGREEMENT**  
**for**  
**SPECIAL TRANSACTIONS**  
**by and between the**  
**CITY OF ALAMEDA**  
**(Alameda Municipal Power)**  
**and the**  
**NORTHERN CALIFORNIA POWER AGENCY**

**AMENDMENT NO. 1**

This Amendment No. 1 to the Single Member Services Agreement for Special Transactions by and between the City of Alameda ("Alameda") and the Northern California Power Agency ("NCPA") dated as of July 5, 2006 (the "Alameda SMSA") is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ with reference to the following facts, among others:

- A. The Alameda SMSA contains an Effective Date of July 5, 2006, and is set to terminate automatically ten (10) years from its Effective Date.
- B. The Parties desire to extend the term of the Alameda SMSA and associated Confirmations to enable NCPA's continued provision of Services and Transactions to Alameda as contemplated under the Alameda SMSA.

Therefore, the Parties agree as follows:

1. Section 8.1 of the Alameda SMSA is replaced in its entirety with the following:

**"8.1 Term of This Agreement.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2026. Notwithstanding the foregoing, either Party may, at any time during the term of the Agreement, terminate this Agreement on a date at least ninety (90) days after delivery of a written notice of termination to the other Party, provided that, no termination shall become effective until the termination of all Services and Transactions."

The Parties have caused this Amendment No. 1 to the Alameda SMSA to be executed on the date as set forth above.

**CITY OF ALAMEDA**

**NCPA**

\_\_\_\_\_  
By: Glenn O. Steiger  
Date:

\_\_\_\_\_  
By: Randy Howard  
Date:

APPROVED AS TO FORM:

APPROVED AS TO FORM

\_\_\_\_\_  
Alan Cohen  
Assistant City Attorney

\_\_\_\_\_  
Michael Dean, General Counsel

**SINGLE MEMBER SERVICES AGREEMENT**  
for  
**SPECIAL TRANSACTIONS**  
by and between the  
**CITY OF ALAMEDA**  
**(ALAMEDA MUNICIPAL POWER)**  
and the  
**NORTHERN CALIFORNIA POWER AGENCY**

**CONFIRMATION**  
**ADVISORY SERVICES**

In accordance with the terms and conditions of the Single Member Services Agreement for Special Transactions by and between the City of Alameda and the Northern California Power Agency ("Alameda SMSA") dated July 5, 2006, as such may be amended from time to time, Northern California Power Agency ("NCPA") may provide certain Advisory Services to the City of Alameda ("Member") upon receipt of a written Confirmation requesting such Advisory Services from Member. Advisory Services includes technical, economic, financial, legal, risk and credit analysis, and other advice of a professional manner. Member has requested NCPA to provide Advisory Services as described herein, and NCPA has agreed to provide such Advisory Services in consideration of the costs of such activities as described herein. The Advisory Services provided to Member herein are separate and distinct from all other Advisory Services NCPA may provide to Member pursuant to the Alameda SMSA; therefore, this Confirmation does not replace or supersede any other Confirmation that may be made between NCPA and Member.

**SCOPE OF ADVISORY SERVICES**

Member has entered into a Power Purchase Agreement with Ameresco Butte County LLC, dated October 21, 2008, under which Member purchases output from a landfill gas electric generating facility located at the Butte County Neal Road Landfill (the "Butte Landfill Project"). Member has also entered into a Long-Term Power Purchase Agreement with PPM Energy, Inc., dated December 7, 2004, as such may be amended from time to time, under which Member purchases firm energy and environmental attributes produced by a wind turbine electrical generation facility located at a site in Solano County, California (the "High Winds Project"). Member has expressed an interest to sell its entitlement share of the output of the Butte Landfill Project and the High Winds Project to a Third Party for the balance of the term of each respective agreement. While Member is the purchaser and contracting party to each of the power purchase agreements, Member has requested NCPA's assistance to market the output of the Butte Landfill Project and High Winds Project to prospective buyers.

Pursuant to this Confirmation, Member requests NCPA's provision of the following Advisory Services in support of Member's desire to sell its entitlement share of the output of the Butte Landfill Project and the High Winds Project to a third party:

- Perform certain market review and quantitative analysis to assist Member in developing its desired terms of sale for marketing its entitlement share of the output of the Butte Landfill Project and the High Winds Project to prospective buyers;
- Assist Member with the development of a Request for Offers (“RFO”) to seek bids from prospective buyers to purchase its entitlement share of the output of the Butte Landfill Project and the High Winds Project for the balance of the term of each respective agreement; and
- Pending receipt of bids from prospective buyers, NCPA shall assist Member in evaluating such offers to determine if they satisfy the requirements set by Member, and NCPA will assist Member with the development of an agreement under which Member’s entitlement share of the output of the Butte Landfill Project and the High Winds Project will be sold to buyer for the balance of the term of each respective agreement.

### **COST OF ADVISORY SERVICES**

In compensation for NCPA’s provision of Advisory Services, as described herein, NCPA shall invoice Member for all costs associated with work performed on behalf of Member on a time and materials basis at NCPA’s cost, including all benefits paid to NCPA employees. By executing this Confirmation, Member hereby agrees to compensate NCPA for any and all costs, including legal fees, associated with NCPA’s provision of Advisory Services.

Member waives all provisions of the Alameda SMSA Article 2, including those requiring that NCPA provide estimates of costs or man-hours, names of personal who will perform services, or schedules of performance.

### **WAIVER OF RISK DISCLOSURE STATEMENT**

Member, by executing this Confirmation, acknowledges that it is aware of and has fully considered the risks inherent in consummating the transaction contemplated herein, and based on such understanding of the risks Alameda waives NCPA’s obligation to develop and provide the following risk disclosure statements as required under the SMSA: Contract Form Risk Disclosure Statement, Counterparty Risk Disclosure Statement, and Contract Damages Risk Disclosure Statement.

Alameda SMSA – Confirmation of Advisory Services

Page 3

Pursuant to the terms and conditions of the Alameda SMSA and this Confirmation, the undersigned hereby approves the scope of Advisory Services described herein. The Parties have caused this Advisory Services Confirmation to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF ALAMEDA**

**NCPA**

\_\_\_\_\_  
By: Glenn O. Steiger

Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
Alan Cohen

Assistant City Attorney

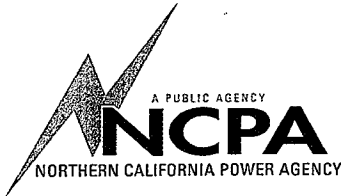
\_\_\_\_\_  
By: Randy Howard

Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Michael Dean, General Counsel





# Commission Staff Report

**DATE:** July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** Cisco Air Systems, Inc. – Five Year Multi-Task General Services Agreement for Air Compressor Services; Applicable to the following projects: All NCPA Generation Services Plant Locations, Members, SCPPA, and SCPPA Members

**AGENDA CATEGORY:** Consent

<b>FROM:</b> Ken Speer <i>KS</i>	<b>METHOD OF SELECTION:</b>
Generation Services	
<b>Division:</b> Generation Services	N/A
<b>Department:</b> CTs	

**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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

**RECOMMENDATION:**

Approve Resolution 16-54 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Cisco Air Systems, Inc. for air compressor services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

**BACKGROUND:**

Air compressor services are needed at various NCPA locations as well as member facilities for the operation of the plants. Cisco Air Systems, Inc. is a provider of these services. NCPA has an existing agreement with Cisco Air Systems executed in 2012 which is expiring as a result of the authorized funds being nearly fully expended.

**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.

**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:**

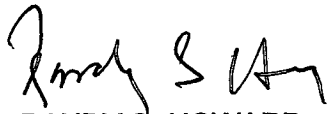
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

**COMMITTEE REVIEW:**

The recommendation above was reviewed by the Facilities Committee on July 6, 2016 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Participant Committee on July 11, 2016 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy S. Howard". The signature is written in a cursive style with a large initial "R" and a stylized "H".

RANDY S. HOWARD  
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Cisco Air Systems, Inc.

**RESOLUTION 16-54**

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

**(reference Staff Report #176:16)**

WHEREAS, various air compressor services are periodically required for plant 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, Cisco Air Systems, Inc. is a provider of these services; and

WHEREAS, on July 11, 2016, the LEC Project Participant Committee approved the agreement with Cisco Air Systems, Inc. in an amount not-to-exceed \$500,000 over five years; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Cisco Air Systems, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for various air compressor 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 \_\_\_\_\_, 2016 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	_____	_____	_____

\_\_\_\_\_  
CAROL GARCIA  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CARY A. PADGETT  
ASSISTANT SECRETARY



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
CISCO AIR SYSTEMS, 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 Cisco Air Systems, Inc., an S Corporation with its office located at 214 27<sup>th</sup> Street, Sacramento, CA 95816 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2016 ("Effective Date") in Roseville, California.

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

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform

the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable

**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 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. (Not applicable)

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed, or controlled pursuant to any national, state, or local law, statute, ordinance, directive, regulation, or other legal requirement of the United States.

**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 have 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.



- 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.

**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** **Work Provided Pursuant to Section 1.4.** If Contractor is providing Work to an Agency Member, SCLPA or SCLPA 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:

Cisco Air Systems, Inc.  
Attention: Kent Frkovich  
214 27<sup>th</sup> Street  
Sacramento, CA 95816

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

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

- 13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. 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

CISCO AIR SYSTEMS, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
**RANDY S. HOWARD, General Manager**

\_\_\_\_\_  
**KENT FRKOVICH, President**

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF WORK

Cisco Air Systems, Inc. ("Contractor") shall provide specialized OEM air compressor maintenance and services as requested by the Northern California Power Agency ("Agency") at all facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA), or SCPPA members. These services are not subject to the Maintenance Labor Agreement.

**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:

Pricing Specific to CT/LEC Facilities:

Brand	Model	Serial	HP	Year	Annual Hrs	Service Visits Per Contract
Atlas Copco	ZT18-FF	All704258	30	2005	4,000	10
Atlas Copco	CD60	All811770		2005	4,000	10
Atlas Copco	Inline Filters	DD60 & PD60			4,000	2
Atlas Copco	CD350	US0585711		2011	4,000	10

This Service Plan agreement is a comprehensive preventative maintenance (PM) program:

- **ZT18 Minor Preventative Maintenance Service Every - (6) Months**
  - o Replace air & oil filter kit
  - o Replace breather kit
  - o Take lubricant sample
  - o Take SPM readings
  - o Perform 47-point inspection
    - See copy of inspection form on pg-3 for details
  - o Inspect Air Treatment equipment
  - o Advise of any issues
  
- **ZT18 Major Preventative Maintenance Service Every - (24) Months**
  - o Same as the above minor service
  - o Replace muffler, drain valve & inlet valve
  - o Replace lubricant
  - o Grease drive motor bearings
  - o Advise of any issues

Quarterly Price: \$1,350.00 plus applicable sales tax

Item	Mfg	Model	Serial Number	Description	Mfg Year	Annual Operating Hours
1	Ingersoll Rand	R160i	V1535U12158	200 HP	2012	4,000
2	Atlas Copco	ZT145	APF162045	200 HP	2012	6,000
3	Atlas Copco	ZT145	APF164682	200 HP	2012	6,000
4	Atlas Copco	DD390P (4)	N/A	Inline Filters	2012	6,000
5	Atlas Copco	PD390 (4)	N/A	Inline Filters	2012	6,000
6						
7						
8						

Quarterly Price Not Including Sales Tax	\$8,685.00
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Pricing for services to be performed at other NCPA facilities, at NCPA Member facilities, or SCPPA or SCPPA member 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

CISCO AIR SYSTEMS, INC.

(Company name)

for contract work at:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

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 - NOT APPLICABLE

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:** July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** 3D Technical Services – Five Year Multi-Task General Services Agreement for Electrical and Instrumentation Services; Applicable to the following projects: All NCPA Generation Services Plant Locations, Members, SCPPA, and SCPPA Members

**AGENDA CATEGORY:** Consent

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

**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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

## **RECOMMENDATION:**

Approve Resolution 16-55 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with 3D Technical Services for electrical and instrumentation services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

## **BACKGROUND:**

Electrical and instrumentation services are periodically required for plant operations at various NCPA locations as well as member facilities for the operation of the plants. 3D Technical Services is a provider of these services.

## **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. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. 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 another enabling agreement with Contra Costa Electric 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:**

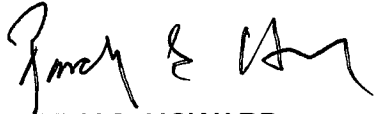
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

## **COMMITTEE REVIEW:**

The recommendation above was reviewed by the Facilities Committee on July 6, 2016 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Participant Committee on July 11, 2016 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy S. Howard". The signature is fluid and cursive, with the first name "Randy" being the most prominent.

RANDY S. HOWARD  
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with 3D Technical Services

**RESOLUTION 16-55**

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY  
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH  
3D TECHNICAL SERVICES**

**(reference Staff Report #177:16)**

WHEREAS, various electrical and instrumentation services are periodically required for plant 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, 3D Technical Services is a provider of these services; and

WHEREAS, on July 11, 2016, the LEC Project Participant Committee approved the agreement with 3D Technical Services in an amount not-to-exceed \$500,000 over five years; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with 3D Technical Services, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for various electrical and instrumentation 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 \_\_\_\_\_, 2016 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	_____	_____	_____

\_\_\_\_\_  
CAROL GARCIA  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CARY A. PADGETT  
ASSISTANT SECRETARY



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
3D TECHNICAL SERVICES, 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 3D Technical Services, Inc., a corporation with its office located at 2270 Curry Canyon Road, Clayton, CA 94517 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2016 ("Effective Date") in Roseville, California.

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

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within



the seven day period specified, then Contractor will have agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable

**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 **Pollution Insurance.** Not applicable.
- 4.5 **All Policies Requirements.**
- 4.5.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 **Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall have 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.
- 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.

**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 **Work Provided Pursuant to Section 1.4.** 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:

3D Technical Services, Inc.  
Attention: Daniel T. Farley, President  
P.O. Box 176  
Clayton, CA 94517

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

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

periods for filing a claim or action specified by Government Code §§ 900  
*et seq.*

- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's Proposal, the Exhibits shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPA or SCPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member

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

NORTHERN CALIFORNIA POWER AGENCY

3D TECHNICAL SERVICES, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
**RANDY S. HOWARD,**  
General Manager

\_\_\_\_\_  
**DANIEL T. FARLEY,**  
President

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF WORK

3D Technical Services, Inc. ("Contractor") shall provide electrical and instrumentation 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:

- Calibration
- Maintenance
- Automation
- Support Services



## 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:

	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>OT Premium</u>	<u>DT Premium</u>
Process Engineer	\$120	\$160	\$200	\$40	\$80
Lead Technician / Foreman	\$108	\$140	\$190	\$41	\$82
Instrument Technician	\$98	\$135	\$171	\$36	\$72
Instrument Fitter	\$98	\$135	\$171	\$36	\$72
Electrician Foreman	\$108	\$140	\$190	\$41	\$82
Electrician	\$98	\$135	\$171	\$36	\$72

#### Definition Of Hours

##### Straight Time:

All hours worked during a normal eight (8)-hour work day, Monday through Friday.

##### Time-and-One-Half:

All hours worked over eight (8) hours and up to ten (10) hours on a normal work day. All hours up to ten (10) worked on Saturday.

##### Double Time:

All hours worked over ten (10) on normal work days and Saturdays and all hours worked on Sundays and on legal holidays (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the day after, Christmas Eve and Christmas Day)

##### Emergency Call-Out:

A four (4)-hour minimum at the applicable rate defined above. Billing hours are portal to portal.

##### Contractor Markups

Materials: cost plus 20%  
Consumables: cost plus 20%  
Equipment rental: cost plus 15%

##### Specialized Equipment

Reference the Calibration and Installation Equipment Rate Schedule

##### Travel and Subsistence Expenses

on a per job basis with prior customer approval

##### Expiration of current rates

12/31/2016

Equipment Description

		price per unit		
		monthly	weekly	daily
<i>Calibration Equipment</i>				
Current Driver (4-20 ma)	Transmation 1028 or equal	\$250	\$75	\$40
Thermocouple Simulator	Transmation 1064 or equal	\$250	\$75	\$40
RTD Simulator	Transmation 1074 or equal	\$250	\$75	\$40
Pressure Calibrator	Transmation 1091 w/ modules or equal	\$325	\$85	\$50
Frequency Calibrator	Transmation 1171 or equal	\$325	\$85	\$50
Smart Communicator		\$325	\$85	\$50
Precision Multimeter	Fluke 87 or equal	\$250	\$75	\$40
Temperature Bath	Dry Block temp Calibrator	\$550	\$150	\$80

<i>Construction Equipment</i>				
Truck (Pickup)		\$1,400	\$500	\$150
Pipe Threading Machine - 1/2" to 2"	Rigid 535 or equal	\$1,000	\$350	\$100
Conduit Bender	Greenlee 555 or equal	\$1,000	\$350	\$100
Welding Machine		\$1,000	\$350	\$100
Calibration Trailer	mob / demob not included	\$1,000	\$350	\$100

Equipment rates include all maintenance and fuel. All equipment is quoted without operator.

Rates for equipment will be charged as noted:

Daily Any use within a twenty-four (24) hour period.  
Cumulative use per day never will exceed weekly rate

Weekly Five (5) days or more of eight (8) hours each.  
Cumulative use per week never will exceed monthly rate

Monthly Two (2) full weeks or more of consecutive equipment usage.

Expiration of current rates

12/31/2018

Agency acknowledges that Contractor's pricing is subject to change. Contractor shall provide thirty (30) days advance written notice to Agency of any price changes.

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

3D Technical Services, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

NOT APPLICABLE  
EXHIBIT D

CERTIFICATION

**Affidavit of Compliance for Hazardous Materials Transport Vendors**

I, \_\_\_\_\_,

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

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

EXHIBIT E

ATTACHMENT A [from MLA]  
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT  
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally 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:** July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** GHD, 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

<b>FROM:</b> Ken Speer <i>KS</i>	<b>METHOD OF SELECTION:</b>
Assistant General Manager	N/A
<b>Division:</b> Generation Services	
<b>Department:</b> 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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

**RECOMMENDATION:**

Approval of Resolution 16-56 authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with GHD, Inc. 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 \$2,500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

**BACKGROUND:**

Various professional and engineering services, such as civil, environmental, geotechnical and structural engineering, mapping and land surveying, construction observation and testing, 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. GHD, Inc., 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 \$2,500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

**SELECTION PROCESS:**

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements with AMEC Environment & Infrastructure, Condor Earth Technologies, and GEI Consultants for similar services and seeks bids from as many qualified providers as possible. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

**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 July 6, 2016 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Participant Committee on July 11, 2016 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy S. Howard". The signature is written in a cursive style with a large initial "R" and a distinct "H" at the end.

RANDY S. HOWARD  
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with GHD, Inc.



**RESOLUTION 16-56**

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

**(reference Staff Report #178:16)**

WHEREAS, professional and engineering services such as civil, environmental, geotechnical and structural engineering 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, GHD, Inc. is a provider of these services; and

WHEREAS, on July 11, 2016, the LEC Project Participant Committee approved the agreement with GHD, Inc., in an amount not-to-exceed \$2,500,000 over five years; and

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

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 GHD, Inc., with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$2,500,000 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 \_\_\_\_\_, 2016 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	_____	_____	_____

\_\_\_\_\_  
CAROL GARCIA  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CARY A. PADGETT  
ASSISTANT SECRETARY



## MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND GHD 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 GHD Inc., a corporation with its office located at 4080 Plaza Goldorado Circle, Suite B, Cameron Park, CA 95682 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2016 ("Effective Date") in Roseville, California.

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

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services or does not respond within the seven day period

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

**Section 2.**

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

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

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

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
[AcctsPayable@ncpa.com](mailto: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 five hundred thousand dollars (\$500,000) per claim. Such insurance shall be on "an occurrence" basis, except that Consultant may maintain such insurance 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.

**4.4 All Policies Requirements.**

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

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

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

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

- 4.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.
- 4.6 **Consultant's Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

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

- 5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent that they 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 directly arise out of, pertain to, or relate to such claims, ("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.

**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.
- 7.4 **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, Consultant must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Consultant 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.



Consultant 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.

Consultant shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Consultant 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 Consultant or by any subcontractor under Consultant 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 Consultant.

**Section 8. TERMINATION AND MODIFICATION.**

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

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

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

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

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

**8.4.1** Immediately terminate the Agreement;

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

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

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

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.
- 9.4 **Confidential Information and Disclosure.**
- 9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse

engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

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

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

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

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

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

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

**Section 10 MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 10.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, Generation Services, 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:

Alan Carlton, Senior Project Manager  
GHD Inc.  
4080 Plaza Goldorado Circle, Suite B  
Cameron Park, CA 95682  
(530)677-5515

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, a Purchase Order and 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.

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

GHD INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
**RANDY S. HOWARD, General Manager**

\_\_\_\_\_  
**ALAN CARLTON, Senior Project Manager**

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF SERVICES

As requested by NCPA, GHD Inc., ("Consultant") shall provide engineering consulting services to the Northern California Power Agency ("Agency"), Agency members, SCPA or SCPA members, including, without limitation:

- Engineering Consulting;
- Civil, Environmental, Geotechnical and Structural Engineering;
- Engineering Geology;
- Mapping / Land Surveying / GIS;
- Development of Construction Drawings, Plans, Specifications, Technical Documents, Reports and Presentations;
- Construction Observation and Testing;
- Special Inspection; and
- Other Miscellaneous Engineering Tasks.



## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### US WEST FEE SCHEDULE\* CAMERON PARK OFFICE (Effective March 2016)

##### Hourly Rates

Bruce, Jim	Professional	\$160.00
Burkhart, Thomas	Senior Professional	\$210.00
Carlton, Alan	Principal Professional	\$240.00
Codioli, Marjorie	Administrative Officer	\$88.00
Ferguson, Paul	Senior Professional	\$185.00
Francis, Shelise	Administrative Officer	\$88.00
Iseger, Bryon	Inspector	\$120.00
Jermstad, David	Senior Professional	\$210.00
Jermstad, Kyle	Professional	\$115.00
Moore, Carl	Senior Professional	\$195.00
Ronco, Mike	Professional	\$110.00
Thompson, Sue	Administrative Officer	\$95.00
Trumbull, Christopher	Senior Professional	\$205.00
Vander Dussen, Matthew	Survey	\$120.00
One Man Survey Crew		\$180.00
Two Man Survey Crew		\$275.00
Three Man Survey Crew		\$360.00

Employee time will be billed in accordance with the fees listed above. For other than professional employees, time spent over 8 hours per day, and time spent on Saturdays will be charged at 1.5 times the hourly billing rate. Work on Sundays will be charged at 2.0 times the hourly billing rate and holiday work will be charged at 2.5 times the hourly billing rate. All field personnel charges are portal to portal. Salaried professional employees will not be charged at premium charge rates for overtime work.

\*These rates do not apply to forensic-related services or to work for which Prevailing Wage obligations exist.

Estimated Prevailing Wage rates are as follows:

One Man Survey Crew (PW high)	\$210.00
One Man Survey Crew (PW low)	\$165.00
Two Man Survey Crew (PW high)	\$245.00
Two Man Survey Crew (PW low)	\$210.00
Three Man Survey Crew (PW high)	\$343.00
Three Man Survey Crew (PW low)	\$276.00
Senior Special Inspector with Equipment (PW)	\$132.00
Senior Special Inspector Tower Climb (PW)	\$175.00
Senior Special Inspector (PW)	\$118.00
Staff Special Inspector with Equipment (PW)	\$115.00
Staff Special Inspector (PW)	\$107.00
Senior Geotechnical Engineering Technician (PW)	\$105.00
Geotechnical Engineering Technician (PW)	\$103.00

**LABORATORY FEE SCHEDULE  
CAMERON PARK OFFICE  
(Effective October 2015)**

<u>Test</u>	<u>Unit Rate</u>
Compaction Curve – 4 inch mold (ASTM D698 or D1557)	\$200.00
Compaction Curve – 6 inch mold (ASTM D698 or D1557)	\$250.00
Cal Impact (CTM-216)	\$265.00
Sieve Analysis Including Wash (ASTM C136, C117, and CTM-202)	\$122.00
Sieve Analysis Wash Only (Passing #200 Sieve) (ASTM C117, and CTM-202)	\$70.00
Hydrometer, including sieve (ASTM D422, C136, C117, and CTM-202)	\$175.00
Hydrometer, without sieve (ASTM D422)	\$125.00
Atterberg Limits (ASTM D4318)	\$155.00
Moisture Content and Unit Weight (ASTM D2216, D2937, D4643)	\$32.00
Moisture Content (ASTM D2937, D4643)	\$22.00
Sand Equivalent (CTM-217)	\$83.00
R-Value (CTM-301)	\$300.00

Direct Shear, 3 point, includes remolding (ASTM D3080)	\$400.00
Unconfined Compressive Strength – Soil (ASTM D2166)	\$92.00
Unconfined Compressive Strength – Rock (ASTM D238)	\$112.00
Unconfined Compressive Strength – Concrete Cylinder (ASTM C39)	\$30.00
Unconfined Compressive Strength – Gunitite or Shotcrete (ACI 301)	\$162.00
Unconfined Compressive Strength – Cores (ASTM C42)	\$162.00
Unconfined Compressive Strength – Grout or Mortar (ASTM C579, C1019, C780)	\$30.00
Unconfined Compressive Strength – Masonry Block (ASTM C140)	\$151.00
Corrosion Suite: pH, Res, Chl, Sul, Redox (CTM-643, -422, -417, ASTM D1498)	\$205.00
TDA Sieve analysis (ASTM D6270)	\$385.00
TDA Compaction (ASTM D6270)	\$250.00

### Expenses

Expenses and other similar project related costs are billed out at cost plus 15%. The cost of using equipment and specialized supplies is billed on the basis of employee hours dedicated to projects. Our rates are as follows:

Office Consumables	\$ 6.00/hour
Environmental Dept/Construction Inspection consumables	\$11.00/hour
Survey Field consumables	\$15.00/hour
Various Environmental, Construction, and Land Survey Equipment	At market
Mileage	\$0.60/mile

### General Terms

The hourly rates set forth above are valid from January 1, 2016 and may be subject to an annual escalation of up to 5% per year, effective upon 30 days' prior written notice to NCPA. Pricing for services to be performed at NCPA Member or SCPA locations will be quoted at the time services are requested.

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

\_\_\_\_\_

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for contract work at

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

2672171.2



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# Commission Staff Report

**DATE:** July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** Pengo Wireline of California, Inc. - First Amendment to Multi-Task General Services Agreement for Wireline Services; Applicable to the following projects:  
All NCPA Generation Services Plant Locations

**AGENDA CATEGORY:** Consent

<b>FROM:</b>	Ken Speer <i>KS</i>	<b>METHOD OF SELECTION:</b>
	Assistant General Manager	N/A
<b>Division:</b>	Generation Services	
<b>Department:</b>	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"/>		<input type="checkbox"/>

Place an X in the box next to the applicable Member(s) above.

**RECOMMENDATION:**

Approve Resolution 16-57 authorizing the General Manager or his designee to enter into a First Amendment to the existing three year Multi-Task General Services Agreement with Pengo Wireline of California, Inc. for downhole wireline services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$180,000 to \$500,000 and amending the scope of work for use at all NCPA Generation Services plant locations.

**BACKGROUND:**

Pengo Wireline of California, Inc. provides downhole wireline 'hoisting' services which allow completion of casing calipers, BLM mandated pressure temperature surveys, high temperature camera runs, gauge ring runs, and several other services that are vital to continuing operation of various plant facilities. Pengo is often the low cost provider of these services and for this reason an increase in the authorized funds in the agreement is necessary.

**FISCAL IMPACT:**

If approved, the total cost of the agreement will not exceed \$500,000 over the existing three year term to be used out of NCPA approved budgets as services are rendered. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. 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 Cogco Inc., Expro Americas, Welaco, and Gregg Linville Consulting 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:**

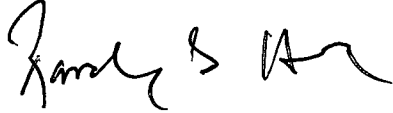
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

**COMMITTEE REVIEW:**

The recommendation was reviewed by the Facility Committee on July 6, 2016 and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Participant Committee on July 11, 2016 and was approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy S. Howard". The signature is fluid and cursive, with the first name "Randy" being the most prominent.

RANDY S. HOWARD  
General Manager

Attachments: (3)

- Resolution
- First Amendment to Multi-Task General Services Agreement with Pengo Wireline of California, Inc.
- Multi-Task General Services Agreement with Pengo Wireline of California, Inc.

**RESOLUTION 16-57**

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY  
APPROVING A FIRST AMENDMENT TO THE MULTI-TASK GENERAL SERVICES  
AGREEMENT WITH PENGOWIRELINE OF CALIFORNIA, INC.**

**(reference Staff Report #179:16)**

WHEREAS, Pengowireline of California, Inc. provides downhole wireline 'hoisting' services which allow completion of casing calipers, BLM mandated pressure temperature surveys, high temperature camera runs, gauge ring runs, and several other services that are vital to continuing operation of various plant facilities; and

WHEREAS, Pengowireline is often the low cost provider of these services and for this reason an increase in the authorized funds of the Agreement is necessary; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to the existing three year Multi-Task General Services Agreement with Pengowireline of California, Inc. for downhole wireline services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$180,000 to \$500,000 and amending the scope of work for use at all NCPA Generation Services plant locations.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016 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	_____	_____	_____

\_\_\_\_\_  
CAROL GARCIA  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CARY A. PADGETT  
ASSISTANT SECRETARY





**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND PENGOWIRELINE OF CALIFORNIA, INC.**

This First Amendment ("Amendment") to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Pengowireline of California, Inc. ("Contractor") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2016.

WHEREAS, the Parties entered into a three (3) year Multi-Task General Services Agreement dated effective July 10, 2015, (the "Agreement") for Contractor to provide downhole wireline services on wells at all NCPA facilities; 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 \$180,000 to a "NOT TO EXCEED" amount of \$500,000; and

WHEREAS, the Agency now desires to amend the Scope of Work set forth in Exhibit A to the Agreement, and

WHEREAS, the Agency now desire to amend the Scope of Work set forth in Exhibit B to the Agreement; and

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

NOW, THEREFORE, the Parties agree as follows:

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

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** Five Hundred Thousand dollars (\$500,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

4. 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

PENGO WIRELINE OF CALIFORNIA, INC.

\_\_\_\_\_  
**RANDY S. HOWARD, General Manager**

\_\_\_\_\_  
**DAVID E. WARREN, General Manager**

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF WORK

As requested by NCPA, Pengo Wireline of California, Inc. to provide labor and equipment for downhole wireline services on wells for work including, but not limited to:

- Pressure, temperature, and spinner surveys
- Casing caliper surveys
- Downhole video services
- Miscellaneous wireline work in support of drilling operations

None of the above listed services shall include any work that would qualify as a Public Works Project under the guidelines established by the State of California.

Pengo Wireline of California may perform these services at all NCPA facilities.

**EXHIBIT B  
COMPENSATION SCHEDULE AND HOURLY FEES**

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

<b>DAILY SERVICE COST ESTIMATE:</b>	<b>\$ / UNIT</b>
Daily Operation Charge - hoist service including pressure control Equipment and 3 Runs	\$ 5,500.00
Additional runs per day after 3 runs for hoist only	\$ 400.00
Daily travel cost per vehicle (2 vehicles used per day)	\$ 500.00
Mileage Charge per mile per vehicle (2 vehicles x 700 miles round trip)	\$ 2.25
Per hour charge after 12 hours	\$ 150.00
Daily Service Charge	\$ 1,000.00
Well Pressure Control device Charge	\$ 330.00
Pressure / Temp Survey High Temp Operation Charge – Minimum \$600.00	\$ 0.30
Pressure/ Temp Survey High Temp Depth Charge – Minimum \$880.00	\$ 0.44
Gamma ray/Neutron Operating Charge – Minimum \$540.00	\$ 0.30
Gamma ray/Neutron Depth Charge – Minimum \$600.00	\$ 0.32

For services not specified here, compensation shall be as mutually agreed in writing by Contractor and NCPA.

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.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
PENGO WIRELINE OF CALIFORNIA, 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 Pengo Wireline of California, Inc., a corporation, with its office located at 3529 Standard Street, Bakersfield, CA 93308 ("Contractor") (together sometimes referred to as the "Parties") as of 07-10, 2015 ("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 three (3) 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 ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000)** 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;
- 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:

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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 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.

**4.3.2 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.

**4.3.3 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.

**4.4 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. 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.

**4.5 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 ensues 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.

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**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.

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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.

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**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 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, 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.

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**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:

Pengo Wireline of California, Inc.  
3529 Standard Street  
Bakersfield CA, 93308

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



**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

PENGO WIRELINE OF CALIFORNIA, INC.

Date

7/14/15


Date

07-10-2015

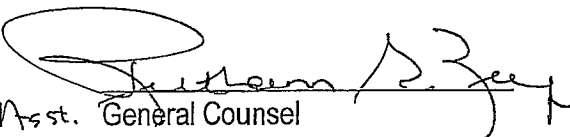
  
RANDY S. HOWARD, General Manager

  
DAVID E. WARREN, General Manager

Attest:

  
Assistant Secretary of the Commission

Approved as to Form:

  
Asst. General Counsel

## EXHIBIT A

### SCOPE OF WORK

As requested by NCPA, Pengo Wireline of California, Inc. to provide labor and equipment for downhole wireline services on wells for work including, but not limited to:

- Pressure, temperature, and spinner surveys
- Casing caliper surveys
- Wireline wellbore plugs
- Downhole video services
- Miscellaneous wireline work in support of drilling operations

Pengo Wireline of California may perform these services at all NCPA facilities.

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**EXHIBIT B  
COMPENSATION SCHEDULE AND HOURLY FEES**

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

<b>DAILY SERVICE COST ESTIMATE:</b>	<b>\$ / UNIT</b>
Daily Operation Charge including mining crane hoist service, pressure control Equipment and 3 Runs	\$ 5,500.00
Additional runs per day after 3 runs for hoist only	\$ 400.00
Daily travel cost per vehicle (2 vehicles used per day)	\$ 500.00
Mileage Charge per mile per vehicle (2 vehicles x 700 miles round trip)	\$ 2.25
Per hour charge after 12 hours	\$ 150.00
<hr/>	
Daily Service Charge	\$ 1,000.00
Well Pressure Control device Charge	\$ 330.00
Pressure / Temp Survey High Temp Operation Charge – Minimum \$600.00	\$ 0.30
Pressure/ Temp Survey High Temp Depth Charge – Minimum \$880.00	\$ 0.44
Gamma ray/Neutron Operating Charge – Minimum \$540.00	\$ 0.30
Gamma ray/Neutron Depth Charge – Minimum \$600.00	\$ 0.32
Setting Bridge Plug Wireline Charge from Surface to setting depth - Minimum \$510.00	\$ 0.20
Setting Tool Charge with HiTemp Power Charge	\$ 270.00

For services not specified here, compensation shall be as mutually agreed in writing by Contractor and NCPA.

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, David E. Warren

(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

Pengo Wireline

(Company name)

for contract work at

NCPA facilities

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this 10<sup>th</sup> day of July, 20 05.

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



# Commission Staff Report

**DATE:** July 18, 2016

**COMMISSION MEETING DATE:** July 27, 2016

**SUBJECT:** Flynn Resources Consultants, Inc. Staff Report

**AGENDA CATEGORY:** Consent

<b>FROM:</b>	Marty Hostler <del>MH</del> Reliability Compliance Manager	<b>METHOD OF SELECTION:</b>	N/A
<b>Division:</b>	Executive Services		
<b>Department:</b>	Compliance		

**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"/>		<input type="checkbox"/>

*If other, please specify.*

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*Place an X in the box next to the applicable Member(s) above.*

**RECOMMENDATION:**

Approve Resolution 16-58 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Flynn Resource Consultants, Inc., (Flynn RCI) for services related to electric transmission, power generation, regulatory support, contracts, compliance, and electric market issues, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$3,000,000 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:**

Ever changing and evolving electric transmission, generation, regulatory, contracts, compliance and market issues impact NCPA, SCPPA, and our members. Flynn RCI offers a host of these services to assist NCPA, SCPPA, and our members with issues resulting from said changes; and

**FISCAL IMPACT:**

The total cost of the agreement is not-to-exceed \$3,000,000 over five years to be used out of NCPA approved budgets as services are rendered. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. 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:**

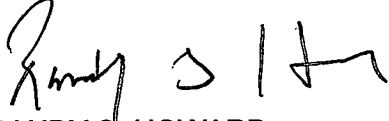
The recommendation above was reviewed by the Facilities Committee on July 6, 2016, and was recommended for Commission approval.

The recommendation above was reviewed by the Lodi Energy Center Participants Committee on July 11, 2016, and was approved.

July 18, 2016

Page 3

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy S. Howard". The signature is written in a cursive style with a large initial "R" and a distinct "S" and "H".

RANDY S. HOWARD

General Manager

Attachments: (2)

- Resolution
- Multi-Task Consulting Services Agreement with Flynn Resources Consultants, Inc.



**RESOLUTION 16-58**

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

**(reference Staff Report #180:16)**

WHEREAS, ever changing and evolving electric transmission, generation, regulatory, contract, compliance and market issues impact the Northern California Power Agency (NCPA), its members, the Southern California Public Power Authority (SCPPA), and SCPPA members; and

WHEREAS, Flynn RCI offers a host of services to assist NCPA, SCPPA and our members with issues resulting from said changes; and

WHEREAS, on July 11, 2016, the LEC Project Participant Committee approved the agreement with Flynn RCI in an amount not to exceed \$3,000,000 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 21066 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager, or his designee, to enter into a Multi-Task Consulting Services Agreement with Flynn Resource Consultants, Inc., for services related to electric transmission, power generation, regulatory support, contracts, compliance, and electric market issues, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$3,000,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA members.

PASSED, ADOPTED and APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2016, 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	_____	_____	_____

\_\_\_\_\_  
CAROL GARCIA  
CHAIRPERSON

ATTEST: \_\_\_\_\_  
CARY A. PADGETT  
ASSISTANT SECRETARY



**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY  
AND FLYNN RESOURCES CONSULTANTS, INC.**

This agreement for consulting 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 Flynn Resources Consultants, Inc. a California corporation with its office located at 5440 Edgeview Drive, Discovery Bay, CA 94505 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2016 ("Effective Date") in Roseville, California.

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

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, at any time during the term of this Agreement, has concerns about the assignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency, work with Agency to address Agency's concerns.
- 1.4 **Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day period

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

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** three million dollars (\$3,000,000) 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

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

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

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

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

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

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

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

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

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

**4.2.2 Automobile Liability.** If Consultant owns any automobile, 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) owned by the Consultant, on or off Agency premises. 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) of any vehicle 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) 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 two (2) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within two (2) 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 two (2) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 All Policies Requirements.**

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

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

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

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

insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

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

## **Section 6. STATUS OF CONSULTANT.**

- 6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of

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

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

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

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

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



subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

**Section 7. LEGAL REQUIREMENTS.**

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

**Section 8. TERMINATION AND MODIFICATION.**

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

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

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

- 8.4.1 Immediately terminate the Agreement;

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

8.4.3 Retain a different consultant to complete the Services not finished by Consultant.

**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 Marty Hostler, P.E. NCPA Reliability Compliance 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:

Doug Boccignone  
Flynn Resources Consultants Inc.  
5440 Edgeview Drive  
Discovery Bay, CA 94505

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, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.
- 10.13** **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 10.14** **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 10.15** **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCCPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

FLYNN RESOURCES CONSULTANTS INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Randy S. Howard, General Manager

\_\_\_\_\_  
**Douglas A. Boccignone, Chief Financial Officer**

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF SERVICES

#### FLYNN RCI SCOPE OF SERVICES TO NCPA, SCPPA, AND THEIR MEMBERS

NCPA is entering into this agreement with Flynn Resource Consultants Inc. ("Consultant") so that NCPA, SCPPA, and their members may secure professional consulting services related to electric transmission, power generation, regulatory support, contracts, compliance and electric market issues affecting Electrical Power Utilities and/or entities' large electrical power consumers.

The Consultant may be requested to perform the activities listed below during the term of this Agreement for NCPA, a member, and/or SCPPA if NCPA, member(s), and/or SCPPA agree to terms, condition, and compensation for said detailed scope services. Such activities may also include monitoring, meeting participation, coordinating with affected or other participating parties, and, as necessary, preparing and submitting formal position paper and other documentation.

1. Grid Planning Activities and Transmission Studies
  - California and regional transmission planning activities
  - Power flow, short circuit and dynamic modeling
2. Regionalization Activities
  - CAISO Regionalization Process, Transmission Access Charge, Governance and Resource Adequacy
  - Coordination with the California Municipal Utilities Association and Northern California Power Agency on these activities
3. State Regulatory Matters
  - CEC, CPUC and other western region state commission proceedings
4. Federal Regulatory Matters
  - Interconnection Agreement and Metered Subsystems Agreement Support
5. Electricity Market Issues
6. NERC/WECC Compliance Support
7. Litigation Support and Other Services related to electric transmission, power generation, regulatory support, contracts, compliance and electric markets



**EXHIBIT B**

**COMPENSATION SCHEDULE AND HOURLY FEES**

Compensation for all tasks under this agreement, including hourly fees and expenses, shall not exceed three million dollars (\$3,000,000). The hourly rates and/or compensation break down and an estimated amount of expenses is as follows:

Consultant hourly rates for the professional services are listed below.

<u>Labor Category</u>	<u>Hourly Rate (FY16-17)</u>
Principal	\$300 per hour
Managing Consultant	\$280 per hour
Senior Consultant – Power Engineer	\$270 per hour
Senior Consultant	\$245 per hour
Consultant	\$210 per hour
Associate Consultant	\$190 per hour
Analyst	\$135 per hour
Support Services	\$65 per hour

Each year, effective July 1, the applicable hourly rates for each labor category shall increase by 3%, rounded to the nearest \$5.

Travel (at coach rates), food, and miscellaneous expenses, except automobile mileage, associated with the provision of services hereunder shall be billed at cost. Automobile mileage will be billed at the rate approved by the Internal Revenue Service.

For any month in which specialized modeling software is used to perform services under this agreement, the following charges shall apply:

Power flow modeling -	\$ 225/month
Short circuit modeling –	\$ 650 /month
OASIS Data -	\$ 950 /month
Market modeling -	\$ 3,000/month

Each year, effective July 1, the specialized modeling software costs shall increase by 3%, rounded to the nearest \$5.

Specialized software costs that exceed the above amounts may be billed with the prior approval of the Agency.

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.

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# **Item 18**

No Staff Report  
Included for this  
item.