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Agenda

Date: August 7, 2014

Subject: August 11, 2014 Lodi Energy Center Project Participant Committee Meeting

Location: 12745 N. Thornton Road, Lodi, CA or via teleconference

Time: 10:00 A.M.

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

| | | |
|--|--|---|
| NCPA 12745 N. Thornton Road Lodi, CA | NCPA 651 Commerce Drive Roseville, CA | CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA |
| BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16th Floor Oakland, CA | CITY OF GRIDLEY 685 Kentucky Street Gridley, CA | CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA |
| CITY OF BIGGS 465 "C" Street Biggs, CA | CITY OF SANTA CLARA 1500 Warburton Avenue Santa Clara, CA | CITY OF UKIAH 411 W Clay Street Ukiah, CA |
| CALIFORNIA DEPARTMENT OF WATER RESOURCES 3310 El Camino Ave. Room LL93 Sacramento, CA | POWER & WATER RESOURCES POOLING AUTHORITY 2106 Homewood Way, Suite 100 Carmichael, CA | PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA |

The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon written request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or www.ncpa.com

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

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

2. Meeting Minutes - Approval of PPC meeting minutes for the July 14, 2014 regular meeting

MONTHLY REPORTS

3. Operational Report for July 2014 - (*Jeremy Lawson*)

4. Market Data Report for July 2014 – Verbal Report (*Bob Caracristi*)

5. Monthly Asset Report – (*Michael DeBortoli*)

CONSENT CALENDAR – JULY

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

6. Treasurer's Report for June 2014 - Accept by all Participants

7. Financial Report for June 2014 – Approve by all Participants

8. GHG Reports (excerpted from monthly ARB) - Accept by all Participants

9. Change Order No. 1 to Siemens Long Term Maintenance Program for LEC – Staff seeking approval of Change Order No. 1 to document the costs associated with warranty repair of Row 3 diaphragm replacement and to track the Event, Annual, and Contract limitations. No fiscal impact. (*Mike DeBortoli*)

10. Planned Maintenance Outage Schedule for Calendar Year 2015 – Staff seeking approval of the planned maintenance outage schedule for 2015 for LEC (*Mike DeBortoli*)

Consent Items pulled for discussion: _____

CONSENT CALENDAR - AUGUST

All items on the Consent Calendar are considered routine and will be approved without discussion by a single roll call vote. Any Project Participant or member of the public may remove any item from the Consent Calendar. If an item is removed, it will be discussed separately following approval of the

remainder of the Consent Calendar. Prior to the roll call vote to approve the Consent Calendar, the Participants will be polled to determine if any Participant wishes to abstain from one or more items on the Consent Calendar.

11. Treasurer's Report for July 2014 – Accept by all Participants

12. Financial Report for July 2014 – Approve by all Participants

13. GHG Reports (excerpted from monthly ARB) - Accept by all Participants

14. LEC Project Management and Operations Agreement (PMOA) Schedule 1.00 Exhibit 2 – VOM – Staff seeking approval of revised Exhibit 2 to Schedule 1.00 for revised Variable Operation and Maintenance Cost (VOM) to reflect the values approved in the FY14/15 Budget (*Mike DeBortoli*)

15. LEC Project Management and Operations Agreement (PMOA) Schedule 1.00 Exhibit 5 - CAISO Charges – Staff seeking approval of revised Exhibit 5 to Schedule 1.00 for revised 2014 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge (*Bob Caracristi*)

16. Trimark, Inc. Agreement – Staff seeking approval of a five year Multi-Task General Services Agreement in an amount not to exceed \$500,000 for maintenance and installation of meters, metering equipment, RIGS, DPG, communications or interface devices, and associated equipment, etc. as needed at all facilities. All purchase orders issued pursuant to this agreement will be charged against existing and future approved Annual Operating Budgets. (*Mike DeBortoli*)

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

17. Siemens Long Term Maintenance Program for LEC – Staff seeking approval of an “Amended and Restated Program Parts, Non-Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract” (LTMP) with Siemens Energy, Inc. including upgrade of parts to increase equivalent start intervals for Hot Gas Path and Major Inspections, a contract extension, contract clarity for “open/close” warranty parts liability, escalation of the Extra Work Authorization benefit, flexible scheduling, and other revisions, at an additional cost of \$28 million over the 18 year life of the agreement (*Mike DeBortoli*)

INFORMATIONAL ITEMS

18. August Forced Outage – Staff to provide information about the August unplanned outage (*Mike DeBortoli*)

19. LEC Project Management and Operations Agreement (PMOA) Schedule 7.00 – Staff to provide update regarding PMOA Schedule 7.00 revision (*James Takehara*)

20. Other New Business

ADJOURNMENT

Next Meeting: September 8, 2014

**Lodi Energy Center
Project Participant Committee Meeting
July 14, 2014 - MEETING MINUTES**

Location: Lodi Energy Center
12745 N. Thornton Rd, Lodi CA 95242
and by teleconference
10:00 A.M.

1. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:05 a.m. by Chairman Mike Werner. He asked that roll be called as listed below.

| PPC Meeting Attendance Summary | | |
|---------------------------------------|-------------------|--------------------------|
| Participant | Attendance | Particulars / GES |
| Azusa - Morrow | Present | 2.7857% |
| BART - Schultz | Absent | 6.6000% |
| Biggs - Sorenson | Present | 0.2679% |
| CDWR - Werner | Present | 33.5000% |
| Gridley - Stiles | Present | 1.9643% |
| Healdsburg - Crowley | Absent | 1.6428% |
| Lodi - Cadek | Present | 9.5000% |
| Lompoc - Hostler | Absent | 2.0357% |
| MID - Caballero | Present | 10.7143% |
| Plumas-Sierra - Brozo | Absent | 0.7857% |
| PWRPA - Palmerton | Present | 2.6679% |
| SVP - Hance | Absent | 25.7500% |
| Ukiah - Grandi | Absent | 1.7857% |
| Summary | | |
| Present | 7 | 61.4001% |
| Absent | 6 | 38.5999% |
| Quorum by #: | Yes | |
| Quorum by GES: | Yes | |

Also present were:
Lloyd Rowe (CDWR by telephone)
Ken Speer (NCPA)
Mike DeBortoli (NCPA)
Jeremy Lawson (NCPA)
Linda Stone (NCPA)
Bob Caracristi (NCPA by telephone)
Ken Goeke (NCPA by telephone)
Donna Stevener (NCPA by telephone)
Tom Lee (NCPA)
Gillian Biedler (NCPA)
Ruthann Ziegler (Meyers-Nave by telephone)

Public Forum

Chairman Werner asked if any members of the public were present in Lodi or at any of the other noticed meeting locations that would like to address the PPC on any agenda items. No members of the public were present.

2. Meeting Minutes

The draft minutes for the June 9, 2014 regular meeting were considered. The LEC PPC considered the following motion:

Date: 7/14/2014

Motion: The PPC approves the minutes of the June 9, 2014 regular meeting, including any edits discussed at today's meeting.

Moved by: Azusa

Seconded by: Gridley

Discussion: There was no further discussion.

| Vote Summary on Motion | | |
|-------------------------------|----------------|--------------------------|
| Participant | Vote | Particulars / GES |
| Azusa | Yes | 2.7857% |
| BART | Absent | 6.6000% |
| Biggs | Yes | 0.2679% |
| CDWR | Yes | 33.5000% |
| Gridley | Yes | 1.9643% |
| Healdsburg | Absent | 1.6428% |
| Lodi | Yes | 9.5000% |
| Lompoc | Absent | 2.0357% |
| Modesto | Yes | 10.7143% |
| Plumas-Sierra | Absent | 0.7857% |
| PWRPA | Yes | 2.6679% |
| Silicon Valley Power | Absent | 25.7500% |
| Ukiah | Absent | 1.7857% |
| | | |
| Vote Summary | | |
| Total Ayes | 7 | 61.4001% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 6 | 38.5999% |
| Result: | Motion Passed. | |

MONTHLY REPORTS

3. Operational Reports for June 2014

Jeremy Lawson presented the monthly written Operational Report including Safety, Notice of Violations, Outage Summaries, Planned Outages, and Generating Unit Statistics for June. There were no OSHA Recordable accidents, no Permit violations and no NERC/WECC violations. Jeremy discussed an outage that occurred on June 1 as a result of a high pressure economizer #1 tube leak. LEC was offline for 23.3 hours for the weld repair. A second outage occurred on June 7 as a result of a high pressure steam turbine bearing drive-end vibration. Staff continues to focus on the RAC which is a major concern. It is still holding up but Siemens is working on an alternative plan to address the issue of chloride induced stress.

Jeremy said the production number is down slightly for June. The report reflected monthly production of 51,036 net MWH, 217 service hours, and equivalent operating availability of 96.41%. The report set forth the Capacity Factor @ 280MW Pmax of 25.31% and @ 302MW Pmax of 23.47%. During the month the plant had 11 hot starts, zero warm starts, and three cold starts. Jeremy said the overall operation and unit itself is running well. The plant continues to follow the instructions received from ISO.

Marty Hostler arrived at the meeting during the Operational Report.

4. Market Data Report for June 2014

Bob Caracristi discussed the operating and financial settlement results for the month. Ken Goeke also provided comments and information.

5. Monthly Asset Report

Mike DeBortoli presented his updated monthly budget review for FY 14 with actual numbers compared to estimated values for May. He said the report has no surprises. He noted the gas price continues to be the biggest variable in the monthly budget analysis. With just June left to complete the budget year, he does not expect any significant deviations.

Consent Calendar

Chairman Werner asked if any Participant wished to remove any item listed on the Consent Calendar for separate discussion. Hearing none, he then asked if any Participant wished to abstain from one or more items on the Consent Calendar. There were no abstentions. It was noted that Owen Stiles needed to leave the meeting. As a result, a quorum was established by GES share of not less than a majority of the aggregate GES shares of all non-defaulting Participants. The LEC PPC considered the following motion:

Date: 7/14/2014

Motion: The PPC approves the 7/14/2014 Consent Calendar consisting of agenda items no. 6, 7, 8, and 9.

Moved by: Lompoc

Seconded by: Lodi

Discussion: There was no further discussion. A GES vote was requested by Chairman Werner.

| Vote Summary on Motion | | |
|-------------------------------|---------------------|--------------------------|
| Participant | Vote | Particulars / GES |
| Azusa | Yes | 2.7857% |
| BART | Absent | 6.6000% |
| Biggs | Absent | 0.2679% |
| CDWR | Yes | 33.5000% |
| Gridley | Absent | 1.9643% |
| Healdsburg | Absent | 1.6428% |
| Lodi | Yes | 9.5000% |
| Lompoc | Yes | 2.0357% |
| Modesto | Yes | 10.7143% |
| Plumas-Sierra | Absent | 0.7857% |
| PWRPA | Yes | 2.6679% |
| Silicon Valley Power | Absent | 25.7500% |
| Ukiah | Absent | 1.7857% |
| | | |
| Vote Summary | | |
| Total Ayes | 6 | 61.2036% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 7 | 38.7964% |
| Result: | Reported as Passed. | |

BUSINESS ACTION ITEMS

10. Change Order No. 2 to Siemens Long Term Maintenance Program for LEC

Mike DeBortoli presented a Staff Report which outlined the changes to the Long Term Maintenance Program Agreement with Siemens under negotiation. He said that some terms of the agreement were not yet finalized so he is not seeking approval at this month's meeting. He also said that instead of a second Change Order, the agreement may be revised and restated in its entirety so that the terms of the agreement are clear. He updated the Committee about ongoing negotiations and revisions regarding section 5.1 Term, the requirement for business interruption insurance, clarification of who pays for the cost for the cover opening and closing, new calculations regarding tune-ups, and adding of the borescopes. Mike noted that by increasing the number of starts from 900 to 1,200 he is hoping to eliminate the penalty for exceeding the allowed number of starts. Another benefit is that with the new parts there is flexibility as to when to do the maintenance thus being able to schedule a needed outage when the unit hits the number of starts or hours. George Morrow commented about the revision to remove the language "...and shall not unreasonably withhold its approval for such modification" in section 2.2 of the draft Change Order and discussion followed. Mike said the intention is to follow the contract and not get into a dispute about what is reasonable or unreasonable and noted the language is in the hands of legal counsel to finalize. Melissa Cadek of Lodi asked the

result if this amendment is not done at this time. Ken Speer said we would then continue to be bound by the limitation of 900 starts and the early starts penalty would be imposed. With the increase to 1,200 starts, elimination of the early starts penalty is estimated to result in a savings of about \$1Million per year. Mike Werner asked how we would be paying for the changes to the maintenance program. Mike DeBortoli said that the combustion inspection is not being performed so that cost savings by Siemens will be applied to the new parts so there are no upfront costs. Ken Speer noted the effective date of the change order or amendment to the program agreement will be November 1.

11. Planned Maintenance Outage Schedule for Calendar Year 2015

Mike DeBortoli presented the outage schedule planned for LEC for 2015. The LEC PPC considered the following motion:

Date: 7/14/2014

Motion: The PPC approves outage schedule for calendar year 2015 for the Lodi Energy Center as presented at today's meeting from May 1-24, 2015.

Moved by: Lompoc

Seconded by: Azusa

Discussion: There was no further discussion. A GES vote was requested by Chairman Werner.

| Vote Summary on Motion | | |
|-------------------------------|-------------|----------------------------|
| Participant | Vote | Particulars / GES |
| Azusa | Yes | 2.7857% |
| BART | Absent | 6.6000% |
| Biggs | Absent | 0.2679% |
| CDWR | Yes | 33.5000% |
| Gridley | Absent | 1.9643% |
| Healdsburg | Absent | 1.6428% |
| Lodi | Yes | 9.5000% |
| Lompoc | Yes | 2.0357% |
| Modesto | Yes | 10.7143% |
| Plumas-Sierra | Absent | 0.7857% |
| PWRPA | Yes | 2.6679% |
| Silicon Valley Power | Absent | 25.7500% |
| Ukiah | Absent | 1.7857% |
| Vote Summary | | |
| Total Ayes | 6 | 61.2036% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 7 | 38.7964% |
| Result: | | Reported as Passed. |

INFORMATIONAL ITEMS

12. Proposed PG&E Rate Increase

Gillian Biedler presented a PowerPoint presentation to explain participation on behalf of LEC in the Northern California Generation Coalition (NCGC) and PG&E natural gas transmission and storage rate case currently before the CPUC regarding 2015 charges. The NCGC is comprised of LEC, MID, NCPA (CT and STIG), Redding, SVP, and TID, all similarly situated with respect to natural gas transmission issues. She said this comes pursuant to extreme pressure following the San Bruno explosion and notes PG&E's expressed goal of becoming the safest gas utility in the country. It is not yet certain what penalty PG&E will be subject to as a result of that incident. She noted a proposed base revenue requirement of \$1.286 Billion for 2015 and 1.515 Billion for 2017; a significant increase. Through the presentation, Gillian outlined the bottom line for LEC as illustrated by hypothetical impacts based on 2013 gas consumption. She noted the PG&E proposal would double the cost which is a significant increase. The rate case is to go into effect on January 1, 2015. She discussed the EES study which will focus on four main points: allocation between core and non-core customers, high-consequence areas, bypass of PG&E facilities, and the need for a 100% balancing account. She said there is a strong feeling that expert witness testimony should be submitted to the rate case to make points others are not including. Jurisdictional questions and comments were raised about applicability to retail/wholesale entities and the CPUC rules. Gillian said she will investigate this question with Attorney Susie Berlin. Gillian said she will provide updates to the presentation. Ken Speer said he wants the Participants to be aware of this participation through NCGC to address the rate case. LEC could decide not to participate however the issues are significant so it is felt LEC needs to participate in the coalition. George Morrow requested that the Participants be provided with the filing documents as the rate case progresses. Gillian confirmed she will send links to pertinent documents to the LEC Participants as they become available.

13. LEC Project Management and Operations Agreement (PMOA) Schedule 7.00

James Takehara presented the first real draft of the Schedule 7.00 and a detailed PowerPoint presentation covering background, objectives, development status, and the concepts and formulas in determining the Differential Transmission Cost Adjustment (DTCA). In addition, he submitted a Staff Report discussing how the DTCA would be implemented, tracked, and settled. He explained that the draft Schedule 7.00 follows the original framework for this schedule and is calculated in three segments: (1) CAISO costs, (2) Western Area Power Administration (WAPA) cost, and (3) Other Benefit Adjustments. At the conclusion of the presentation the committee discussed the next steps. It was agreed that Participants would send to James any questions and comments; he would discuss the schedule with SVP also, and the item will be brought back for further discussion at next month's meeting. Chairman Werner posed the question what happens if the PPC does not approve this Schedule. Reference was made to PMOA Article 7 and James said he will look at that language and include it in the material presented at the next committee meeting.

14. Nexant Study Analysis and Findings

Gillian Biedler provided an update explaining that Nexant is now back on board and working on the data analysis. She summarized the analysis and work performed to date during the first two phases and said the third phase will include a written report and mitigation strategies.

15. Other New Business

Ken Speer said the meeting announcement for the NCPA Annual Conference in September has gone out to the NCPA members and PPC Participants. He also noted that Jim Pope has announced his retirement as of the end of this year.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, August 11, 2014. The meeting was adjourned at 12:18 a.m.

DRAFT



12745 N. Thornton Road
Lodi, CA 95242

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Lodi Energy Center Project Participant Committee Operational Report

Date: 8/11/2014
To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents

Notice of Violations

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

Outage Summaries:

- No Outages for the Month of July
- Update on Current Outage

Planned Outage Summaries:

- 2015, May 1st @ 0001 thru May 24th @ 2359 for a Combustion Inspection

Generating Unit Statistics:

LEC

Report**Date:**

Start Date 7/1/2014

End Date 7/31/2014

1. Monthly Production 118,197 MWH
2. Productivity Factor
- a. Service Hours 473 Hours
 - b. Service Factor 63.62 %
 - c. Capacity Factor @ 280MW Pmax 56.81 %
 - d. Capacity Factor @ 302MW Pmax 52.67 %
3. Equivalent Operating Availability (EOA) 100.00 %
4. Forced Outage Rate (FOR)
- a. Combustion Turbine Generator 0.00 %
 - b. Steam Turbine Generator 0.00 %
5. Heat Rate Deviation (HRD)
- a. Fuel Cost (Not Current Market Price) 4.00 \$/mmBTU

| MW Range | | Average HR | PMOA HR | Deviation | Production | Cost |
|----------|-----------|------------|-----------|-----------|----------------|------------------|
| | | BTU/kW-Hr | BTU/kW-Hr | % | MWH | \$ |
| Seg. 1 | 296 - 302 | 6,850 | 6850 | 0.00% | 0 | \$0 |
| Seg. 2 | 284 - 296 | 6,916 | 6870 | 0.67% | 981 | \$182 |
| Seg. 3 | 275 - 284 | 6,930 | 6971 | -0.59% | 58,253 | -\$9,645 |
| Seg. 4 | 250 - 275 | 6,958 | 7081 | -1.74% | 33,727 | -\$16,632 |
| Seg. 5 | 225 - 250 | 7,026 | 7130 | -1.46% | 9,290 | -\$3,855 |
| Seg. 6 | 200 - 225 | 7,129 | 7315 | -2.54% | 5,958 | -\$4,435 |
| Seg. 7 | 175 - 225 | 7,291 | 7711 | -5.45% | 5,584 | -\$9,383 |
| Seg. 8 | 165 - 175 | 7,565 | 7856 | -3.70% | 1,173 | -\$1,365 |
| | | | | | 114,965 | -\$45,134 |

6. AGC Control Deviation

| MW Range | | High Dev | Low Dev | Absolute Dev | Cost |
|----------|-----------|--------------|-------------|--------------|------------------|
| | | MWH | MWH | MWH | \$ |
| Seg. 1 | 296 - 302 | 0 | 0 | 0 | \$0 |
| Seg. 2 | 284 - 296 | 107 | 0 | 107 | \$2,954 |
| Seg. 3 | 275 - 284 | 1,790 | -200 | 1,990 | \$55,162 |
| Seg. 4 | 250 - 275 | 2,160 | -176 | 2,336 | \$65,020 |
| Seg. 5 | 225 - 250 | 976 | -20 | 996 | \$28,006 |
| Seg. 6 | 200 - 225 | 588 | -14 | 602 | \$17,168 |
| Seg. 7 | 175 - 225 | 536 | -10 | 546 | \$15,909 |
| Seg. 8 | 165 - 175 | 89 | -1 | 91 | \$2,747 |
| | | 6,246 | -422 | 6,668 | \$186,965 |

7. Starting Reliability

| Start Type | Hot Starts | Warm Starts | Cold Starts |
|------------------------------------|-----------------|-----------------|-------------|
| Number of Starts | 20 | 2 | 0 |
| Start Time Benchmark (Minutes) | 85 | 160 | 235 |
| Start Time Actual (Average Minute) | 74.2 | 166.5 | 235.0 |
| Start Time Deviation (%) | -12.8% | 4.1% | 0.0% |
| Start Fuel Benchmark PMOA (mmBTU) | 1,967 | 5,200 | 5,430 |
| Start Fuel Actual (Average mmBTU) | 1,337 | 3,172 | 5,430 |
| Fuel Deviation | -32.0% | -39.0% | 0.0% |
| Costs of Fuel Deviations (\$) | -\$2,522 | -\$8,111 | \$0 |

Definitions:

1. Monthly Production = Plant Net MWH's
2. Capacity Factor
 - a. Service Hours = In Production or in Service State
 - b. Service Factor = $SH / PH \times 100\%$
 - c. Capacity Factor = $Production / 302MW \times PH$
 - d. Capacity Factor = $Production / 280MW \times PH$
3. Monthly Equivalent Availability Factor (EAF) = $(AH - EPDH - EFDH) / PH \times 100\%$
4. Forced Outage Rate = $(FOH / (FOH + SH)) \times 100\%$
5. Heat Rate Deviation (HRD)
 - a. Fuel Cost = Cost of Fuel in \$/mmBTU
 - b. Average Heat Rate = The Average Heat Rate for the given Range
 - c. Heat Rate Deviation = $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
 - d. Production = The Sum of Production for the given Range
 - e. Costs of Heat Rate Deviations = $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
 - a. MWH's = AGC Set Point Generation - LEC Actual Generation
 - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
 - a. Number of Starts = Start Count for Hot, Warm, and Cold
 - b. Start Time = Average Time from 0 Fuel Flow to Pmin
 - c. Start Fuel = Average Fuel Consumption to Pmin
 - d. Cost of Fuel Deviation = $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$

Lodi Energy Center
Monthly Budget Analysis

Means Actual or Estimated values

Means Forecasted values

| | July | August | September | October | November | December | January | February | March | April | May | June | June (Estimate) | June (Diff) | June Estimate vs Actual (Diff %) | May-June Actual vs Actual (Diff %) | Year End Projection | FY2014 Budget | Percent Used | Comments |
|--------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--------------------|----------------|---|---|------------------------|------------------|--------------------|----------|
| VOM | 4,510,911 | 3,441,771 | 3,527,417 | 3,559,665 | 3,829,061 | 5,841,427 | 5,859,348 | 9,204,955 | 5,722,081 | 2,564,099 | 2,142,420 | 2,347,364 | 4,127,189 | 1,779,825 | 43% | 9% | 52,741,876 | 48,880,350 | 107.9% | |
| Capacity Factor | 59% | 45% | 46% | 47% | 52% | 66% | 66% | 83% | 58% | 27% | 34% | 30% | 50% | 20% | 39% | -14% | 50% | 54% | | |
| Fuel Consumed (mmBTU, estimated) | 879,771 | 674,758 | 658,848 | 688,301 | 742,102 | 968,742 | 956,882 | 1,095,418 | 861,414 | 393,436 | 341,351 | 370,025 | 690,691 | 320,666 | 46% | 8% | 8,631,047 | 9,349,196 | 92.3% | |
| Avg Fuel Cost (\$/mmBTU) | 4.26 | 4.21 | 4.43 | 4.44 | 4.32 | 5.22 | 5.32 | 7.59 | 5.84 | 5.57 | 5.59 | 5.65 | 5.54 | -0.11 | -2% | 1% | 5.20 | 4.38 | | |
| Power Produced (MWhr, estimated) | 122,486 | 94,610 | 92,090 | 98,738 | 105,077 | 138,065 | 136,604 | 156,088 | 120,488 | 55,376 | 47,484 | 51,037 | 100,100 | 49,063 | 49% | 7% | 1,218,143 | 1,354,956 | 89.9% | |
| Avg Power Price (\$/MWhr) | 46.91 | 42.48 | 46.99 | 41.03 | 42.09 | 54.14 | 48.14 | 65.20 | 52.62 | 52.88 | 54.41 | 54.63 | 47.70 | -6.93 | -15% | 0% | 50.13 | 53.60 | | |
| Operations | 43,003 | 96,234 | 127,333 | 26,495 | 108,825 | 124,300 | 95,063 | 126,143 | 92,987 | 100,341 | 44,467 | 146,890 | 108,395 | -38,495 | -36% | 70% | 1,132,081 | 1,300,738 | 87.0% | |
| Fuel (estimated) | 3,752,183 | 2,838,640 | 2,921,836 | 3,055,256 | 3,208,112 | 5,061,023 | 5,085,936 | 8,309,024 | 5,031,464 | 2,190,537 | 1,909,037 | 2,091,673 | 3,688,288 | 1,596,615 | 43% | 9% | 45,454,721 | 41,400,588 | 109.8% | |
| AB32 GHG Offset (estimated) | 665,425 | 470,249 | 440,345 | 439,427 | 466,509 | 601,037 | 622,287 | 706,677 | 548,537 | 250,531 | 213,573 | 234,393 | 286,439 | 52,046 | 18% | 9% | 5,658,991 | 5,650,224 | 100.2% | |
| CA ISO Charges (estimated) | 50,300 | 36,648 | 37,902 | 38,488 | 45,615 | 55,066 | 56,062 | 63,111 | 49,093 | 22,690 | 19,811 | 21,298 | 44,067 | 22,769 | 52% | 7% | 496,083 | 528,800 | 93.8% | |
| Routine O&M (Fixed) | 825,352 | 705,626 | 781,796 | 836,116 | 1,541,610 | 1,660,100 | 1,459,604 | 703,908 | 667,353 | 1,864,026 | 1,968,125 | 1,020,222 | 1,417,376 | 397,154 | 28% | -93% | 14,033,838 | 12,360,283 | 113.5% | |
| Maintenance | 122,856 | 103,896 | 138,361 | 205,464 | 804,406 | 282,058 | 856,754 | 124,522 | 97,799 | 1,151,111 | 437,243 | 418,948 | 721,063 | 302,115 | 42% | -4% | 4,743,418 | 3,752,752 | 126.4% | |
| Administration | 176,051 | 14,591 | 100,092 | 101,797 | 96,024 | 100,085 | 99,312 | 109,722 | 111,409 | 97,241 | 100,343 | 17,854 | 101,221 | 83,367 | 82% | -462% | 1,124,521 | 1,214,657 | 92.6% | |
| Mandatory Costs | 54,223 | 33,816 | 75,781 | 40,651 | 44,151 | 27,705 | 32,310 | 52,601 | 27,343 | 70,140 | 12,497 | 40,160 | 38,000 | -2,160 | -6% | 69% | 511,378 | 456,000 | 112.1% | |
| Inventory Stock | 0 | 0 | 0 | 0 | 0 | 14,393 | 40,196 | 0 | 11,593 | 37,507 | 48,728 | 28,161 | 86,352 | 58,191 | 67% | -73% | 180,578 | 400,000 | 45.1% | |
| Labor | 362,071 | 347,160 | 363,503 | 379,492 | 492,969 | 347,638 | 322,319 | 313,003 | 319,642 | 403,967 | 487,987 | 324,297 | 352,258 | 27,961 | 8% | -50% | 4,464,048 | 4,227,098 | 105.6% | |
| Insurance | 110,151 | 206,163 | 104,059 | 108,712 | 104,060 | 888,221 | 108,713 | 104,060 | 99,567 | 104,060 | 881,327 | 190,802 | 118,481 | -72,321 | -61% | -362% | 3,009,895 | 2,309,776 | 130.3% | |
| Power Management & Settlements | | | | | | | | | | 0 | 0 | 0 | | 0 | | | | | | |
| Other Costs | | | | | | | | | | 0 | 0 | 0 | | 0 | | | | | | |
| Projects | 33,104 | 33,104 | 33,105 | 33,104 | 82,515 | 48,100 | 34,184 | 34,711 | 33,104 | 179,700 | 63,281 | 91,585 | 33,104 | -58,481 | -177% | 31% | 699,597 | 1,526,250 | 45.8% | |
| Maintenance Reserve | 33,104 | 33,104 | 33,105 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 33,104 | 0 | 0% | 0% | 397,249 | 397,250 | 100.0% | |
| Operations & Maintenance Projects | 0 | 0 | 0 | 0 | 49,411 | 14,996 | 1,080 | 1,607 | 0 | 146,596 | 30,177 | 54,145 | 0 | -54,145 | #DIV/0! | 44% | 298,012 | 168,000 | 177.4% | |
| Capital Projects | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4,336 | 0 | -4,336 | #DIV/0! | 100% | 4,336 | 961,000 | 0.5% | |
| A&G | 93,845 | 93,845 | 143,178 | 116,185 | 146,921 | 144,534 | 111,394 | 197,482 | 127,236 | 131,936 | 161,551 | 219,158 | 188,459 | -30,699 | -16% | 26% | 1,687,265 | 2,261,509 | 74.6% | |
| Administrative & General (Allocated) | 76,204 | 76,204 | 110,033 | 93,660 | 119,853 | 120,763 | 88,473 | 176,496 | 102,680 | 110,501 | 130,556 | 197,983 | 145,900 | -52,083 | -36% | 34% | 1,403,406 | 1,750,798 | 80.2% | |
| Generation Services Shared | 17,641 | 17,641 | 33,145 | 22,525 | 27,068 | 23,771 | 22,921 | 20,986 | 24,556 | 21,435 | 30,995 | 21,175 | 42,559 | 21,384 | 50% | -46% | 283,859 | 510,711 | 55.6% | |
| Total O&M Cost | 5,463,212 | 4,274,346 | 4,485,496 | 4,545,070 | 5,600,107 | 7,694,161 | 7,464,530 | 10,141,056 | 6,549,774 | 4,739,761 | 4,335,377 | 3,678,329 | 5,766,128 | 2,087,799 | 36% | -18% | 69,162,577 | 65,028,392 | 106.4% | |
| Debt Service | 2,211,514 | 2,211,516 | 2,211,511 | 2,211,516 | 1,652,233 | 2,211,513 | 2,211,514 | 2,211,514 | 2,211,514 | 2,211,514 | 1,652,233 | 2,712,250 | 2,163,002 | -549,248 | -25% | 39% | 25,920,342 | 25,956,029 | 99.9% | |
| Revenues | 5,746,023 | 4,019,075 | 4,330,249 | 4,051,388 | 4,422,375 | 7,475,000 | 7,354,210 | 10,177,669 | 6,340,241 | 2,928,400 | 2,583,515 | 2,788,334 | 4,954,955 | 2,166,621 | 44% | 7% | 62,216,479 | 55,613,202 | 111.9% | |
| ISO Energy Sales (estimated) | 5,746,023 | 4,019,075 | 4,327,698 | 4,051,388 | 4,422,375 | 7,475,000 | 6,575,721 | 10,177,669 | 6,340,241 | 2,928,400 | 2,583,515 | 2,788,334 | 4,954,955 | 2,166,621 | 44% | 7% | 61,435,439 | 55,539,944 | | |
| Other Income | 0 | 0 | 2,551 | 0 | 0 | 0 | 778,489 | 0 | 0% | 0 | 0 | 0 | 0 | 0 | 0% | 0% | 781,040 | 73,258 | | |
| Net | (\$1,928,703) | (\$2,466,787) | (\$2,366,758) | (\$2,705,199) | (\$2,829,966) | (\$2,430,674) | (\$2,321,834) | (\$2,174,900) | (\$2,421,048) | (\$4,022,875) | (\$3,404,095) | (\$3,602,245) | (\$2,974,175) | \$628,070 | -21% | -14% | (\$32,866,440) | (\$35,371,219) | Below budget by 8% | |

accounts, as shall be determined by NCPA in accordance with the applicable terms of each Indenture.

8. PARTICIPANT COMMITTEE.

8.1 Establishment of Participant Committee. Subject to the provisions of Section 8.11, the Participant Committee is established by this Agreement in order to provide for effective cooperation and interchange of information, and to provide coordination on a prompt and orderly basis, among the Participants and NCPA in connection with the various management, financial, administrative, operational and technical matters which may arise from time to time in connection with developing, financing, constructing, improving, maintaining, operating and decommissioning the Project. Except with respect to matters relating to an Indenture or Bonds, or as otherwise provided by this Agreement, NCPA shall comply with all lawful directions of the Participant Committee with respect to the Project which have received Participant Committee Approval, while not stayed or nullified, to the fullest extent authorized by law and to the extent such directions are not inconsistent with, and do not impair NCPA's ability to perform its obligations under any applicable Indenture. With respect to matters relating to an Indenture or Bonds for an Indenture Group, NCPA shall comply with all lawful directions of the applicable Indenture Group Participants which have received Indenture Group Approval from the applicable Indenture Group, while not stayed or nullified, to the fullest extent authorized by law and to the extent such directions are consistent with and do not impair NCPA's ability to perform its obligations under any applicable Indenture.

8.2 Participant Committee Operations.

8.2.1 The Participant Committee shall consist of one representative from each Participant which is not a Defaulting Participant. Each representative shall be entitled to cast one vote in matters as to which a majority of Participants is used to determine approval by the Participant Committee and a vote (expressed as a percentage) equal to the GES of the Participant it represents in matters as to which a percentage of GES is used to determine approval by the Participant Committee. NCPA shall be entitled to one non-voting representative on the Participant Committee and each subcommittee thereof. NCPA and each Participant shall, within 30 days after the Effective Date, give notice to NCPA and each other Participant of its representative on the Participant Committee. The Participant Committee shall conduct its first meeting within 45 days of the Effective Date.

8.2.2 Alternate representatives may be appointed for a Participant by similar notice to act on the Participant Committee, or on any subcommittee established by the Participant Committee, in the absence of the regular representative or to act on specified occasions with respect to specified matters. Each Participant shall give notice to NCPA and each other Participant of its alternate representative on the Participant Committee. An alternate representative may attend all meetings of the Participant Committee but may vote only if the representative for whom she/he serves as alternate is absent and only one alternate representative of a Participant may vote on any single motion or resolution. Each Participant shall promptly give notice to the other Participants and NCPA of any changes in the designation of its representative(s) and/or alternate representative(s) on the Participant Committee or any subcommittee thereof, and NCPA shall promptly give notice

to the Participants of any changes in the designation of NCPA's representative on the Participant Committee or any subcommittee thereof.

- 8.2.3 The Chairperson of the Participant Committee shall be designated by nomination and vote of the Participant Committee. The Chairperson does not have a vote by virtue of his/her office, but may vote as a representative or alternate representative of one or more Participant(s) as provided above. The Chairperson of the Participant Committee shall be responsible for calling and presiding over meetings of the Participant Committee. The Chairperson shall promptly call a meeting of the Participant Committee in any manner permitted by law at the request of representatives of any two or more Participants. Participant Committee meetings may be conducted and actions of the Participant Committee may be taken by vote given in an assembled meeting or by telephone, video conferencing, telegraph, letter, e-mail or by any combination thereof, to the extent permitted by law.
- 8.2.4 A quorum for the Participant Committee taking any action shall consist of either: (i) the representatives of a majority of the Non-Defaulting Participants; or (ii) the representatives of Non-Defaulting Participants holding a GES of not less than a majority of the aggregate GES of all Non-Defaulting Participants.

8.3 Participant Committee Approval.

- 8.3.1 The approval, disapproval or authorization by the Participant Committee of any action, transaction, program or procedure relating to the Project having an aggregate cost impact on the Participants of less than the Threshold Amount shall be given by the vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect of a majority of the quorum of the meeting; provided, however, that if the representative of any Non-Defaulting Participant requests, at any time prior to, at or within 10 days after the Participant Committee meeting that such action, transaction, program or procedure be approved, disapproved or authorized, that such action, transaction, program or procedure be approved by a GES vote, then the approval, disapproval or authorization of such action, transaction, program or procedure by the Participant Committee shall be given by the vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect by the representatives of Non-Defaulting Participants then holding a GES of not less than 65% of the GES of all then Non-Defaulting Participants; and provided further that such 65% shall be reduced by the amount that the GES of each Participant having a GES in excess of 34% exceeds 34% but in no event shall such 65% be reduced below 50.10%.
- 8.3.2 The approval, disapproval or authorization by the Participant Committee of any action, transaction, program or procedure relating to the Project having an aggregate cost impact on the Participants at or above the Threshold Amount shall be given by the vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect of a majority of the quorum of the meeting; provided, however, that if the representative of any Non-Defaulting Participant requests, at any time prior to, at or within 10 days after the Participant Committee meeting that such action, transaction, program or procedure was approved, disapproved or authorized, that such action, transaction, program or

procedure be approved by a GES vote, then the approval, disapproval or authorization of such action, transaction, program or procedure by the Participant Committee shall be given by the vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect by the representatives of Non-Defaulting Participants then holding a GES of not less than 75% of the GES of all then Non-Defaulting Participants; and provided further that such 75% shall be reduced by the amount that the GES of each Participant having a GES in excess of 24% exceeds 24% but in no event shall such 75% be reduced below 50.10%.

- 8.3.3 Approval or authorization by the Participant Committee in accordance with this Section 8.3 shall constitute "Participant Committee Approval" of an action, transaction, program or procedure. Disapproval by the Participant Committee in accordance with this Section 8.3 shall establish that an action, transaction, program or procedure has failed to receive "Participant Committee Approval." A Participant Committee Approval shall be evidenced by a copy of the resolution, motion or minute order approving, disapproving or authorizing the action, transaction, program or procedure certified by the secretary or an assistant secretary of the Participant Committee or a copy of the minutes of the Participant Committee meeting, or an extract thereof, with respect to the resolution, motion or minute order or other act approving, disapproving or authorizing the action, transaction, program or procedure certified by the Secretary or an assistant Secretary of the Participant Committee.

8.4 Indenture Group Approval.

- 8.4.1 The approval or authorization of any action, transaction, program or procedure relating to Bonds or an Indenture by the Indenture Group A Participants shall be given at a meeting of the representatives to the Participant Committee of the Indenture Group A Participants. A quorum for the Indenture Group A representatives to the Participant Committee taking any action shall consist of either: (i) the representatives of a majority of the Non-Defaulting Indenture Group A Participants; or (ii) the representatives of Non-Defaulting Indenture Group A Participants holding a GES of not less than a majority of the aggregate GES of all Non-Defaulting Indenture Group A Participants. One of the representatives to the Participant Committee of the Indenture Group A Participants shall be appointed Secretary for the meeting and shall prepare written minutes of the meeting. The approval or authorization of any action, transaction, program or procedure relating to Bonds or an Indenture by the Indenture Group A Participants shall be given by the approving vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect of a majority of the quorum of the meeting; provided, however, that if the representative of any Non-Defaulting Indenture Group A Participant requests, at any time prior to, at or within 10 days after the Indenture Group A Participant Committee representatives meeting, that such action, transaction, program or procedure be approved by a GES vote, then the approval or authorization of such action, transaction, program or procedure by the Indenture Group A Participant Committee representatives shall be given by the approving vote for a resolution, motion, minute order or other appropriate act noted in the meeting minutes to that effect by the representatives of Non-Defaulting Indenture Group A Participants then holding a GES of not less than



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LEC Treasurer's Report

AGENDA ITEM NO.: _____

Date: July 9, 2014
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended June 30, 2014

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

Cash - At month end cash totaled \$0.

The cash balance held at U.S. Bank includes outstanding checks that have not yet cleared.

Investments - The carrying value of the LEC's investment portfolio totaled \$24,675,998 at month end. The current market value of the portfolio totaled \$24,647,793.

The overall portfolio had a combined weighted average interest rate of 0.460% with a bond equivalent yield (yield to maturity) of 0.406%. Investments with a maturity greater than one year totaled \$11,351,000. June maturities totaled \$24 million and during the month \$5 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 stayed the same (at 0.04%) and rates on one year T-Bills increased 1 basis points (from 0.10% to 0.11%).

To the best of my knowledge and belief, all securities held by LEC as of July 14, 2014, are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

Environmental Analysis

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

Respectfully submitted,

DONNA STEVENER
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

KEVIN W. WALLACE
Treasurer-Controller

Attachments

LODI ENERGY CENTER

TREASURER'S REPORT

JUNE 30, 2014

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Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
June 30, 2014

| | CASH | INVESTMENTS | TOTAL | PERCENT | INVESTMENTS at MARKET |
|---------------------------------|------|---------------|---------------|----------|--------------------------|
| MANDATORY FUNDS | | | | | |
| Construction Revolving | \$ - | \$ 3,356 | \$ 3,356 | 0.014% | \$ 3,356 |
| Debt Service Account | - | 2,211,630 | 2,211,630 | 8.963% | 2,211,625 |
| Debt Service Reserve | - | 11,748,570 | 11,748,570 | 47.611% | 11,716,191 |
| O & M Reserve | - | 10,641,654 | 10,641,654 | 43.126% | 10,645,833 |
| | - | 24,605,211 | 24,605,211 | 99.713% | 24,577,005 |
| ADDITIONAL PROJECT FUNDS | | | | | |
| GHG Cash Account | - | 70,788 | 70,788 | 0.287% | 70,788 |
| | \$ - | \$ 24,675,998 | \$ 24,675,998 | 100.000% | \$ 24,647,793 |

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
June 30, 2014

| | RECEIPTS | | | EXPENDITURES | | | CASH |
|---------------------------------|-------------|----------------------|-------------------------|------------------------|-------------------------|----------------------------------|--------------------------|
| | OPS/CONSTR | INTEREST (NOTE B) | INVESTMENTS (NOTE A) | OPS/CONSTR | INVESTMENTS (NOTE B) | INTER-COMPANY/ FUND TRANSFERS | INCREASE / (DECREASE) |
| MANDATORY FUNDS | | | | | | | |
| Construction Revolving | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Debt Service Account | - | 91 | 20,638,103 | (20,643,689) | (2,209,321) | 2,214,817 | 0 |
| Debt Service Reserve | - | 107 | - | - | (107) | - | - |
| O & M Reserve | - | 7,500 | 3,003,000 | - | (3,010,500) | - | - |
| | - | 7,697 | 23,641,103 | (20,643,689) | (5,219,928) | 2,214,817 | 0 |
| ADDITIONAL PROJECT FUNDS | | | | | | | |
| GHG Cash Account | - | - | (110) | - | - | 110 | - |
| TOTAL | \$ - | \$ 7,697 | \$ 23,640,993 | \$ (20,643,689) | \$ (5,219,928) | \$ 2,214,927 | \$ 0 |

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Investment Activity Summary
May 31, 2014

| | PURCHASED | SOLD OR MATURED | (NON-CASH) DISC/(PREM) AMORT | (NON-CASH) GAIN/(LOSS) ON SALE | INVESTMENTS TRANSFERS | INCREASE / (DECREASE) |
|---------------------------------|---------------------|------------------------|------------------------------------|--------------------------------------|--------------------------|--------------------------|
| MANDATORY FUNDS | | | | | | |
| Construction Revolving | | \$ - | \$ - | \$ - | \$ - | \$ - |
| Debt Service Account | 2,209,321 | (20,638,103) | 35 | - | - | (18,428,747) |
| Debt Service Reserve | 107 | - | (159) | - | - | (53) |
| O & M Reserve | 3,010,500 | (3,003,000) | (1,003) | - | - | 6,497 |
| | <u>5,219,928</u> | <u>(23,641,103)</u> | <u>(1,127)</u> | <u>-</u> | <u>-</u> | <u>(18,422,303)</u> |
| ADDITIONAL PROJECT FUNDS | | | | | | |
| GHG Cash Account | | 110 | - | - | | 110 |
| TOTAL | <u>\$ 5,219,928</u> | <u>\$ (23,640,993)</u> | <u>\$ (1,127)</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ (18,422,193)</u> |

Less Non- Cash Activity

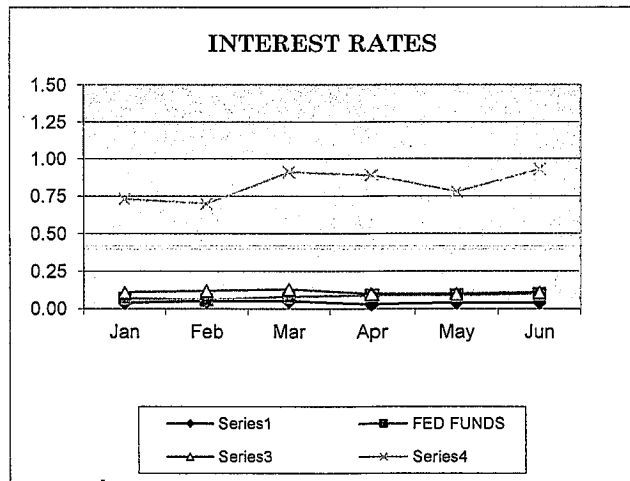
| | |
|--|-------------------------------|
| Disc/(Prem) Amortization & Gain/(Loss) on Sale | <u>1,127</u> |
| Net Change in Investment --Before Non-Cash Activity | <u><u>\$ (18,421,065)</u></u> |

NOTE A -Investment amounts shown at book carrying value.

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
INTEREST RATE/YIELD ANALYSIS
JUNE 30, 2014**

| | <u>WEIGHTED AVERAGE INTEREST RATE</u> | <u>BOND EQUIVALENT YIELD</u> |
|------------------------------------|---|--------------------------------------|
| OVERALL COMBINED | <u>0.460%</u> | <u>0.406%</u> |
| <u>Construction Revolving Acct</u> | 0.235% | 0.235% |
| <u>Funds:</u> | | |
| Debt Service Account | 0.070% | 0.071% |
| Debt Service Reserve | 0.546% | 0.571% |
| O & M Reserve | 0.448% | 0.295% |
| GHG Cash Account | 0.235% | 0.235% |

| KEY INTEREST RATES | | |
|---------------------------|----------------|-----------------------|
| | <u>CURRENT</u> | <u>PRIOR YEAR</u> |
| Fed Fds (Ovrnight) | 0.10% | 0.10% |
| T-Bills (90da.) | 0.04% | 0.06% |
| Agency Disc (90da.) | 0.04% | 0.05% |
| T-Bills (1yr.) | 0.11% | 0.02% |
| Agency Disc (1yr.) | 0.14% | 0.16% |
| T-Notes (3yr.) | 0.93% | 0.70% |



Lodi Energy Center
Total Portfolio
Investment Maturities Analysis
June 30, 2014

| Type | 0-7 Days | 8-90 Days | 91-180 Days | 181-270 Days | 271-360 Days | 1-5 Years | 5-10 Years | Total | Percent |
|-----------------------------|-------------|--------------|----------------|-----------------|-----------------|--------------|---------------|----------|---------|
| US Government Agencies | | \$2,980 | \$2,842 | | \$0 | \$11,351 | \$0 | \$17,173 | 69.60% |
| US Bank Trust Money Market | 3,395 | | | | | | | 3,395 | 13.76% |
| Investment Trusts (LAIF) | 4,105 | | | | | | | 4,105 | 16.64% |
| U.S.Treasury Market Acct. * | 0 | | | | | | | 0 | 0.00% |
| U.S.Treasury Bill | | | | | | | | 0 | 0.00% |
| Certificates of Deposit | 0 | | | | | | | 0 | 0.00% |
| Total Dollars | \$7,500 | \$2,980 | \$2,842 | \$0 | \$0 | \$11,351 | \$0 | \$24,673 | 100.00% |
| Total Percents | 30.40% | 12.08% | 11.52% | 0.00% | 0.00% | 46.01% | 0.00% | 100.00% | |

Investment 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

06/30/2014

LEC Construction Revolving

| 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 Investim | | 3,356 | 0.235 | | 3,356 | | 1 | 0.235 | 3,356 | SYS70040 | 70040 | 3,356 |
| Fund Total and Average | | \$ 3,356 | 0.235 | | \$ 3,356 | | 1 | 0.235 | \$ 3,356 | | | \$ 3,356 |
| GRAND TOTALS: | | \$ 3,356 | 0.235 | | \$ 3,356 | | 1 | 0.235 | \$ 3,356 | | | \$ 3,356 |

*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 06/30/2014



Northern California Power Agency
Treasurer's Report
06/30/2014

LEC Issue#1 2010A DS Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|-----------|--------------|----------------|
| US Bank Trust | USB | 369 | 0.100 | | 369 | | 1 | 0.100 | 369 | SYS79003 | 79003 | 369 |
| Federal National Mtg | USB | 693,000 | 0.069 | 06/26/2014 | 692,787 | 12/01/2014 | 153 | 0.070 | 692,792 | 313589R54 | 26138 | 692,794 |
| Fund Total and Average | | \$ 693,369 | 0.070 | | \$ 693,156 | | 153 | 0.071 | \$ 693,161 | | | \$ 693,163 |

LEC Issue #1 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|------------|-------|------------|------------|------------|-----|-------|------------|-----------|-------|------------|
| US Bank Trust | USB | 500 | 0.100 | | 500 | | 1 | 0.100 | 500 | SYS79004 | 79004 | 500 |
| Federal National Mtg | USB | 732,000 | 0.070 | 06/26/2014 | 731,775 | 12/01/2014 | 153 | 0.070 | 731,780 | 313589R54 | 26139 | 731,782 |
| Fund Total and Average | | \$ 732,500 | 0.070 | | \$ 732,275 | | 153 | 0.071 | \$ 732,280 | | | \$ 732,282 |

LEC Issue #2 2010A DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|------------|-------|------------|------------|------------|-----|-------|------------|-----------|-------|------------|
| US Bank Trust | USB | 436 | 0.100 | | 436 | | 1 | 0.100 | 436 | SYS79011 | 79011 | 436 |
| Federal National Mtg | USB | 434,000 | 0.069 | 06/26/2014 | 433,867 | 12/01/2014 | 153 | 0.070 | 433,870 | 313589R54 | 26140 | 433,871 |
| Fund Total and Average | | \$ 434,436 | 0.070 | | \$ 434,303 | | 153 | 0.071 | \$ 434,306 | | | \$ 434,307 |

LEC Issue #2 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|------------|--------------|------------|-----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 983 | 0.100 | | 983 | | 1 | 0.100 | 983 | SYS79012 | 79012 | 983 |
| Federal National Mtg | USB | 351,000 | 0.069 | 06/26/2014 | 350,892 | 12/01/2014 | 153 | 0.070 | 350,895 | 313589R54 | 26141 | 350,896 |
| Fund Total and Average | | \$ 351,983 | 0.070 | | \$ 351,875 | | 153 | 0.071 | \$ 351,878 | | | \$ 351,879 |
| GRAND TOTALS: | | \$ 2,212,288 | 0.070 | | \$ 2,211,609 | | 153 | 0.071 | \$ 2,211,625 | | | \$ 2,211,631 |

*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 06/30/2014



Northern California Power Agency
Treasurer's Report

06/30/2014

LEC Issue #1 2010 DSR Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|-----------|--------------|----------------|
| US Bank Trust | USB | 46,093 | 0.100 | | 46,093 | | 1 | 0.100 | 46,093 | SYS79005 | 79005 | 46,093 |
| Federal Home Loan Mt | USB | 4,181,000 | 0.580 | 05/30/2014 | 4,183,927 | 08/26/2016 | 787 | 0.548 | 4,176,485 | 3134G56B6 | 26135 | 4,183,814 |
| Federal National Mtg | USB | 4,170,000 | 0.875 | 05/30/2014 | 4,171,960 | 08/28/2017 | 1,154 | 0.977 | 4,146,857 | 3135GOMZ3 | 26136 | 4,171,908 |
| Fund Total and Average | | \$ 8,397,093 | 0.724 | | \$ 8,401,980 | | 965 | 0.759 | \$ 8,369,435 | | | \$ 8,401,815 |

LEC Iss#1 2010B BABS Subs Resv

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|--|--------------|--|---|-------|--------------|----------|-------|--------------|
| US Bank Trust | USB | 2,260,521 | 0.100 | | 2,260,521 | | 1 | 0.100 | 2,260,521 | SYS79006 | 79006 | 2,260,521 |
| Fund Total and Average | | \$ 2,260,521 | 0.100 | | \$ 2,260,521 | | 1 | 0.100 | \$ 2,260,521 | | | \$ 2,260,521 |

LEC Issue #1 2010 COI Acct

| | | | | | | | | | | | | |
|------------------------|-----|------|-------|--|------|--|---|-------|------|----------|-------|------|
| US Bank Trust | USB | 2 | 0.100 | | 2 | | 1 | 0.100 | 2 | SYS79008 | 79008 | 2 |
| Fund Total and Average | | \$ 2 | 0.100 | | \$ 2 | | 1 | 0.100 | \$ 2 | | | \$ 2 |

LEC Issue #2 2010B DSR BABS

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|--|--------------|--|---|-------|--------------|----------|-------|--------------|
| US Bank Trust | USB | 1,086,233 | 0.100 | | 1,086,233 | | 1 | 0.100 | 1,086,233 | SYS79013 | 79013 | 1,086,233 |
| Fund Total and Average | | \$ 1,086,233 | 0.100 | | \$ 1,086,233 | | 1 | 0.100 | \$ 1,086,233 | | | \$ 1,086,233 |

LEC Issue#2 2010 COI Acct

| | | | | | | | | | | | | |
|------------------------|-----|------|-------|--|------|--|---|-------|------|----------|-------|------|
| US Bank Trust | USB | 0 | 0.100 | | 0 | | 1 | 0.100 | 0 | SYS79015 | 79015 | 0 |
| Fund Total and Average | | \$ 0 | 0.100 | | \$ 0 | | 1 | 0.100 | \$ 0 | | | \$ 0 |

GRAND TOTALS: \$ 11,743,849 0.546 \$ 11,748,736 690 0.571 \$ 11,716,191. \$ 11,748,571

*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 06/30/2014

Investment # 26135 - FNMA Structured Note .58% thru 11/26/14; Callable anytime



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

06/30/2014

LEC O & M Reserve

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|-------------------------------|---------------------|----------------------|---------------|---------------|----------------------|---------------|------------------|-------------------|----------------------|-----------|--------------|----------------------|
| Local Agency Investm | | 4,030,964 | 0.235 | | 4,030,964 | | 1 | 0.235 | 4,030,964 | SYS70047 | 70047 | 4,030,964 |
| Union Bank of Califo | UBOC | 0 | 0.002 | 07/18/2013 | 0 | | 1 | 0.002 | 0 | SYS70041 | 70041 | 0 |
| Federal Home Loan Mt | UBOC | 2,980,000 | 0.750 | 02/19/2014 | 2,991,264 | 09/22/2014 | 83 | 0.110 | 2,984,500 | 3134G2WG3 | 26099 | 2,984,284 |
| Federal Home Loan Mt | UBOC | 632,000 | 0.140 | 10/31/2013 | 631,127 | 10/21/2014 | 112 | 0.142 | 631,899 | 313397L41 | 26066 | 631,725 |
| Federal Home Loan Mt | UBOC | 3,000,000 | 0.500 | 10/25/2013 | 2,992,800 | 06/06/2016 | 706 | 0.592 | 2,998,470 | 3134G46A1 | 26052 | 2,994,662 |
| Fund Total and Average | | \$ 10,642,964 | 0.448 | | \$ 10,646,155 | | 229 | 0.295 | \$ 10,645,833 | | | \$ 10,641,655 |
| GRAND TOTALS: | | \$ 10,642,964 | 0.448 | | \$ 10,646,155 | | 229 | 0.295 | \$ 10,645,833 | | | \$ 10,641,655 |

*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 06/30/2014 Investment # 26052 - FHLMC Structured Note .50%; Callable on 06/06/14 Quarterly thereafter.



Northern California Power Agency
Treasurer's Report

06/30/2014

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 | | 70,788 | 0.235 | | 70,788 | | 1 | 0.235 | 70,788 | SYS70046 | 70046 | 70,788 |
| Fund Total and Average | | \$ 70,788 | 0.235 | | \$ 70,788 | | 1 | 0.235 | \$ 70,788 | | | \$ 70,788 |
| GRAND TOTALS: | | \$ 70,788 | 0.235 | | \$ 70,788 | | 1 | 0.235 | \$ 70,788 | | | \$ 70,788 |

*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 06/30/2014



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LEC Financial Reports

AGENDA ITEM NO.: _____

Date: July 9, 2014

Subject: June 30, 2014 Financial Reports (Unaudited)

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF NET POSITION
UNAUDITED**

| ASSETS | June 30 | |
|--|-----------------------|-----------------------|
| | 2014 | 2013 (Note A) |
| CURRENT ASSETS | | |
| Cash and cash equivalents | \$ 70,788 | \$ 86,359 |
| Accounts receivable | | |
| Others | - | 1,551,216 |
| Interest receivable | 11,947 | 3,917 |
| Inventory and supplies - at average cost | 1,171,357 | 990,780 |
| Prepaid insurance | 294,862 | 359,039 |
| Due from (to) Agency, net | 14,287,993 | 7,458,196 |
| TOTAL CURRENT ASSETS | 15,836,947 | 10,449,507 |
| RESTRICTED ASSETS | | |
| Cash and cash equivalents | 11,914,356 | 17,745,913 |
| Investments | 13,595,285 | 10,560,080 |
| Interest receivable | 12,633 | 5,760 |
| TOTAL RESTRICTED ASSETS | 25,522,274 | 28,311,753 |
| ELECTRIC PLANT | | |
| Electric plant in service | 423,359,226 | 423,354,890 |
| Less: accumulated depreciation | (21,917,781) | (8,535,874) |
| TOTAL ELECTRIC PLANT | 401,441,445 | 414,819,016 |
| OTHER ASSETS | | |
| Regulatory assets | 14,774,261 | 10,352,111 |
| TOTAL OTHER ASSETS | 14,774,261 | 10,352,111 |
| TOTAL ASSETS | \$ 457,574,927 | \$ 463,932,387 |

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF NET POSITION
UNAUDITED**

June 30

2014

2013 (Note A)

LIABILITIES & NET POSITION

CURRENT LIABILITIES

| | | |
|-----------------------------------|-------------------|-------------------|
| Accounts and retentions payable | \$ 2,161,416 | \$ 4,690,934 |
| Operating reserves | 11,395,584 | 10,951,042 |
| Current portion of long-term debt | 9,025,000 | 8,640,000 |
| Accrued interest payable | 1,451,050 | 2,000,616 |
| TOTAL CURRENT LIABILITIES | 24,033,050 | 26,282,592 |

NON-CURRENT LIABILITIES

| | | |
|---------------------------------------|--------------------|--------------------|
| Operating reserves and other deposits | 70,654 | 86,392 |
| Regulatory liability | 45,404,582 | 49,148,706 |
| Long-term debt, net | 372,818,011 | 382,935,703 |
| TOTAL NON-CURRENT LIABILITIES | 418,293,247 | 432,170,801 |

| | | |
|--------------------------|--------------------|--------------------|
| TOTAL LIABILITIES | 442,326,297 | 458,453,393 |
|--------------------------|--------------------|--------------------|

NET POSITION

| | | |
|---|-----------------------|-----------------------|
| Invested in capital assets, net of related debt | (1,543,728) | (9,743,935) |
| Restricted | 14,512,411 | 11,126,152 |
| Unrestricted | 2,279,947 | 4,096,777 |
| TOTAL NET POSITION | 15,248,630 | 5,478,994 |
| TOTAL LIABILITIES AND NET POSITION | \$ 457,574,927 | \$ 463,932,387 |

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF REVENUES, EXPENSES
& CHANGES IN NET POSITION
UNAUDITED**

| | Year Ended June 30 | |
|--|---------------------|---------------------|
| | 2014 | 2013 (Note A) |
| SALES FOR RESALE | | |
| Participants | \$ 36,219,478 | \$ 36,097,132 |
| Other | 62,068,460 | 26,007,358 |
| TOTAL SALES FOR RESALE | 98,287,938 | 62,104,490 |
| OPERATING EXPENSES | | |
| Operations | 47,778,441 | 25,081,830 |
| Depreciation | 13,381,907 | 8,535,874 |
| Maintenance expenses | 9,045,689 | 6,707,633 |
| Administrative and general | 5,253,969 | 1,854,517 |
| Transmission | 1,166,932 | 1,003,997 |
| Intercompany (sales) purchases | 384,219 | 165,709 |
| TOTAL OPERATING EXPENSES | 77,011,157 | 43,349,560 |
| NET OPERATING REVENUES | 21,276,781 | 18,754,930 |
| OTHER REVENUES (EXPENSES) | | |
| Interest expense | (16,155,569) | (16,646,760) |
| Interest income | 89,264 | 143,898 |
| Capitalized Interest | - | 6,319,827 |
| Amortization | (76,259) | (37,204) |
| Other | 1,322,604 | 103,612 |
| TOTAL OTHER REVENUES (EXPENSES) | (14,819,960) | (10,116,627) |
| FUTURE RECOVERABLE AMOUNTS | 4,498,409 | (2,977,286) |
| REFUNDS TO PARTICIPANTS | (1,185,594) | (182,023) |
| INCREASE IN NET POSITION | 9,769,636 | 5,478,994 |
| NET POSITION | | |
| Beginning of year | 5,478,994 | |
| End of period | \$ 15,248,630 | \$ 5,478,994 |
| | - | - |

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**Lodi Energy Center
FY 2014 Operating Costs
As of June 30, 2014**

| | Annual Budget | Actual | Remaining | YTD % Remaining | Notes |
|--------------------------------------|---------------|---------------|--------------|--------------------|----------|
| Routine O&M Costs | | | | | |
| Operations | \$ 1,300,738 | \$ 1,086,163 | \$ 214,575 | 16% | A |
| Maintenance | 3,752,752 | 4,565,382 | (812,630) | -22% | |
| Administration | 1,214,657 | 1,209,935 | 4,722 | 0% | |
| Mandatory Costs | 456,000 | 491,953 | (35,953) | -8% | B |
| Inventory Stock | 400,000 | 180,577 | 219,423 | 55% | |
| Routine O&M Costs without Labor | 7,124,147 | 7,534,010 | (409,863) | -6% | |
| Labor | 4,227,098 | 4,464,047 | (236,949) | -6% | |
| Total Routine O&M Cost | 11,351,245 | 11,998,057 | (646,812) | -6% | |
| Other Costs | | | | | |
| Fuel | 41,400,588 | 45,005,490 | (3,604,902) | -9% | E |
| AB32 GHG Offset | 5,650,224 | - | 5,650,224 | 100% | |
| CA ISO Charges | 528,800 | 1,166,932 | (638,132) | -121% | |
| Debt Service | 25,956,029 | 25,920,344 | 35,685 | 0% | D |
| Other Costs | 2,309,776 | 2,133,890 | 175,886 | 8% | |
| Administrative & General (Allocated) | 1,750,798 | 1,315,422 | 435,376 | 25% | |
| Generation Services Shared | 510,711 | 285,682 | 225,029 | 44% | |
| Maintenance Reserve | 397,250 | 397,250 | - | 0% | |
| Total O&M Cost | 89,855,421 | 88,223,067 | 1,632,354 | 2% | |
| Projects | | | | | |
| Operations & Maintenance | 168,000 | 298,012 | (130,012) | -77% | G |
| Capital | 961,000 | 915,336 | 45,664 | 5% | |
| Total Capital Budget | 1,129,000 | 1,213,348 | (84,348) | -7% | |
| Annual Cost | 90,984,421 | 89,436,415 | 1,548,006 | 2% | |
| Less: Third Party Revenue | | | | | |
| Interest Income | 73,258 | 38,386 | 34,872 | 48% | F |
| ISO Energy Sales | 53,249,904 | 60,608,973 | (7,359,069) | -14% | |
| Ancillary Services Sales | 2,290,040 | 1,459,487 | 830,553 | 36% | |
| ERCS Sale | - | 788,059 | (788,059) | N/A | |
| | 55,613,202 | 62,894,905 | (7,281,703) | -13% | |
| Net Annual Cost to Participants | \$ 35,371,219 | \$ 26,541,510 | \$ 8,829,709 | 25% | |

| | | |
|---------------------------------|-----------|-----------|
| Net Cumulative Generation (MWh) | 1,354,957 | 1,241,892 |
| Total O&M Cost Per MWh | \$ 66.32 | \$ 71.04 |
| Net Annual Cost Per MWh | \$ 26.11 | \$ 21.37 |

Footnotes:

A - Higher costs resulting from increase maintenance under Siemens LTSA.

B - Payments for hazardous waste fee and air resources board fee were higher than budgeted.

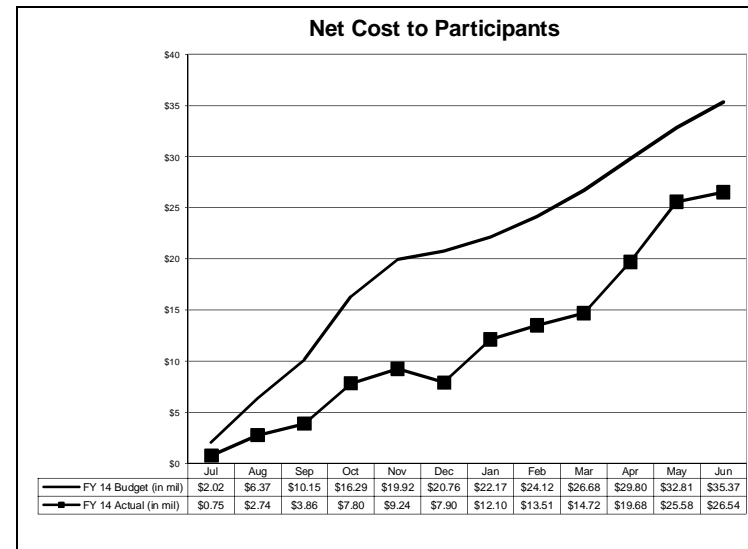
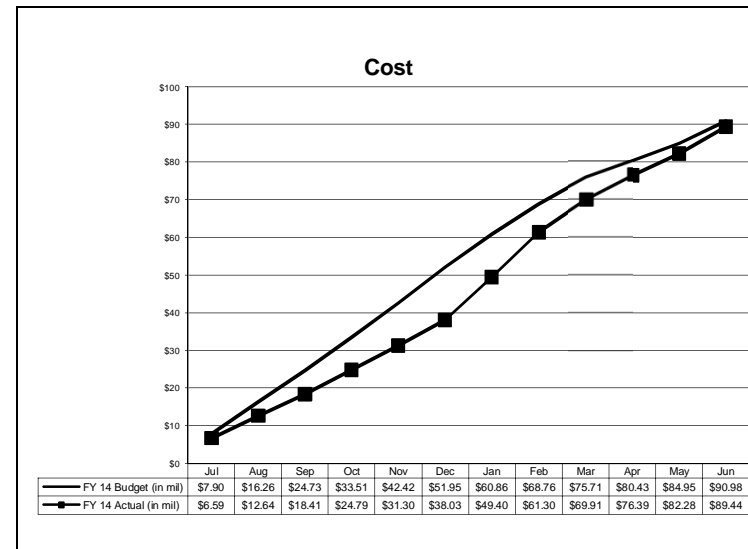
C - The project did not purchase any GHG Allowances as participants have delivered sufficient allowances through June 30, 2014.

D - CA ISO Charges are greater than anticipated primarily due to unplanned Regulation Energy and Resource Adequacy Standard Capacity charges.

E - Fuel costs are higher than anticipated due to higher natural gas prices per MMBTU during the year.

F - Proceeds from the Sale of ERCS

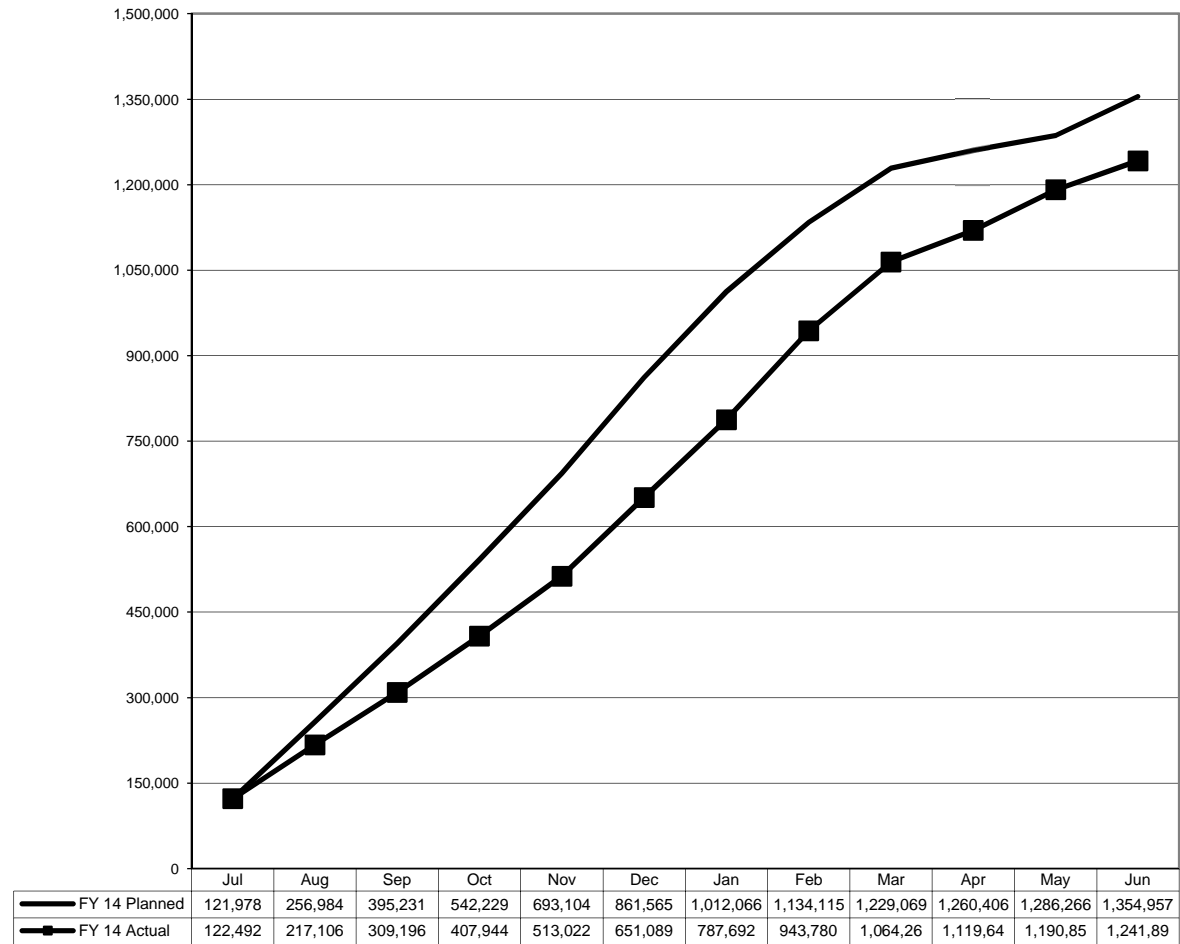
G - Amount includes unanticipated project to Clean Injection Well.



Annual Budget LEC Generation Analysis Planned vs. Actual FY 2014

In MWh

Lodi Energy Center



2013 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report
for the Lodi Energy Center

| IDENTIFIER | Actual | | | | | | | | | | | | | Compliance Year 2013 Total |
|---|-----------|-----------|----------|----------|----------|-----------|-----------|----------|-----------|-----------|----------|----------|----------|----------------------------------|
| | DECEMBER | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER | |
| Energy (MWh) | 0 | 82,787 | 101,925 | 128,167 | 134,284 | 32,545 | 80,153 | 122,492 | 94,615 | 92,091 | 98,739 | 105,078 | 138,068 | 1,210,944 |
| Gas Schedule (MMBtu) | 0 | 593,484 | 723,038 | 894,657 | 952,529 | 229,724 | 579,650 | 870,331 | 673,965 | 650,250 | 692,396 | 738,008 | 965,292 | 8,563,324 |
| Emissions Factor (MT/MMBtu) | 0 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 |
| Monthly MT Emissions (MT) | 0 | 31,455 | 38,321 | 47,417 | 50,484 | 12,175 | 30,721 | 46,128 | 35,720 | 34,463 | 36,697 | 39,114 | 51,160 | 453,856 |
| Cumulative MT Obligation (MT) | 0 | 31,455 | 69,776 | 117,193 | 167,677 | 179,852 | 210,573 | 256,701 | 292,421 | 326,884 | 363,581 | 402,696 | 453,856 | 453,856 |
| Compliance Instrument Participant Transfers (to LEC) | | | | | | | | | | | | | | |
| Auction Allowances | 92,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 460,633 |
| Secondary Market Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reserve Sale Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Offsets | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Compliance Instrument Participant Transfers (MT) | 92,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 460,633 |
| NCPA Compliance Instrument Purchases (for LEC) | | | | | | | | | | | | | | |
| Auction Purchases | 47,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| Secondary Market Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reserve Sale Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Offset Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total NCPA Compliance Instrument Purchases (MT) | 47,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Monthly Activity (MT) | 139,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 507,633 |
| Cumulative MT Account Balance [MTA] (MT) | 139,695 | 145,045 | 145,045 | 158,689 | 263,689 | 314,321 | 344,949 | 346,549 | 448,749 | 461,343 | 461,343 | 461,343 | 507,633 | 507,633 |
| MTA Shortfall (MT) | (139,695) | (113,590) | (75,269) | (41,496) | (96,012) | (134,469) | (134,376) | (89,848) | (156,328) | (134,459) | (97,762) | (58,647) | (53,777) | (53,777) |

| 2013 NCPA Air Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center | 2014 NCPA Air Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center | | | | | | | | | | | | | Compliance Year 2014 Total | Cumulative Totals | Charge Code | Source |
|---|---|-----------|-----------|-----------|----------|-----------|---------|---------|-----------|---------|----------|----------|-----------|----------------------------|-------------------|-------------|----------------|
| | Actual | | | | | Estimated | | | | | | | | | | | |
| IDENTIFIER | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER | | | | | |
| Energy (MWh) | 136,604 | 156,089 | 120,489 | 55,378 | 71,210 | 100,100 | 103,992 | 103,992 | 100,100 | 107,885 | 96,207 | 103,992 | 1,256,038 | 2,466,982 | | | Forecast/Meter |
| Gas Schedule (MMBtu) | 951,700 | 1,092,730 | 858,805 | 391,272 | 512,068 | 700,697 | 727,946 | 727,946 | 700,697 | 755,195 | 673,447 | 727,946 | 8,820,450 | 17,383,774 | | | Forecast/Meter |
| Emissions Factor (MT/MMBtu) | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | | | | | MARS |
| Monthly MT Emissions (MT) | 50,440 | 57,915 | 45,517 | 20,737 | 27,140 | 37,137 | 38,581 | 38,581 | 37,137 | 40,025 | 35,693 | 38,581 | 467,484 | 921,340 | | | derived |
| Cumulative MT Obligation (MT) | 504,296 | 562,211 | 607,728 | 628,465 | 655,605 | 692,742 | 731,323 | 769,904 | 807,041 | 847,066 | 882,759 | 921,340 | | 921,340 | | | derived |
| Compliance Instrument Participant Transfers (to LEC) | | | | | | | | | | | | | | | | | |
| Auction Allowances | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 226,703 | 687,336 | | | CITSS |
| Secondary Market Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Reserve Sale Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Offsets | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Total Compliance Instrument Participant Transfers (MT) | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 226,703 | 687,336 | | | |
| NCPA Compliance Instrument Purchases (for LEC) | | | | | | | | | | | | | | | | | |
| Auction Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 | | | CITSS |
| Secondary Market Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Reserve Sale Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Offset Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Total NCPA Compliance Instrument Purchases (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 | | | |
| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | CITSS |
| Total Monthly Activity (MT) | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 226,703 | 734,336 | | | derived |
| Cumulative MT Account Balance [MTA] (MT) | 609,980 | 659,980 | 708,046 | 733,046 | 734,336 | 734,336 | 734,336 | 734,336 | 734,336 | 734,336 | 734,336 | 734,336 | | 734,336 | | | derived |
| MTA Shortfall (MT) | (105,684) | (97,769) | (100,318) | (104,581) | (78,731) | (41,594) | (3,013) | 35,568 | 72,705 | 112,730 | 148,423 | 187,004 | | 187,004 | MTA SHORTFALL | | derived |

Forecast for July-December 2014 has been updated.

| NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) July 2014 | | | | | | | | | | | | | | | | |
|--|---------|----------|---------|----------|---------|---------|---------|---------|----------|---------|---------|----------|---------|-----------|---------------|------------|
| IDENTIFIER | AZUSA | BART | BIG | CDWR | GRI | HEA | LOD | LOM | MID | PLU | PWRPA | SNCL | UKI | TOTAL | Charge Code | Source |
| Allocation Percentages | | | | | | | | | | | | | | | | |
| Generation Entitlement Share % | 2.7857% | 6.6000% | 0.2679% | 33.5000% | 1.9643% | 1.6428% | 9.5000% | 2.0357% | 10.7143% | 0.7857% | 2.6679% | 25.7500% | 1.7857% | 100% | | MARS |
| Obligation Accounts | | | | | | | | | | | | | | | | |
| Current MT Compliance Obligation (MTO) Balance (MT) | 20,372 | 48,267 | 1,959 | 244,993 | 14,365 | 12,014 | 69,476 | 14,888 | 78,356 | 5,746 | 19,511 | 188,316 | 13,059 | 731,323 | | derived |
| Current MT Compliance Instrument Account (MTA) Balance (MT) | 26,000 | 102,200 | 2,329 | 325,000 | 17,059 | 13,104 | 75,578 | 24,200 | 95,000 | 5,900 | 24,787 | 220,000 | 14,140 | 945,297 | | derived |
| MTA Shortfall (MT) | (5,628) | (53,933) | (370) | (80,007) | (2,694) | (1,090) | (6,102) | (9,313) | (16,644) | (154) | (5,276) | (31,684) | (1,081) | (213,975) | MTA SHORTFALL | Derived |
| Monthly GHG Price \$/MT | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | 11.78 | MTA SHORTFALL | ICE Index |
| GHG Minimum Cash Compliance Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MTA SHORTFALL | Derived |
| Current Month CCA Balance (\$)* | 60,991 | 0 | 143 | 0 | 1,103 | 4,780 | 755 | 0 | 0 | 0 | 0 | 0 | 2,652 | 70,424 | CCA BALANCE | Accounting |
| Net GHG Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | NET GHG OBLIG | Derived |

* The Current Month CCA Balance (\$) consists of the current cash balance plus any outstanding balance of Net GHG Obligation (\$) billed but not yet received.



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 9

Date: July 10, 2014
To: Lodi Energy Center Project Participant Committee
Subject: Siemens Energy, Inc. – Change Order No. 1 to Long Term Maintenance Program Agreement for LEC

Proposal

Approve Change Order No. 1 to the Long Term Maintenance Program Agreement with Siemens Energy, Inc. (Siemens) for the Lodi Energy Center facility.

Background

On September 13, 2010, NCPA entered into an agreement with Siemens for not-to exceed \$50,000,000.00, for the long term maintenance program for the Lodi Energy Center.

During the May 2014 outage, a bore scope inspection revealed internal damage to the components. The components were determined to be under warranty. Under the terms of the Long Term Agreement, Siemens is responsible to bear the costs associated with the repair of a warranty item up to the financial limitations as outlined in the contract. The limitations are set out in section 5.4.1 and define that Siemens is responsible for \$1,000,000 per event, and \$2,000,000 per year. NCPA would be responsible for any excess costs beyond these limits. The Contract has a lifetime limit of \$6,000,000.

Fiscal Impact

This Change Order No. 1 is created to document the costs associated with this warranty repair and track the Event, Annual and Contract limitations.

Prior to the start of the outage, The Contract financial limit was still at the full \$6,000,000 obligation. The cost of the warranty repair was \$359,487.09. Siemens remaining financial obligations for warranty repair are \$5,640,512.91

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.

Recommendation

Staff recommends that the PPC approve Change Order No. 1 to the Long Term Maintenance Program Agreement with Siemens Energy, Inc. with any non-substantial changes recommended and approved by the NCPA General Counsel, and authorizes the General Manager to execute the Change Order No. 1. Change Order No. 1 documents the costs associated with warranty repair of Row 3 diaphragm replacement and tracks the Event, Annual, and Contract limitations of the Agreement.

Prepared by:

A handwritten signature in black ink that reads "Ken Speer". The signature is written in a cursive style with a large, stylized "S" for "Speer".

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Change Order No. 1 to Long Term Maintenance Program Agreement with Siemens Energy, Inc.

SUBJECT TO MANAGEMENT APPROVAL

CHANGE ORDER NO. 1

Contract: Program Parts, Non-Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract, dated September 13, 2010

Effective Date: June 1, 2014

Buyer: Northern California Power Agency

Seller: Siemens Energy, Inc.

1. **Introduction.** This Change Order No.1 (this "Change Order") is agreed to pursuant to that certain Program Parts, Non-Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract, dated September 13, 2010 (the "Contract") by and between Siemens Energy, Inc. ("Seller") and Northern California Power Agency ("Buyer"). Capitalized terms used but not defined herein shall have the meaning given them in the Contract. This Change Order as submitted by one Party to the other shall constitute a request for a Change Order. Upon its countersignature in the space provided below, this Change Order shall constitute a Change Order within the meaning of the Contract.
2. **Scope of Change.** This Change Order documents the Row 3 diaphragm replaced by Seller during the April 2014 Unscheduled Outage.

Pursuant to Section 5.4, Seller has applied a credit of the total amount listed in Table 1 below for the work performed. This credit has been applied against Seller's financial limitation for damage to Buyer's property for both Calendar Year 2014 (see Table 2) and the Term aggregate (see Table 3), each as provided in Section 5.4.

| Table 1 | |
|---|----------------------|
| Work Performed under Section 5.4 | Amount |
| Field service | \$ 306,366.70 |
| Insulation | \$ 22,075.40 |
| Forklift and Crane | \$ 31,044.99 |
| Total | \$ 359,487.09 |

| Table 2 | |
|--|------------------------|
| 2014 Property Damage Financial Limitation | Amount |
| Initial Financial Limitation | \$ 2,000,000.00 |
| (Less) Table 1 Total | (\$ 359,487.09) |
| Remaining 2014 Property Damage Financial Limitation | \$ 1,640,512.91 |

| Table 3 | |
|--|------------------------|
| Term Aggregate Property Damage Financial Limitation | Amount |
| Initial Term Aggregate Financial Limitation | \$ 6,000,000.00 |
| (Less) Table 1 Total | (\$ 359,487.09) |
| Remaining Term Aggregate Property Damage Financial Limitation | \$ 5,640,512.91 |

3. **Timing.** This Change Order will be in effect as of the Effective Date first written above.

SUBJECT TO MANAGEMENT APPROVAL

4. **Payment and Term.** The value of this Change Order is zero dollars zero cents (**\$0.00**).
5. **Other Terms and Conditions.** Except as otherwise specifically provided in this Change Order, all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Change Order to be executed by their duly authorized representatives to be effective as of the date first above written.

Siemens Energy, Inc.

Northern California Power Agency

By: _____
Name:

By: _____
Name

Title:

Title:

Date:

Date:

**NORTHERN CALIFORNIA POWER AGENCY
CALENDAR YEAR 2015
PLANNED MAINTENANCE OUTAGE SCHEDULE**

Lodi Energy Center: May 1 – 24, 2015



651 Commerce Drive
Roseville, CA 95678

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

LEC Treasurer's Report

AGENDA ITEM NO.: _____

Date: August 6, 2014
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended July 31, 2014

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

Cash - At month end cash totaled \$0.

The cash balance held at U.S. Bank includes outstanding checks that have not yet cleared.

Investments - The carrying value of the LEC's investment portfolio totaled \$26,887,031 at month end. The current market value of the portfolio totaled \$26,845,203.

The overall portfolio had a combined weighted average interest rate of 0.425% with a bond equivalent yield (yield to maturity) of 0.376%. Investments with a maturity greater than one year totaled \$11,351,000. During the month \$2 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 1 basis points (from 0.04% to 0.03%) and rates on one year T-Bills increased 1 basis points (from 0.11% to 12%).

To the best of my knowledge and belief, all securities held by LEC as of August 11, 2014, are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

Environmental Analysis

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

Respectfully submitted,

DONNA STEVENER
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

for KEVIN W. WALLACE
Treasurer-Controller

Attachments

LODI ENERGY CENTER

TREASURER'S REPORT

JULY 31, 2014

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| CASH ACTIVITY SUMMARY | 2 |
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| INTEREST RATE/YIELD ANALYSIS | 4 |
| INVESTMENT MATURITIES ANALYSIS | 5 |
| DETAIL REPORT OF INVESTMENTS | APPENDIX |

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
July 31, 2014

| | CASH | INVESTMENTS | TOTAL | PERCENT | INVESTMENTS at MARKET |
|---------------------------------|------|---------------|---------------|----------|--------------------------|
| MANDATORY FUNDS | | | | | |
| Construction Revolving | \$ - | \$ 3,441 | \$ 3,441 | 0.013% | \$ 3,441 |
| Debt Service Account | - | 4,423,314 | 4,423,314 | 16.451% | 4,423,094 |
| Debt Service Reserve | - | 11,748,494 | 11,748,494 | 43.696% | 11,705,500 |
| O & M Reserve | - | 10,640,957 | 10,640,957 | 39.577% | 10,642,343 |
| | - | 26,816,206 | 26,816,206 | 99.737% | 26,774,378 |
| ADDITIONAL PROJECT FUNDS | | | | | |
| GHG Cash Account | - | 70,825 | 70,825 | 0.263% | 70,825 |
| | \$ - | \$ 26,887,031 | \$ 26,887,031 | 100.000% | \$ 26,845,203 |

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
July 31, 2014

| | RECEIPTS | | | EXPENDITURES | | | CASH |
|---------------------------------|-------------|----------------------|-------------------------|--------------|-------------------------|----------------------------------|--------------------------|
| | OPS/CONSTR | INTEREST (NOTE B) | INVESTMENTS (NOTE A) | OPS/CONSTR | INVESTMENTS (NOTE B) | INTER-COMPANY/ FUND TRANSFERS | INCREASE / (DECREASE) |
| MANDATORY FUNDS | | | | | | | |
| Construction Revolving | \$ - | \$ 85 | \$ (85) | \$ - | \$ - | \$ - | \$ - |
| Debt Service Account | - | 8 | (1,000) | - | (2,210,525) | 2,211,517 | - |
| Debt Service Reserve | - | 84 | - | - | (84) | - | - |
| O & M Reserve | - | 583 | - | - | (581) | - | 2 |
| | - | 760 | (1,085) | - | (2,211,189) | 2,211,517 | 2 |
| ADDITIONAL PROJECT FUNDS | | | | | | | |
| GHG Cash Account | - | 37 | (37) | - | - | - | - |
| TOTAL | \$ - | \$ 797 | \$ (1,122) | \$ - | \$ (2,211,189) | \$ 2,211,517 | \$ 2 |

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Investment Activity Summary
July 31, 2014

| | PURCHASED | SOLD OR MATURED | (NON-CASH) DISC/(PREM) AMORT | (NON-CASH) GAIN/(LOSS) ON SALE | INVESTMENTS TRANSFERS | INCREASE / (DECREASE) |
|---------------------------------|---------------------|--------------------|------------------------------------|--------------------------------------|--------------------------|--------------------------|
| MANDATORY FUNDS | | | | | | |
| Construction Revolving | | \$ 85 | \$ - | \$ - | \$ - | \$ 85 |
| Debt Service Account | 2,210,525 | 1,000 | 159 | - | - | 2,211,684 |
| Debt Service Reserve | 84 | - | (159) | - | | (76) |
| O & M Reserve | 581 | - | (1,281) | - | | (700) |
| | <u>2,211,189</u> | <u>1,085</u> | <u>(1,281)</u> | <u>-</u> | <u>-</u> | <u>2,210,993</u> |
| ADDITIONAL PROJECT FUNDS | | | | | | |
| GHG Cash Account | | 37 | - | - | | 37 |
| TOTAL | <u>\$ 2,211,189</u> | <u>\$ 1,122</u> | <u>\$ (1,281)</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 2,211,030</u> |

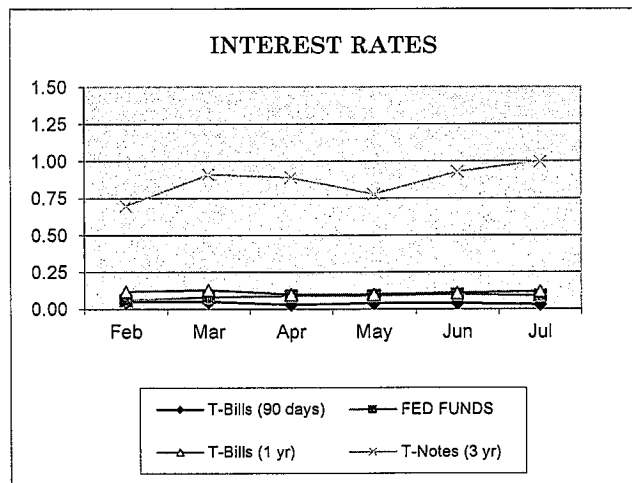
| | |
|---|---------------------|
| Less Non- Cash Activity | |
| Disc/(Prem) Amortization & Gain/(Loss) on Sale | <u>1,281</u> |
| Net Change in Investment --Before Non-Cash Activity | <u>\$ 2,212,312</u> |

NOTE A -Investment amounts shown at book carrying value.

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
INTEREST RATE/YIELD ANALYSIS
July 31, 2014**

| | <u>WEIGHTED AVERAGE INTEREST RATE</u> | <u>BOND EQUIVALENT YIELD</u> |
|------------------------------------|---|--------------------------------------|
| OVERALL COMBINED | <u><u>0.425%</u></u> | <u><u>0.376%</u></u> |
| <u>Construction Revolving Acct</u> | 0.221% | 0.221% |
| <u>Funds:</u> | | |
| Debt Service Account | 0.065% | 0.066% |
| Debt Service Reserve | 0.546% | 0.571% |
| O & M Reserve | 0.443% | 0.290% |
| GHG Cash Account | 0.221% | 0.221% |

| KEY INTEREST RATES | | |
|---------------------------|----------------|-----------------------|
| | <u>CURRENT</u> | <u>PRIOR YEAR</u> |
| Fed Fds (Ovrnight) | 0.09% | 0.10% |
| T-Bills (90da.) | 0.03% | 0.06% |
| Agency Disc (90da.) | 0.04% | 0.05% |
| T-Bills (1yr.) | 0.12% | 0.02% |
| Agency Disc (1yr.) | 0.14% | 0.16% |
| T-Notes (3yr.) | 1.00% | 0.70% |



Lodi Energy Center
Total Portfolio
Investment Maturities Analysis
July 31, 2014

| Type | 0-7 Days | 8-90 Days | 91-180 Days | 181-270 Days | 271-360 Days | 1-5 Years | 5-10 Years | Total | Percent |
|-----------------------------|-------------|--------------|----------------|-----------------|-----------------|--------------|---------------|----------|---------|
| US Government Agencies | | \$3,612 | \$4,421 | | | \$11,351 | | \$19,384 | 72.10% |
| US Bank Trust Money Market | 3,396 | | | | | | | 3,396 | 12.63% |
| Investment Trusts (LAIF) | 4,106 | | | | | | | 4,106 | 15.27% |
| U.S.Treasury Market Acct. * | | | | | | | | 0 | 0.00% |
| U.S.Treasury Bill | | | | | | | | 0 | 0.00% |
| Certificates of Deposit | | | | | | | | 0 | 0.00% |
| Total Dollars | \$7,502 | \$3,612 | \$4,421 | \$0 | \$0 | \$11,351 | \$0 | \$26,886 | 100.00% |
| Total Percents | 27.90% | 13.43% | 16.44% | 0.00% | 0.00% | 42.22% | 0.00% | 100.00% | |

Investment 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

07/31/2014

LEC Construction Revolving

| 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 | | 3,441 | 0.221 | | 3,441 | | 1 | 0.221 | 3,441 | SYS70040 | 70040 | 3,441 |
| Fund Total and Average | | \$ 3,441 | 0.221 | | \$ 3,441 | | 1 | 0.221 | \$ 3,441 | | | \$ 3,441 |
| GRAND TOTALS: | | \$ 3,441 | 0.221 | | \$ 3,441 | | 1 | 0.221 | \$ 3,441. | | | \$ 3,441 |

*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 07/31/2014



Northern California Power Agency
Treasurer's Report

07/31/2014

LEC Issue#1 2010A DS Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|-----------|--------------|----------------|
| US Bank Trust | USB | 666 | 0.100 | | 666 | | 1 | 0.100 | 666 | SYS79003 | 79003 | 666 |
| Federal National Mtg | USB | 693,000 | 0.069 | 06/26/2014 | 692,787 | 12/01/2014 | 122 | 0.070 | 692,813 | 313589R54 | 26138 | 692,836 |
| Federal National Mtg | USB | 693,000 | 0.060 | 07/25/2014 | 692,851 | 12/01/2014 | 122 | 0.060 | 692,813 | 313589R54 | 26142 | 692,859 |
| Fund Total and Average | | \$ 1,386,666 | 0.065 | | \$ 1,386,304 | | 122 | 0.066 | \$ 1,386,292 | | | \$ 1,386,361 |

LEC Issue #1 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|------------|--------------|------------|-----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 884 | 0.100 | | 884 | | 1 | 0.100 | 884 | SYS79004 | 79004 | 884 |
| Federal National Mtg | USB | 732,000 | 0.070 | 06/26/2014 | 731,775 | 12/01/2014 | 122 | 0.070 | 731,802 | 313589R54 | 26139 | 731,826 |
| Federal National Mtg | USB | 732,000 | 0.060 | 07/25/2014 | 731,843 | 12/01/2014 | 122 | 0.060 | 731,802 | 313589R54 | 26143 | 731,851 |
| Fund Total and Average | | \$ 1,464,884 | 0.065 | | \$ 1,464,502 | | 122 | 0.066 | \$ 1,464,488 | | | \$ 1,464,561 |

LEC Issue #2 2010A DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|------------|-------|------------|------------|------------|-----|-------|------------|-----------|-------|------------|
| US Bank Trust | USB | 827 | 0.100 | | 827 | | 1 | 0.100 | 827 | SYS79011 | 79011 | 827 |
| Federal National Mtg | USB | 434,000 | 0.069 | 06/26/2014 | 433,867 | 12/01/2014 | 122 | 0.070 | 433,883 | 313589R54 | 26140 | 433,897 |
| Federal National Mtg | USB | 434,000 | 0.060 | 07/25/2014 | 433,907 | 12/01/2014 | 122 | 0.060 | 433,883 | 313589R54 | 26144 | 433,912 |
| Fund Total and Average | | \$ 868,827 | 0.065 | | \$ 868,801 | | 122 | 0.066 | \$ 868,593 | | | \$ 868,636 |

LEC Issue #2 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|------------|--------------|------------|-----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 911 | 0.100 | | 911 | | 1 | 0.100 | 911 | SYS79012 | 79012 | 911 |
| Federal National Mtg | USB | 351,000 | 0.069 | 06/26/2014 | 350,892 | 12/01/2014 | 122 | 0.070 | 350,905 | 313589R54 | 26141 | 350,917 |
| Federal National Mtg | USB | 352,000 | 0.060 | 07/25/2014 | 351,924 | 12/01/2014 | 122 | 0.060 | 351,905 | 313589R54 | 26145 | 351,928 |
| Fund Total and Average | | \$ 703,911 | 0.065 | | \$ 703,727 | | 122 | 0.066 | \$ 703,721 | | | \$ 703,756 |
| GRAND TOTALS: | | \$ 4,424,288 | 0.065 | | \$ 4,423,134 | | 122 | 0.066 | \$ 4,423,094 | | | \$ 4,423,314 |

*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 07/31/2014



Northern California Power Agency
Treasurer's Report
07/31/2014

LEC Issue #1 2010 DSR Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|-----------|--------------|----------------|
| US Bank Trust | USB | 46,094 | 0.100 | | 46,094 | | 1 | 0.100 | 46,094 | SYS79005 | 79005 | 46,094 |
| Federal Home Loan Mt | USB | 4,181,000 | 0.580 | 05/30/2014 | 4,183,927 | 08/26/2016 | 756 | 0.548 | 4,170,840 | 3134G56B6 | 26135 | 4,183,705 |
| Federal National Mtg | USB | 4,170,000 | 0.875 | 05/30/2014 | 4,171,960 | 08/28/2017 | 1,123 | 0.977 | 4,141,727 | 3135GOMZ3 | 26136 | 4,171,858 |
| Fund Total and Average | | \$ 8,397,094 | 0.724 | | \$ 8,401,981 | | 934 | 0.759 | \$ 8,358,661 | | | \$ 8,401,657 |

LEC Iss#1 2010B BABS Subs Resv

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|--|--------------|--|---|-------|--------------|----------|-------|--------------|
| US Bank Trust | USB | 2,260,577 | 0.100 | | 2,260,577 | | 1 | 0.100 | 2,260,577 | SYS79006 | 79006 | 2,260,577 |
| Fund Total and Average | | \$ 2,260,577 | 0.100 | | \$ 2,260,577 | | 1 | 0.100 | \$ 2,260,577 | | | \$ 2,260,577 |

LEC Issue #1 2010 COI Acct

| | | | | | | | | | | | | |
|------------------------|-----|------|-------|--|------|--|---|-------|------|----------|-------|------|
| US Bank Trust | USB | 2 | 0.100 | | 2 | | 1 | 0.100 | 2 | SYS79008 | 79008 | 2 |
| Fund Total and Average | | \$ 2 | 0.100 | | \$ 2 | | 1 | 0.100 | \$ 2 | | | \$ 2 |

LEC Issue #2 2010B DSR BABS

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|--|--------------|--|---|-------|--------------|----------|-------|--------------|
| US Bank Trust | USB | 1,086,260 | 0.100 | | 1,086,260 | | 1 | 0.100 | 1,086,260 | SYS79013 | 79013 | 1,086,260 |
| Fund Total and Average | | \$ 1,086,260 | 0.100 | | \$ 1,086,260 | | 1 | 0.100 | \$ 1,086,260 | | | \$ 1,086,260 |

LEC Issue#2 2010 COI Acct

| | | | | | | | | | | | | |
|------------------------|-----|------|-------|--|------|--|---|-------|------|----------|-------|------|
| US Bank Trust | USB | 0 | 0.100 | | 0 | | 1 | 0.100 | 0 | SYS79015 | 79015 | 0 |
| Fund Total and Average | | \$ 0 | 0.100 | | \$ 0 | | 1 | 0.100 | \$ 0 | | | \$ 0 |

GRAND TOTALS: \$ 11,743,933 0.546 \$ 11,748,820 0.571 \$ 11,705,500. \$ 11,748,496

*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 07/31/2014
Investment # 26135 - FHLMC Note .58% thru 8/26/16.; Callable 11/26/14, semi-annually thereafter.



Northern California Power Agency
Treasurer's Report

07/31/2014

LEC O & M Reserve

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|---------------|---------------|---------------|-----------------|---------------|------------------|-------------------|----------------|-----------|--------------|----------------|
| Local Agency Investm | | 4,031,545 | 0.221 | | 4,031,545 | | 1 | 0.221 | 4,031,545 | SYS70047 | 70047 | 4,031,545 |
| Union Bank of Califo | UBOC | 2 | 0.002 | 07/18/2013 | 2 | | 1 | 0.002 | 2 | SYS70041 | 70041 | 2 |
| Federal Home Loan Mt | UBOC | 2,980,000 | 0.750 | 02/19/2014 | 2,991,264 | 09/22/2014 | 52 | 0.110 | 2,982,742 | 3134G2WG3 | 26099 | 2,982,697 |
| Federal Home Loan Mt | UBOC | 632,000 | 0.140 | 10/31/2013 | 631,127 | 10/21/2014 | 81 | 0.142 | 631,924 | 313397L41 | 26066 | 631,801 |
| Federal Home Loan Mt | UBOC | 3,000,000 | 0.500 | 10/25/2013 | 2,992,800 | 06/06/2016 | 675 | 0.592 | 2,996,130 | 3134G46A1 | 26052 | 2,994,912 |
| Fund Total and Average | | \$ 10,643,547 | 0.443 | | \$ 10,646,738 | | 210 | 0.290 | \$ 10,642,343 | | | \$ 10,640,957 |
| GRAND TOTALS: | | \$ 10,643,547 | 0.443 | | \$ 10,646,738 | | 210 | 0.290 | \$ 10,642,343. | | | \$ 10,640,957 |

*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 07/31/2014

Investment # 26052 - FHLMC Structured Note .50%; Callable on 09/06/14 Quarterly thereafter.



Northern California Power Agency
Treasurer's Report

07/31/2014

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 Invesim | | 70,825 | 0.221 | | 70,825 | | 1 | 0.221 | 70,825 | SYS70046 | 70046 | 70,825 |
| Fund Total and Average | | \$ 70,825 | 0.221 | | \$ 70,825 | | 1 | 0.221 | \$ 70,825 | | | \$ 70,825 |
| GRAND TOTALS: | | \$ 70,825 | 0.221 | | \$ 70,825 | | 1 | 0.221 | \$ 70,825 | | | \$ 70,825 |

*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 07/31/2014



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web www.ncpa.com

LEC Financial Reports

AGENDA ITEM NO.: _____

Date: August 7, 2014

Subject: July 31, 2014 Financial Reports (Unaudited)

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF NET POSITION
UNAUDITED**

| ASSETS | 2014 | July 31 | 2013 |
|--|-----------------------|----------------|--------------------|
| CURRENT ASSETS | | | |
| Cash and cash equivalents | \$ 70,788 | \$ | 86,392 |
| Accounts receivable | | | |
| Others | - | | 510,315 |
| Interest receivable | 7,723 | | 1,745 |
| Inventory and supplies - at average cost | 1,171,357 | | 990,780 |
| Prepaid insurance | - | | 359,039 |
| Due from (to) Agency, net | 17,724,655 | | 15,119,277 |
| TOTAL CURRENT ASSETS | 18,974,523 | | 17,067,548 |
| RESTRICTED ASSETS | | | |
| Cash and cash equivalents | 11,914,390 | | 14,672,105 |
| Investments | 15,813,373 | | 12,777,497 |
| Interest receivable | 14,890 | | 7,806 |
| TOTAL RESTRICTED ASSETS | 27,742,653 | | 27,457,408 |
| ELECTRIC PLANT | | | |
| Electric plant in service | 423,367,779 | | 424,904,890 |
| Less: accumulated depreciation | (24,350,892) | | (9,788,043) |
| TOTAL ELECTRIC PLANT | 399,016,887 | | 415,116,847 |
| OTHER ASSETS | | | |
| Regulatory assets | 12,618,148 | | 12,568,001 |
| TOTAL OTHER ASSETS | 12,618,148 | | 12,568,001 |
| TOTAL ASSETS | \$ 458,352,211 | \$ | 472,209,804 |

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF NET POSITION
UNAUDITED**

July 31

2014

2013

LIABILITIES & NET POSITION

CURRENT LIABILITIES

| | | |
|-----------------------------------|-------------------|-------------------|
| Accounts and retentions payable | \$ 4,503,904 | \$ 4,415,040 |
| Operating reserves | 11,574,923 | 10,984,146 |
| Current portion of long-term debt | 9,025,000 | 8,640,000 |
| Accrued interest payable | 2,898,965 | 3,998,555 |
| TOTAL CURRENT LIABILITIES | 28,002,792 | 28,037,741 |

NON-CURRENT LIABILITIES

| | | |
|---------------------------------------|--------------------|--------------------|
| Operating reserves and other deposits | 981,859 | 86,392 |
| Regulatory liability | 46,048,056 | 49,148,706 |
| Long-term debt, net | 372,742,500 | 382,844,645 |
| TOTAL NON-CURRENT LIABILITIES | 419,772,415 | 432,079,743 |

| | | |
|--------------------------|--------------------|--------------------|
| TOTAL LIABILITIES | 447,775,207 | 460,117,484 |
|--------------------------|--------------------|--------------------|

NET POSITION

| | | |
|---|-------------------|-------------------|
| Invested in capital assets, net of related debt | (6,692,362) | (12,359,005) |
| Restricted | 14,373,670 | 36,283,867 |
| Unrestricted | 2,895,696 | (11,832,542) |
| TOTAL NET POSITION | 10,577,004 | 12,092,320 |

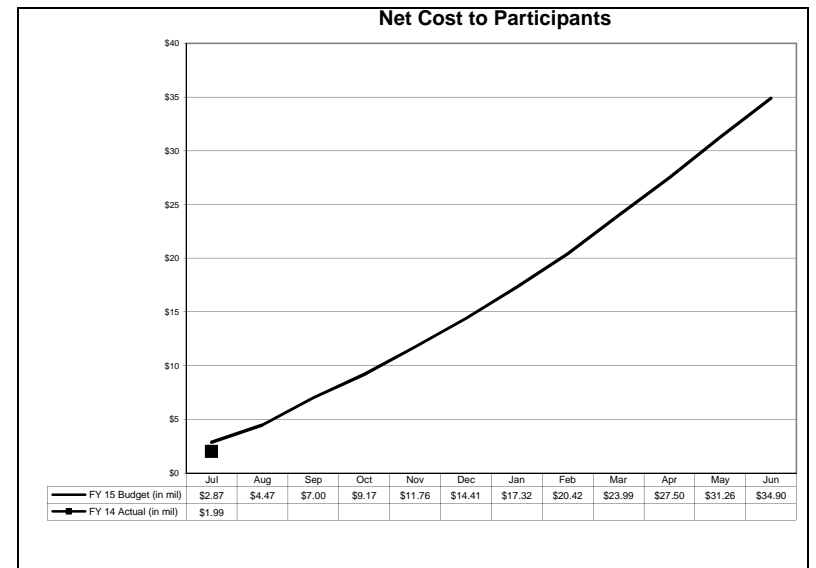
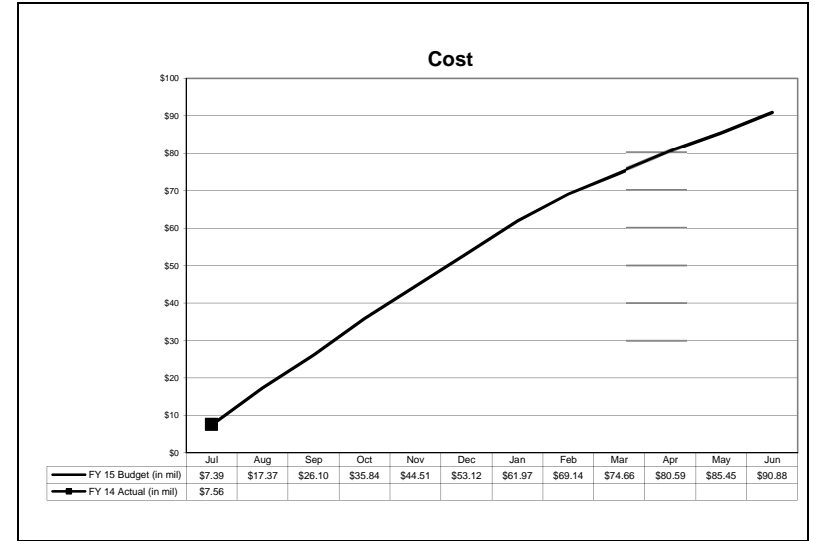
| | | |
|---|-----------------------|-----------------------|
| TOTAL LIABILITIES AND NET POSITION | \$ 458,352,211 | \$ 472,209,804 |
|---|-----------------------|-----------------------|

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER
STATEMENT OF REVENUES, EXPENSES
& CHANGES IN NET POSITION
UNAUDITED**

| | Month Ended July 31 | |
|--|---------------------|--------------------|
| | 2014 | 2013 |
| SALES FOR RESALE | | |
| Participants | \$ 3,208,292 | \$ 4,532,166 |
| Other | 5,561,628 | 5,836,674 |
| TOTAL SALES FOR RESALE | 8,769,920 | 10,368,840 |
| OPERATING EXPENSES | | |
| Operations | 4,758,078 | 2,562,545 |
| Depreciation | 1,216,537 | 1,220,991 |
| Maintenance expenses | 303,846 | 514,689 |
| Administrative and general | 586,190 | 241,231 |
| Intercompany (sales) purchases | - | 17,641 |
| TOTAL OPERATING EXPENSES | 6,864,651 | 4,557,097 |
| NET OPERATING REVENUES | 1,905,269 | 5,811,743 |
| OTHER REVENUES (EXPENSES) | | |
| Interest expense | (1,372,404) | (1,397,783) |
| Interest income | 28,208 | 6,292 |
| Amortization | - | (6,355) |
| Other | - | 8,362 |
| TOTAL OTHER REVENUES (EXPENSES) | (1,344,196) | (1,389,484) |
| FUTURE RECOVERABLE AMOUNTS | 385,783 | 413,472 |
| REFUNDS TO PARTICIPANTS | 65 | 0 |
| INCREASE IN NET POSITION | 946,921 | 4,835,731 |
| NET POSITION | | |
| Beginning of year | 9,630,083 | 7,256,589 |
| End of period | \$ 10,577,004 | \$ 12,092,320 |
| | - | - |

**Lodi Energy Center
FY 2015 Operating Costs
As of July 31, 2014**

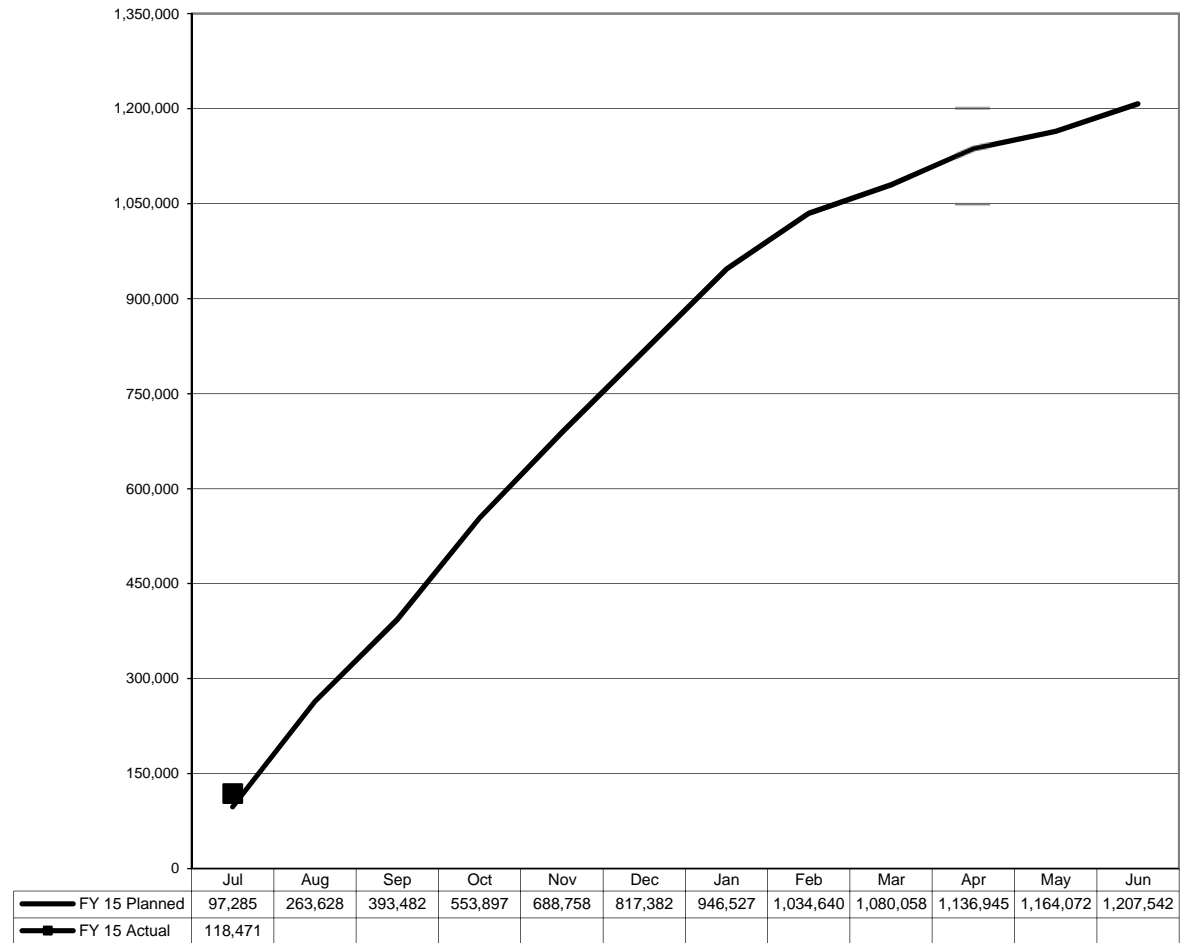
| | Annual Budget | Actual | Remaining | YTD % Remaining | Notes |
|--|----------------------|---------------------|----------------------|--------------------|-------|
| Routine O&M Costs | | | | | |
| Variable | \$ 3,651,332 | \$ 33,177 | \$ 3,618,155 | 99% | |
| Fixed | 1,765,358 | 31,638 | 1,733,720 | 98% | |
| Administration | 1,250,914 | 106,163 | 1,144,751 | 92% | |
| Mandatory Costs | 220,000 | 27,186 | 192,814 | 88% | |
| Inventory Stock | 400,000 | - | 400,000 | 100% | |
| Routine O&M Costs without Labor | 7,287,604 | 198,164 | 7,089,440 | 97% | |
| Labor | 4,299,182 | 333,616 | 3,965,566 | 92% | |
| Total Routine O&M Cost | 11,586,786 | 531,780 | 11,055,006 | 95% | |
| Other Costs | | | | | |
| Fuel | 41,167,130 | 4,390,943 | 36,776,187 | 89% | |
| CA ISO Charges | 489,050 | - | 489,050 | 100% | |
| Debt Service | 26,437,890 | 2,203,158 | 24,234,732 | 92% | |
| Insurance | 1,000,425 | - | 1,000,425 | 100% | |
| Other Costs | 51,781 | 2,538 | 49,243 | 95% | |
| Generation Services Shared | 437,453 | 35,000 | 402,453 | 92% | |
| Administrative & General (Allocated) | 1,728,654 | 144,000 | 1,584,654 | 92% | |
| Power Management Allocated Costs | 1,187,916 | 98,993 | 1,088,923 | 92% | |
| Total O&M Cost | 84,087,085 | 7,406,412 | 76,680,673 | 91% | |
| Projects | | | | | |
| Operations & Maintenance | 332,500 | - | 332,500 | 100% | |
| Capital | 4,658,760 | - | 4,658,760 | 100% | |
| Maintenance Reserve | 1,800,000 | 150,000 | 1,650,000 | 92% | |
| Total Projects | 6,791,260 | 150,000 | 6,641,260 | 98% | |
| Annual Cost | 90,878,345 | 7,556,412 | 83,321,933 | 92% | |
| Less: Third Party Revenue | | | | | |
| Interest Income | 44,489 | - | 44,489 | 100% | |
| ISO Energy Sales | 54,517,593 | 5,426,355 | 49,091,238 | 90% | |
| Ancillary Services Sales | 1,420,431 | 135,273 | 1,285,158 | 90% | |
| Other Income | - | 465 | (465) | N/A | |
| | 55,982,513 | 5,562,093 | 50,420,420 | 90% | |
| Net Annual Cost to Participants | \$ 34,895,832 | \$ 1,994,319 | \$ 32,901,513 | 94% | |
| Total Variable Costs | 45,307,512 | 4,189,693 | 41,117,819 | | |
| Total Fixed Costs | 45,570,833 | 3,132,292 | 42,438,541 | | |
| | \$ 90,878,345 | \$ 7,321,985 | \$ 83,556,360 | | |
| Net Cumulative Generation (MWh) | 1,207,542 | 118,471 | | | |
| Total O&M Cost Per MWh | \$ 69.63 | \$ 62.52 | | | |
| Net Annual Cost Per MWh | \$ 28.90 | \$ 16.83 | | | |



**Annual Budget
LEC Generation Analysis
Planned vs. Actual
FY 2015**

In MWh

Lodi Energy Center



2013 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report
for the Lodi Energy Center

| IDENTIFIER | Actual | | | | | | | | | | | | | Compliance Year 2013 Total |
|---|-----------|-----------|----------|----------|----------|-----------|-----------|----------|-----------|-----------|----------|----------|----------|----------------------------------|
| | DECEMBER | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER | |
| Energy (MWh) | 0 | 82,787 | 101,925 | 128,167 | 134,284 | 32,545 | 80,153 | 122,492 | 94,615 | 92,091 | 98,739 | 105,078 | 138,068 | 1,210,944 |
| Gas Schedule (MMBtu) | 0 | 593,484 | 723,038 | 894,657 | 952,529 | 229,724 | 579,650 | 870,331 | 673,965 | 650,250 | 692,396 | 738,008 | 965,292 | 8,563,324 |
| Emissions Factor (MT/MMBtu) | 0 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 |
| Monthly MT Emissions (MT) | 0 | 31,455 | 38,321 | 47,417 | 50,484 | 12,175 | 30,721 | 46,128 | 35,720 | 34,463 | 36,697 | 39,114 | 51,160 | 453,856 |
| Cumulative MT Obligation (MT) | 0 | 31,455 | 69,776 | 117,193 | 167,677 | 179,852 | 210,573 | 256,701 | 292,421 | 326,884 | 363,581 | 402,696 | 453,856 | 453,856 |
| Compliance Instrument Participant Transfers (to LEC) | | | | | | | | | | | | | | |
| Auction Allowances | 92,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 460,633 |
| Secondary Market Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reserve Sale Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Offsets | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Compliance Instrument Participant Transfers (MT) | 92,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 460,633 |
| NCPA Compliance Instrument Purchases (for LEC) | | | | | | | | | | | | | | |
| Auction Purchases | 47,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| Secondary Market Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reserve Sale Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Offset Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total NCPA Compliance Instrument Purchases (MT) | 47,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Monthly Activity (MT) | 139,695 | 5,350 | 0 | 13,644 | 105,000 | 50,632 | 30,628 | 1,600 | 102,200 | 12,594 | 0 | 0 | 46,290 | 507,633 |
| Cumulative MT Account Balance [MTA] (MT) | 139,695 | 145,045 | 145,045 | 158,689 | 263,689 | 314,321 | 344,949 | 346,549 | 448,749 | 461,343 | 461,343 | 461,343 | 507,633 | 507,633 |
| MTA Shortfall (MT) | (139,695) | (113,590) | (75,269) | (41,496) | (96,012) | (134,469) | (134,376) | (89,848) | (156,328) | (134,459) | (97,762) | (58,647) | (53,777) | (53,777) |

| | 2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center | | | | | | | | | | | | | | | | | |
|---|--|-----------|-----------|-----------|----------|-----------|-----------|-----------|-----------|----------|----------|----------|-----------|------------|----------------------------------|-------------------------------|--|--|
| | Actual | | | | | | | | | | | | Estimated | | Compliance Year 2014 Total | Cumulative Totals Total | | |
| IDENTIFIER | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER | | | Charge Code | Source | | |
| | | | | | | | | | | | | | | | | | | |
| Energy (MWh) | 136,604 | 156,089 | 120,489 | 55,378 | 71,210 | 51,037 | 103,992 | 103,992 | 100,100 | 107,885 | 96,207 | 103,992 | 1,206,975 | 2,417,919 | | Forecast/Meter | | |
| Gas Schedule (MMBtu) | 951,700 | 1,092,730 | 858,805 | 391,272 | 512,068 | 371,695 | 727,946 | 727,946 | 700,697 | 755,195 | 673,447 | 727,946 | 8,491,448 | 17,054,772 | | Forecast/Meter | | |
| Emissions Factor (MT/MMBtu) | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | 0.053 | | | | MARS | | |
| Monthly MT Emissions (MT) | 50,440 | 57,915 | 45,517 | 20,737 | 27,140 | 19,700 | 38,581 | 38,581 | 37,137 | 40,025 | 35,693 | 38,581 | 450,047 | 903,903 | | derived | | |
| Cumulative MT Obligation (MT) | 504,296 | 562,211 | 607,728 | 628,465 | 655,605 | 675,304 | 713,886 | 752,467 | 789,604 | 829,629 | 865,322 | 903,903 | | 903,903 | | derived | | |
| Compliance Instrument Participant Transfers (to LEC) | | | | | | | | | | | | | | | | | | |
| Auction Allowances | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 138,448 | 0 | 0 | 0 | 0 | 0 | 0 | 365,151 | 825,784 | | CITSS | | |
| Secondary Market Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Reserve Sale Allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Offsets | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Total Compliance Instrument Participant Transfers (MT) | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 138,448 | 0 | 0 | 0 | 0 | 0 | 0 | 365,151 | 825,784 | | | | |
| NCPA Compliance Instrument Purchases (for LEC) | | | | | | | | | | | | | | | | | | |
| Auction Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 | | CITSS | | |
| Secondary Market Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Reserve Sale Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Offset Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| Total NCPA Compliance Instrument Purchases (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 | | | | |
| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | CITSS | | |
| | | | | | | | | | | | | | | | | | | |
| Total Monthly Activity (MT) | 102,347 | 50,000 | 48,066 | 25,000 | 1,290 | 138,448 | 0 | 0 | 0 | 0 | 0 | 0 | 365,151 | 872,784 | | derived | | |
| Cumulative MT Account Balance [MTA] (MT) | 609,980 | 659,980 | 708,046 | 733,046 | 734,336 | 872,784 | 872,784 | 872,784 | 872,784 | 872,784 | 872,784 | 872,784 | | 872,784 | | derived | | |
| MTA Shortfall (MT) | (105,684) | (97,769) | (100,318) | (104,581) | (78,731) | (197,480) | (158,898) | (120,317) | (83,180) | (43,155) | (7,462) | 31,119 | | 31,119 | MTA SHORTFALL | derived | | |

Forecast for July-December 2014 has been updated.

| NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) August 2014 | | | | | | | | | | | | | | | | |
|--|---------|----------|---------|----------|---------|---------|---------|---------|----------|---------|---------|----------|---------|-----------|---------------|------------|
| IDENTIFIER | AZUSA | BART | BIG | CDWR | GRI | HEA | LOD | LOM | MID | PLU | PWRPA | SNCL | UKI | TOTAL | Charge Code | Source |
| Allocation Percentages | | | | | | | | | | | | | | | | |
| Generation Entitlement Share % | 2.7857% | 6.6000% | 0.2679% | 33.5000% | 1.9643% | 1.6428% | 9.5000% | 2.0357% | 10.7143% | 0.7857% | 2.6679% | 25.7500% | 1.7857% | 100% | | MARS |
| Obligation Accounts | | | | | | | | | | | | | | | | |
| Current MT Compliance Obligation (MTO) Balance (MT) | 20,961 | 49,663 | 2,016 | 252,076 | 14,781 | 12,362 | 71,484 | 15,318 | 80,622 | 5,912 | 20,075 | 193,760 | 13,437 | 752,467 | | derived |
| Current MT Compliance Instrument Account (MTA) Balance (MT) | 26,000 | 82,200 | 2,257 | 325,000 | 16,547 | 12,676 | 75,578 | 24,200 | 95,000 | 6,700 | 24,787 | 220,000 | 14,140 | 925,085 | | derived |
| MTA Shortfall (MT) | (5,039) | (32,537) | (241) | (72,924) | (1,766) | (314) | (4,094) | (8,882) | (14,378) | (788) | (4,712) | (26,240) | (703) | (172,619) | MTA SHORTFALL | Derived |
| Monthly GHG Price \$/MT | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | 11.72 | MTA SHORTFALL | ICE Index |
| GHG Minimum Cash Compliance Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MTA SHORTFALL | Derived |
| Current Month CCA Balance (\$)* | 60,991 | 0 | 143 | 0 | 1,103 | 4,780 | 755 | 0 | 0 | 0 | 0 | 0 | 2,652 | 70,424 | CCA BALANCE | Accounting |
| Net GHG Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | NET GHG OBLIG | Derived |

* The Current Month CCA Balance (\$) consists of the current cash balance plus any outstanding balance of Net GHG Obligation (\$) billed but not yet received.



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 14

Date: August 11, 2014
To: Lodi Energy Center Project Participant Committee
Subject: Approval of Updated Lodi Energy Center (LEC) Project Management and Operations Agreement (PMOA) Schedule 1.00, Exhibit 2

Background

NCPA and the LEC Project Participants executed the Lodi Energy Center Project Management and Operations Agreement (PMOA), which became effective on August 1, 2010. The PMOA contains multiple Schedules, which provide procedures and protocols, and guidelines regarding Project operations. Pursuant to the PMOA, Schedules can be revised, deleted or added from time to time based on then existing operating or market conditions, and subject to the approval of the Project Participant Committee (PPC), and with regard to certain Schedules, approval additionally by the NCPA Commission when such Schedules "...could be reasonably viewed as having an impact on other NCPA projects." (PMOA, Article 10).

Staff is recommending changes to PMOA Agreement Schedule 1.00, Exhibit 2 "VOM" which provides the calculations for Variable Operation and Maintenance costs ("VOM"). Exhibit 2 of Agreement Schedule 1.00 has been updated to reflect the Project's revised Variable Operation and Maintenance (VOM) cost of \$3.06/MWh to be consistent with the change in VOM agreed upon at the March 10, 2014 LEC PPC meeting. This revised VOM is the result of updated budgeted operations and maintenance cost components and forecasted annual Project energy production identified in Exhibit 2. A completed "marked" version of the proposed PMOA Schedule 1.00, Exhibit 2 is attached to this staff report reflecting the specific changes staff is recommending.

Fiscal Impact

No significant costs will be incurred to implement the changes to the PMOA Schedules and funds are available in the NCPA budget to support the work associated with these contract updates.

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.

Recommendation

NCPA staff recommends that the PPC pass a motion approving implementation of the revised PMOA Agreement Schedule 1.00, Exhibit 2, effective immediately to account for the changes outlined in this staff report.

SR:

Prepared by:

/s/

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Lodi Energy Center Project Management and Operations Agreement Amended Schedule 1.00, Exhibit 2: VOM

SR:

EXHIBIT 2

VOM

The Variable Operation and Maintenance cost (VOM) shall be determined using the applicable budgeted variable cost line items, as listed in the table below, and the annual forecasted Project Energy in the then current Project Annual Budget or Mandatory Budget Amendment. The VOM shall be reviewed and revised annually in coordination with NCPA's Project Annual Budget cycle, or as otherwise determined by the PPC and NCPA.

VOM (\$/MWH) = (Operation (\$) + Siemens LTSA (\$) + Maintenance Reserve (\$)) / forecasted annual Project Energy (MWH)

Example:

FY ~~2013 / 2014~~2015 Project Annual Budget Line Items

| Variable Cost | \$ | \$/MWH |
|--|----------------------------------|------------------------|
| Routine O&M Costs Operation (Appendix I) | <u>1,245,572</u> 1,191,985 | 0.9 <u>42</u> |
| Routine O&M Costs Maintenance Siemens LTSA | <u>2,336,748</u> 2,409,386 | 1.8 <u>972</u> |
| Other Costs Maintenance Reserve (Appendix I) | <u>397,250</u> 277,734 | 0.2 <u>39</u> |
| Total FY2013FY2015 | <u>3,979,570</u>3,879,105 | <u>3.062</u>.94 |

| | |
|--------------------------------------|----------------------------|
| Forecast annual Project Energy (MWh) | <u>1,354,957</u> 1,267,681 |
|--------------------------------------|----------------------------|

VOM = \$1,245,5721,191,985 **+** **\$**2,336,7482,409,386 **+** **\$**397,250277,734 **) /**
1,354,9571,267,681
VOM = 2.94306 **\$/MWh**



12745 N. Thornton Road
Lodi, CA 95242

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Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 15

Date: August 6, 2014
To: Lodi Energy Center Project Participant Committee
Subject: Revision to PMOA Agreement Schedule 1.00 and Exhibit 5

Proposal

Adopt revision of PMOA Exhibit 5 of Schedule 1.00 for revised 2014 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge.

Background

The CAISO recovers its cost through allocation among three defined service categories that are billed based on five different grid management charges and fees assessed to market participants. One GMC service category is the Market Services Charge, which is designed to recover the costs the CAISO incurs for running its markets. These include activities associated with processing, validating and clearing energy and ancillary services bids that result in awarded schedules to each participating generator, load, import, and export resource.

The CAISO issued a market notice on July 18 indicating that its Market Services Charge rate would be increased by \$0.0073/MWh, or 8.42%, effective August 1, 2014 as indicated in the table below. As described in the CAISO Tariff, applicable GMC rate service categories are to be adjusted up or down automatically, on a quarterly basis, to match the annual revenue requirement whenever the current ISO revenue collections forecast shows that the grid management charge differs by more than 2% or \$1 million, whichever is greater.

| Charge Code | CAISO GMC Service Category | Current 2014 Rate | Revised 2014 Rate | Unit of Measure |
|--------------------|-----------------------------------|--------------------------|--------------------------|-------------------------|
| 4560 | GMC - Market Services Charge | \$ 0.0867 | \$ 0.0940 | Awarded Schedules - MWh |

The market services charge is assessed to the LEC Project based on awarded CAISO energy and ancillary service schedules. NCPA includes these GMC rates into the Economic Operations bid calculation indicated in Agreement Schedule 1.00 under the defined term 'CAISO GMC' in order to internalize these costs in the awarded energy bid amount.

Fiscal Impact

There is no fiscal impact on an overall basis to Participants as these costs will be included in the Economic Operations bid calculation in order to achieve economic awards.

SR:

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.

Recommendation

NCPA staff recommends that the PPC pass a motion authorizing adopting the revised PMOA Exhibit 5 of Schedule 1.00 for the revised 2014 CAISO Grid Management Charge (GMC) rate.

Prepared by:

/s/

ROBERT W. CARACRISTI
Manager
Information Services and Power Settlements

Attachment: (1)

- PMOA Agreement Schedule 1.00
- PMOA Exhibit 5 Schedule 1.00

SR:

EXHIBIT 5

CAISO Charges

The CAISO Charges component used to determine Economic Operations is calculated as shown in the table below:

| Market Charge Code | CAISO Charge Code Name | 2014 Rate | Unit of Measure |
|---------------------------|-------------------------------|------------------------------------|------------------------|
| 4560 | GMC - Market Services Charge | \$ 0.0867 <u>0.0940</u> | per MWh |
| 4561 | GMC - System Operation Charge | \$ 0.2890 | per MWh |
| Total GMC Amount | | <u>\$ 0.3757</u> | per MWh |



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 16

Date: August 11, 2014

To: Lodi Energy Center Project Participant Committee

Subject: Trimark Associates, Inc. Agreement for metering services – All NCPA Sites

Proposal

Approve a Multi-Task General Services Agreement with Trimark Associates, Inc. for an amount not-to-exceed \$500,000 over five years to be used for metering services as needed at all facility locations.

Background

Various metering services are required at the NCPA locations for operations. Trimark Associates, Inc. is a provider of these services. NCPA does not have additional agreements in place for similar 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. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Recommendation

Staff recommends that the PPC pass a motion approving the Multi-Task General Services Agreement with Trimark Associates, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years.

Prepared by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Trimark Associates, Inc.

SR:



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
TRIMARK ASSOCIATES, 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 Trimark Associates, Inc., a corporation, with its office located at 2365 Iron Point Road, No. 100, Folsom, CA 95630, ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2014 ("Effective Date") in Roseville, California.

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

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

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** Five Hundred Thousand and No/100 Dollars (\$500,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation;
- 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. Contractor shall maintain professional liability insurance appropriate to Contractor'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 Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim.

4.4 All Policies Requirements.

- 4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.4.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5 **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.6 **Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Work Requiring Payment of Prevailing Wages.** If applicable, in accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which these services are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement.

Section 8. TERMINATION AND MODIFICATION.

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

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

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

- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.
- 8.4 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1 Immediately terminate the Agreement;
 - 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or
 - 8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the

request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 **Confidential Information and Disclosure.**

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

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

- 9.4.5 **Proprietary Software.** The Trimark T1-S software is separately provided to NCPA pursuant to the terms and subject to the conditions of that separate Software License Agreement attached hereto as Exhibit D. NCPA has no right, title, or interest, or right to use the Trimark Software, except as provided in the Software License Agreement. The terms and conditions of the Software License agreement will override and have precedent over any terms and conditions in this agreement.

Section 10. PROJECT SITE.

- 10.1 **Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with Agency's operations and the operations of other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 **Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Agency may assume that anything left on the Project site an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

- 10.3 **Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any Agency owned equipment and property provided by Agency for the performance of Work.

Section 11. WARRANTY.

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

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all Agency site programs.

- 12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3 Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to

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

- 12.5 Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6 Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7 Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8 Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

Section 13 MISCELLANEOUS PROVISIONS.

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

- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

Mark Morosky, President
Trimark Associates, Inc.
2365 Iron Point Road, No. 100
Folsom, CA 95630
With a copy to:
Trimark Associates, Inc.
Attn: Dean Schoeder, Vice President of Operations
6800 Owensmouth Avenue, Suite 340
Canoga Park, CA 91303

Any written notice to Agency shall be sent to:

James H. Pope
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

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

- 13.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 13.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is

not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

- 13.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's Proposal, the Exhibits shall control.
- 13.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

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

NORTHERN CALIFORNIA POWER AGENCY

TRIMARK ASSOCIATES, INC.

Date_____

Date_____

JAMES H. POPE, General Manager

MARK MOROSKY, President

Attest:

Assistant Secretary of the Commission
Approved as to Form:

Assistant General Counsel

EXHIBIT A SCOPE OF WORK

In accordance with the agreement, the specific scope of services and associated fee will be defined by individual Purchase Orders. The Contractor's Scope of Work may include:

- Maintenance and installation (including but not limited to engineering/design, supply, installation, commission/certification) of all meters, metering equipment, RIGS, DPG, communications or interface devices, and associated equipment for NCPA Power Plants. Listed below is the current list of equipment. This agreement is not limited to this equipment and is intended to cover all of the metering/CAISO communication equipment used to supply NCPA generation facilities.
- Download of meter files and transmittal of meter data to CAISO
- CAISO and/or PG&E agency processing and permitting for new meters, RIG, etc.
- Respond to meter failure incidents within CAISO required timeframes, including within 24 hours when required/requested

Current List of Equipment

| Generation Site | Meter(s) | RIG(s) | DPG |
|--|----------------------------|-----------------------------------|-----|
| Collierville – Bellota Line #1 | Meter | | |
| Collierville – Bellota Line #2 | Meter | | |
| New Spicer Meadow | Meter | | |
| Corporate RIG, located in Roseville, sometimes referred to as Collierville RIG | | RIG | |
| Alameda Unit 1 | 1 x Primary | - | |
| Alameda Unit 2 | 1 x Primary | - | |
| Lodi CT 1 | 1 x Primary | - | |
| Lodi CT2 (STIG) | 1 x Primary | - | |
| Lodi Energy Center (LEC) | 1 x Primary 1 x BackUp | 1 x Primary RIG 1 x BackUp RIG | |
| GEO Unit 1 | 1 x Primary | - | |
| GEO Unit 2 | 1 x Primary | - | |
| Geo Unit 3 Geo Unit 4 | 1 x Primary 1 x Primary | | |
| Geysers | | | DPG |

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

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



Trimark Labor Rates 2014 –2015

| Area | Classification | Hourly Rate |
|---|--------------------------------------|--|
| Management and Consulting | Program Manager / Executive QA | \$265 |
| | Senior Management Consultant | \$250 |
| | Director of Engineering | \$245 |
| | Senior Project Manager | \$215 |
| | Associate Project Manager | \$205 |
| | System Integration Manager | \$215 |
| | Project Coordinator | \$175 |
| Engineering / Systems Integration | Senior Developer | \$225 |
| | Senior Engineer | \$215 |
| | Electrical Engineer | \$205 |
| | Systems Integration Engineer | \$195 |
| | Software Developer | \$195 |
| | Communications Engineer | \$190 |
| | Communications Technician | \$170 |
| | Field Systems Specialist | \$175 |
| | CAD Manager | \$155 |
| | CAD Technician | \$135 |
| Electric Metering | Meter Engineer | \$205 |
| | Metering Supervisor / Superintendent | \$195 |
| | Certified CAISO Metering Inspector | \$175 |
| | Journey Meterman | \$160 |
| | Apprentice Meterman | \$135 |
| Meter Data Management | MDMA Manager | \$205 |
| | Senior Data Analyst | \$195 |
| | Data Acquisition Systems Specialist | \$185 |
| | Database Manager | \$175 |
| | Associate Data Analyst | \$160 |
| Electrical Contracting / Construction | Journey Electronics Technician | \$205 |
| | Electronics Technician | \$175 |
| | Journey Electrician | \$155 |
| | Apprentice Electrician | \$135 |
| | Administrative | \$90 |
| Expenses | Parts and Material | Cost +12% |
| | Out-of-Pocket Expenses | Cost +12% |
| | Travel (Mileage) | \$0.56 / Mile – *adjusted for IRS rates |
| Travel labor Time (75% of Billing Rate) | | |
| Overtime rates of (1.5 * normal rate) apply to work conducted outside core business hours of 8AM to 5PM. Sunday's and holiday's are double time | | |
| | | |
| | | |
| | | |
| | | |

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D

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| | |
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SOFTWARE LICENSE AGREEMENT # _____

This Software License Agreement # _____ is made and entered into this ____ day of 20____, by and between Trimark Associates, Inc., a California corporation with its principal place of business at 2365 Iron Point Road, Suite 100, Folsom, CA 95630 ("Trimark"), and _____, a _____ with its principal place of business at _____ ("Licensee"). All addenda, schedules and exhibits attached hereto are hereby incorporated by reference herein and this Software License Agreement, together with all addenda, schedules, appendices and exhibits, shall be collectively referred to as the "Agreement." Trimark and Licensee are sometimes referred to in this Agreement, collectively and individually, as "Parties."

1. DEFINITIONS

- 1.1 "Acceptance Period" means the 90 days after the Delivery Date during which the Licensee must notify Trimark of any non-conformities.
- 1.2 "Authorized Computer" means a computer on which the Trimark Software is installed in accordance with the license granted under this Agreement. Each Authorized Computer is identified by its MAC address and is listed in APPENDIX A.
- 1.3 "Delivery Date" means the date of completion of the Factory Acceptance Test.
- 1.4 "Documentation" means explanatory and informational materials concerning the Software, in printed or electronic format, that Trimark has released with the Software including without limitation, manuals, descriptions, user and/or installation instructions, diagrams, printouts, listings, flowcharts and training materials, on visual media such as paper or photographic film, or on other physical storage media. "Documentation" does not include source code.
- 1.5 "Effective Date" shall mean the date on which this Agreement takes effect as specified in APPENDIX A.
- 1.6 "Intellectual Property Rights" means any and all now known or hereafter existing (a) rights associated with works of authorship throughout the universe, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark and trade name rights; (c) trade secret rights; (d) patents, designs, algorithms, and other industrial property rights; (e) other intellectual property and proprietary rights of every kind and nature throughout the universe, whether arising by operation of law, by contract or license, or otherwise; and (f) all registrations, applications, renewals, extensions, combinations, divisions, or reissues of the foregoing.
- 1.7 "Licensee" means the entity described in the preamble of this Agreement.
- 1.8 "License Fee" means the fees Trimark charges Licensee for use of the Software listed in APPENDIX A.
- 1.9 "Object Code" means the fully compiled version of a software program that can be executed by a computer and used by an end user without further compilation.
- 1.10 "Person" means any individual, partnership, association, Limited Liability Company, corporation, trust, governmental authority or other entity.
- 1.11 "Premises" means the facility or facilities identified in APPENDIX A.

- 1.12 "Service Agreement" means a separate agreement outlining ongoing service and support provided by Trimark for hardware and Trimark Software.
- 1.13 "Source Code" means the human-readable version of a Trimark Software program that can be compiled into Object Code.
- 1.14 "Trimark Associates, Inc." means the entity described in the preamble of this Agreement.
- 1.15 "Trimark Documentation" means (a) the Software and Documentation in any embodiment, and any modifications, updates or enhancements thereto; (b) any other information relating to the Software received by Licensee from Trimark that is identified, in writing, by Trimark as proprietary or confidential; (c) the terms of this Agreement; and (d) each Party's written, technical, business, financial or marketing information relating to inventions or products, research and development, production, manufacturing or engineering process, costs, profit or margin information, employee skills and salaries, finances, licensees, marketing and production, and future business plans that are clearly marked as proprietary or confidential.
- 1.16 "Trimark Software" means the programs and modules described in Appendix A and any and all application programming interfaces and databases provided by Trimark to Licensee in connection with such programs and modules described in Appendix A.
- 1.17 "User(s)" means the Person(s) who interact with the Software to perform their assigned roles.
- 1.18 "Work Scope" means equipment and installation, consulting, implementation, or training services, if any, provided and performed by Trimark pursuant to the original contractual agreements between Trimark and Licensee under TRIMARK PROJECT NAME and NUMBER.

2. GRANT OF LICENSE; USAGE LIMITATIONS; RESTRICTIONS

Licensee acknowledges that Trimark may offer its Software and services to others, including businesses that may compete with Licensee. Licensee agrees that nothing, whether in this Agreement or otherwise, limits, restricts, or prevents Trimark from providing its Software and services to any entity.

- 2.1 **License.** Subject to the terms and conditions of this Agreement and payment of applicable fees, Trimark grants to Licensee a perpetual, nontransferable or non-assignable, non-sublicensable, revocable license (the "License") to Use the Products listed in APPENDIX A at the premises identified in APPENDIX A. The License authorizes the Licensee to:
- (a) execute, in accordance with the Trimark Documentation, the Trimark Software, in Object Code form only, on Authorized Computers at the Premises and subject to the Usage Limitations solely for Licensee's purposes; and
 - (b) make one (1) copy of the Trimark Software and up to three (3) copies of the Trimark Documentation for archival and backup purposes.
- 2.2 **Usage Limitations.** Licensee's license to use the Trimark Software is limited to use of the specific Trimark Software modules identified in Appendix A. Licensee may transfer the Trimark Software to a new facility owned or leased by Licensee upon written notice to Trimark (whereupon, such new facility shall become the "Premises"). Licensee will not allow access to the Trimark Software outside of the Premises or to any Person except Users who are bound by written agreements with Licensee that contain terms at least as protective of Trimark and the Trimark Software as this Agreement. Licensee shall remain

responsible for any and all use of the Trimark Software and Trimark Documentation by Users. Licensee agrees that any non-compliance by any User with the terms and conditions of this Agreement with regard to any Trimark Software or Trimark Documentation shall be deemed a breach of this Agreement by Licensee.

- 2.3 **Platform Limitations.** Licensee's license to use the Trimark Software is limited to use only on the Authorized Computers identified in Appendix A. Licensee may not transfer or use the Trimark Software on an operating system or computing platform other than the Platform (the "Transfer Platform"), unless all of the following conditions are satisfied: (a) the Trimark Software is available for such Transfer Platform, (b) Licensee has an active Support and Software Maintenance Agreement, (c) Licensee requests Trimark in writing, and Trimark approves, in writing, Licensee's request, for the transfer and use of the Trimark Software on such Transfer Platform, and (d) Licensee pays Trimark, Trimark's then current fees for such transfer or use of the Trimark Software on the Transfer Platform. Licensee shall remove the Trimark Software from the originally licensed Platform at the time of transfer and shall discontinue any use of the Trimark Software on the originally licensed Platform. The Transfer Platform approved by Trimark as described above, shall be deemed to be the "Platform" from the date of transfer and the procedure and conditions described in this Section shall be repeated with respect to each subsequent request by Licensee to transfer the Trimark Software to a new operating system or computing platform.
- 2.4 **License Restrictions.** Licensee acknowledges that the scope of the License granted under this Agreement is limited. Licensee agrees that it shall not, during the term of this Agreement or at any time thereafter, directly or indirectly, use, or permit any other Person to use, any part of the Trimark Software or Trimark Documentation except as specifically permitted in this Agreement. Without limiting the foregoing, except as expressly allowed, Licensee agrees that Licensee shall not, and Licensee shall not permit any User to:
- (a) sell, lease, rent, loan, assign, pledge, encumber, sublicense or otherwise transfer all or any part of the Trimark Software or Trimark Documentation to any Person or make the Trimark Software available to any Person as part of any time-sharing arrangement, service bureau arrangement, outsourcing arrangement, or similar service;
 - (b) decompile, disassemble, reverse engineer or otherwise attempt to discover any Source Code or underlying trade secrets;
 - (c) remove, obscure or alter any copyright notice, restricted rights legend or other notice of proprietary rights that appear or are contained on or in the Trimark Software or Trimark Documentation;
 - (d) modify, adapt, alter, translate, or create derivative of, the Trimark Software or Trimark Documentation;
 - (e) export the Trimark Software, Trimark Documentation, or any other technical data received from Trimark outside the United States except as authorized by the laws and regulations of the United States and any export permits that may be required;
 - (f) use the Trimark Software or Trimark Documentation in violation of Trimark's or its supplier's rights under applicable copyright laws, trade secret laws or other intellectual property laws; and
 - (g) merge the Trimark Software with any other software.

- 2.5 Third Party Software.** Licensee acknowledges that third party software may be included as a part of the Trimark Software licensed by Trimark hereunder ("Third Party Software"). Licensee agrees that each Third Party Software is sublicensed under, and is subject to, the terms and conditions of the applicable Third Party Software supplier as set forth in the "Readme.txt" file in the Trimark Software, a copy of which, at the request of Licensee, will also be provided by Trimark. Nothing in this Agreement limits Licensee's rights under, or grants Licensee any rights that supersede, any Third Party License Terms for the applicable Third Party Software. Licensee agrees that each supplier of such Third Party Software is a third party beneficiary of this Agreement with the right to directly enforce this Agreement to the extent such supplier's Third Party Software is affected.

3. OWNERSHIP.

Licensee acknowledges that the Trimark Software and Trimark Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of Trimark and its suppliers. Licensee further acknowledges that the Trimark Software and its structure, organization and Source Code constitute valuable trade secrets of Trimark. All rights in and to the Trimark Software and Trimark Documentation not expressly granted to Licensee in this Agreement are reserved by Licensor and its suppliers. There are no implied licenses in this Agreement. Licensee shall, and Licensee shall require all Users, to reproduce, on all copies made of the Trimark Software and Trimark Documentation, and not remove, alter, or obscure in any way all proprietary rights notices (including copyright notices) of Trimark and its suppliers on or within the copies of the Trimark Software and the Trimark Documentation.

4. RECORDS AND AUDIT RIGHTS

- 4.1 Records.** At all times during the term of this Agreement, and for at least three (3) years after the termination of this Agreement, Licensee will maintain at the Premises complete and accurate records with respect to Licensee's activities pursuant to this Agreement, including a complete list of all copies of the Trimark Software and Trimark Documentation made or used by or on behalf of Licensee, the locations where copies of the Trimark Software are installed and/or used by Licensee or any User, and all other data needed for verification of amounts to be paid to Trimark under this Agreement and Licensee's compliance with this Agreement.
- 4.2 Audit Rights.** During the term of this Agreement and for one (1) year after the termination of this Agreement, Trimark will have the right, during normal business hours and upon at least thirty (30) days' advance written notice, to inspect and audit, or have an independent audit firm selected by Trimark inspect and audit, the Licensee's and each User's systems and equipment, and the Premises, on which or where the Trimark Software is installed or used and audit Licensee's records relating to its administration of the Trimark Software under this Agreement. The purpose of the audits is to verify that Licensee has complied with the terms of this Agreement. Licensee shall provide Trimark or such independent auditor with reasonable access to records, systems, equipment and Users related to this Agreement in order to perform the audit. The audit will be conducted at Trimark's expense. Such audits will be conducted no more than once in any period of twelve (12) consecutive months.

5. DELIVERY, ACCEPTANCE AND NO SERVICES

- 5.1 **Delivery.** The Software shall be delivered to Licensee as part of a functioning system as identified in APPENDIX A. Trimark will install, test, and commission the Software as part of the agreed original project Work Scope. Installation of Trimark Software and/or delivery of equipment with the Trimark Software installed shall constitute a functioning delivered system. The date that the Factory Acceptance Test is completed is the Delivery Date. Licensee is expected to participate in the Factory Acceptance Test to observe and validate the test results.
- 5.2 **Acceptance.** Licensee has ninety (90) days from the Delivery Date to verify that the Trimark Software operates substantially free from material errors (the "Acceptance Period"). If Licensee notifies Trimark of any Non-conformities in writing within the Acceptance Period, Trimark shall, within ninety (90) days' from the date of such notification, use reasonable efforts to correct such Non-conformities at its own expense and notify Licensee when the corrections are complete.
- If Licensee does not notify Trimark of any Non-conformities within the Acceptance Period or if Licensee successfully Uses the Trimark Software in a production environment or otherwise in connection with Licensee's conduct of its business, Licensee shall be deemed to have accepted the Trimark Software.
- 5.3 **No Services.** Except for Trimark's obligations under Section 6.1, Licensee acknowledges and agrees that Trimark shall have no obligation to provide services under this Agreement. Services including installation, configuration, consulting, implementation, training, and/or other professional or onsite services shall be governed by the terms and conditions of the original Work Scope. Those services are subject to the professional services agreement executed by Licensee and Trimark including fees. Any software maintenance services shall be governed by the terms and conditions of a Service Agreement, if any, executed by Licensee and Trimark, including fees.

6. LIMITED WARRANTY; DISCLAIMER

- 6.1 **Warranty.** For a period of ninety (90) days from the initial delivery of the Trimark Software (the "Trimark Software Warranty Period"), Trimark warrants to Licensee that the Trimark Software, when used as permitted under this Agreement and in accordance with the instructions in the Trimark Documentation, will operate substantially free from material errors. Trimark will, at its own expense and as its sole obligation and Licensee's exclusive remedy for any breach of this warranty, use commercially reasonable efforts to reasonably promptly correct any reproducible error in the Trimark Software reported in writing to Trimark by Licensee during the Trimark Software Warranty Period or, if Trimark determines that it is unable to correct such error, Trimark will refund to Licensee all License Fees paid hereunder for the defective Trimark Software, in which case Licensee's right to use such Trimark Software will terminate. Any such error correction provided to Licensee will not extend the original Trimark Software Warranty Period.

Trimark shall have no warranty obligation or liability: (a) to the extent an error or defect is caused by (i) any modification to the Trimark Software made other than by Trimark or its authorized contractors, (ii) any use of the Trimark Software in combination with other products, equipment, software, or data not supplied by Trimark where the error or defect would not have arisen but for such combination, (iii) any use of the Trimark Software not in accordance with this Agreement, or (iv) any failure to use any updates to the Trimark Software that are provided by Trimark; or (b) if any portion of the License Fees due under this Agreement are in arrears.

- 6.2 **Disclaimer of Warranties.** Trimark does not represent or warrant, and the limited warranty in Section 6.1 will not be construed to represent or warrant, that: (a) use of the Trimark Software shall meet Licensee's or any User's requirements; (b) the Trimark Software will perform on every operating system or computing platform; (c) operation of the Trimark Software shall be uninterrupted or error free; (d) any error or defect in the Trimark Software can or will be corrected; or (e) or functions in the Trimark Software shall operate in combination with Trimark software provided by Persons other than Trimark or its authorized contractors for such purposes. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 6.1, THE TRIMARK SOFTWARE, TRIMARK DOCUMENTATION, AND ANY SERVICES OR OTHER MATERIALS PROVIDED BY TRIMARK HEREUNDER ARE PROVIDED "AS IS" AND "WHEN AVAILABLE" WITHOUT WARRANTIES OF ANY KIND. WITHOUT LIMITING THE FOREGOING, TRIMARK AND ITS SUPPLIERS DISCLAIM ALL REPRESENTATIONS, WARRANTIES, AND GUARANTEES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, DESIGN, SUITABILITY, ACCURACY, COMPLETENESS, AND QUIET ENJOYMENT. BOTH PARTIES ACKNOWLEDGE THAT THEY HAVE NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION OTHER THAN THAT SET FORTH IN SECTION 6.1.

7. INDEMNIFICATION

- 7.1 **Indemnification by Trimark.** Subject to Section 7.3, Trimark will defend, at its own expense, any action against Licensee brought by a third party to the extent that the action is based upon a claim that the Trimark Software directly infringes such third party's U.S. copyrights or misappropriates any trade secrets recognized as such under the Uniform Trade Secrets Act, when used in accordance with this Agreement, and Trimark will pay those costs, damages, and reasonable attorneys' fees, finally awarded against Licensee in any such action that are specifically attributable to such claim or those costs, damages, and reasonable attorneys' fees agreed to by Trimark in a monetary settlement of such action. If the Trimark Software becomes, or in Trimark's opinion is likely to become, the subject of an infringement claim, Trimark may, at its option and expense, either (a) procure for Licensee and Users the right to continue using the Trimark Software, (b) replace or modify the Trimark Software so that it becomes noninfringing but remains substantially functionally equivalent, or (c) accept return of the Trimark Software and terminate this Agreement upon written notice to Licensee. Notwithstanding the foregoing, Trimark will have no obligation under this Section or otherwise with respect to any infringement claim based upon (each, an "Exclusion"): (i) any use of the Trimark Software not in accordance with this Agreement; (ii) any use of the Trimark Software in combination with other products, equipment, software, or data not supplied by Trimark where the infringement claim would not have arisen but for such combination; (iii) Licensee's or any User's use of any version of the Trimark Software other than the latest published release; or (iv) any modification of the Trimark Software by any Person other than Trimark or its authorized contractors. This Section states Trimark's entire liability and Licensee's sole and exclusive remedy for infringement and/or misappropriation claims and actions with respect to any Intellectual Property Rights.
- 7.2 **Indemnification by Licensee.** Subject to Section 7.3, Licensee will defend, at its own expense, any action brought against Trimark or its suppliers to the extent that the action is based upon a claim that (a) Licensee's or any User's use of the Trimark Software, regardless of whether such use constitutes use permitted under this Agreement or other use (other than claims (i) described in Section 7.1 and (ii) arising as a result of Trimark's breach of a warranty set forth in this Agreement, and (iii) made by Trimark), (b) Licensee's or any User's use of the Trimark Software other than as expressly permitted

under this Agreement, or (c) Licensee's or any User's violation of any applicable laws or regulations including export and import laws and regulations. Licensee will pay those costs, damages, and reasonable attorneys' fees, finally awarded against Trimark in any such action or those costs, damages, and reasonable attorneys' fees agreed to by Licensee in a monetary settlement of such action. Notwithstanding anything in this Agreement to the contrary, Licensee will pay those costs, damages, and reasonable attorneys' fees incurred by Trimark arising from or related to any action defended by Trimark based on any Exclusion or Licensee's failure to defend Trimark against the claims described in this Section.

- 7.3 **Indemnification Procedures.** The obligations in Sections 7.1 and 7.2 are conditioned on the party that has the obligation to indemnify under Section 7.1 and 7.2, as applicable (the "Indemnifying Party"), notifying the party entitled to the indemnification under Section 7.1 and 7.2, as applicable (the "Indemnified Party"), promptly in writing of such action, the Indemnified Party giving the Indemnifying Party sole control of the defense thereof and any related settlement negotiations, and the Indemnified Party cooperating and, at the Indemnifying Party's reasonable request and expense, assisting in such defense. Under no circumstances shall the Indemnifying Party enter into any settlement that involves any admission of liability, negligence or other culpability of the Indemnified Party or requires the Indemnified Party to contribute to the settlement without the Indemnified Party's prior written consent. The Indemnified Party may participate and retain its own counsel at its own expense.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL TRIMARK BE LIABLE FOR LOST PROFITS OR LOST DATA, OR FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR EXEMPLARY DAMAGES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE TRIMARK SOFTWARE, TRIMARK DOCUMENTATION, OR ANY SERVICES OR OTHER MATERIALS PROVIDED BY TRIMARK HEREUNDER, WHETHER FROM BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, EVEN IF TRIMARK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL TRIMARK'S AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE TRIMARK SOFTWARE, TRIMARK DOCUMENTATION, AND ALL SERVICES OR OTHER MATERIALS PROVIDED BY TRIMARK HEREUNDER, EXCEED THE LICENSE FEES PAID TO TRIMARK HEREUNDER FOR THE PARTICULAR TRIMARK SOFTWARE THAT GIVES RISE TO THE LIABILITY AND LIMITED TO SUCH PAYMENT THAT IS MADE TO TRIMARK.

THIS LIMITATION OF LIABILITY IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS IN CONNECTION WITH THIS AGREEMENT, TRIMARK SOFTWARE, TRIMARK DOCUMENTATION, AND ALL SERVICES OR OTHER MATERIALS PROVIDED BY TRIMARK HEREUNDER, BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT. THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. THE PARTIES ACKNOWLEDGE THAT THE LICENSE FEES SPECIFIED IN THIS AGREEMENT REFLECT THE ALLOCATION OF RISK SET

FORTH IN THIS AGREEMENT AND THAT LICENSEE WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THE FOREGOING LIMITATIONS ON ITS LIABILITY AND THE WARRANTY DISCLAIMERS HEREIN.

9. CONFIDENTIALITY

- 9.1 **Confidential Information.** Each party (the "Disclosing Party") may from time to time during the term of this Agreement disclose to the other party (the "Receiving Party") certain confidential or proprietary information regarding the Disclosing Party's business ("Confidential Information"). The Disclosing Party will mark all Confidential Information in tangible form as "confidential" or "proprietary" or with a similar legend. The Disclosing Party will identify all Confidential Information disclosed orally as confidential at the time of disclosure and provide a written summary of such Confidential Information to the Receiving Party within thirty (30) days after such oral disclosure. Regardless of whether so marked or identified, however, the Trimark Software and Trimark Documentation are deemed the Confidential Information of Trimark.
- 9.2 **Protection.** The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.
- 9.3 **Exceptions.** The Receiving Party's obligations under Section 9.2 with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without reference to or use of the Disclosing Party's Confidential Information.
- 9.4 **Permitted Disclosure.** The Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party without violating its obligations under Section 9.2 to the extent that such disclosure is (a) approved in writing by the Disclosing Party, (b) necessary for the Receiving Party to enforce its rights under this Agreement; or (c) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.
- 9.5 **Return of Confidential Information.** The Receiving Party will, at the Disclosing Party's exclusive option, return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or control promptly upon the written request of the Disclosing Party or the termination of this Agreement, whichever comes first. At the Disclosing Party's request, the Receiving Party will certify in writing that it has fully complied with its obligations under this Section 9.5.

10. TERM AND TERMINATION

10.1 **Term.** The term of this Agreement (the "Term") shall commence on the Delivery Date and shall continue in perpetuity unless terminated earlier in accordance with the terms of this Agreement.

10.2 Termination.

- (a) **Termination for Breach.** Either party may terminate this Agreement, in its entirety, for a material breach of the Agreement by the other party that remains uncured thirty (30) days after delivery of written notice to the breaching party describing such breach in reasonable detail. The parties agree that Licensee's breach of Sections 2 and 9 shall be deemed a material breach of this Agreement.
- (b) **Termination for Insolvency.** To the extent permitted by applicable law, either party may terminate this agreement, or suspend performance hereunder, upon the insolvency of the other party. The "insolvency" of a party shall mean: the filing of a petition commencing a voluntary or involuntary case (if such case is an involuntary case, then only if such case is not dismissed within ninety (90) days from the filing thereof) against such party under the United States Bankruptcy Code; a general assignment by such party for the benefit of creditors; the inability of such party to pay its debts as they become due; such party's seeking or consenting to, or acquiescence in, the appointment of any trustee, receiver or liquidation of such party; or any composition, readjustment, liquidation, insolvency, dissolution, or other proceeding, which case or proceeding is not dismissed or vacated within thirty (30) days.
- (c) **Termination for Convenience.** Licensee may terminate this Agreement, at any time, without cause, upon thirty (30) days' written notice to Trimark.
- (d) **Effect of Termination.** Upon termination of this Agreement: (a) all licensed rights granted in this Agreement with respect to Trimark Software and Trimark Documentation will immediately cease to exist, (b) Licensee must promptly discontinue, and cause all Users to promptly discontinue, all further use and reproduction of such Trimark Software and Trimark Documentation; and (c) at Trimark's exclusive option Licensee must, return or destroy all Trimark Software and Trimark Documentation, return or destroy all related Trimark Confidential Information, and all copies of each of the foregoing in any form, and whether partial or complete. If requested by Trimark, Licensee shall certify in writing of Licensee's compliance with this Section. Trimark shall have the right to use reasonable means to verify Licensee's actual compliance with such certification, including without limitation, reasonable access to Licensee's employees, records and facilities to inspect Licensee's systems and equipment.

10.3 **Survival.** The parties' rights and obligations under Sections 1 (Definitions), 2.4 (License Restrictions), 3 (Ownership), 4.1 (Records) (for the period specified therein), 4.2 (Audit Rights) (for the period specified therein), 6.2 (Disclaimer of Warranties), 7 (Indemnification), 8 (Limitation of Liability), 9 (Confidentiality), 10.2 (Effect of Termination), 10.3 (Survival), and 11 (General Provisions) shall survive any termination of this Agreement.

11. GENERAL PROVISIONS

11.1 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, excluding its choice of law rules that would require the application of the laws of a different jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods

shall not apply to this Agreement.

- 11.2 **Arbitration.** Subject to Section 11.3, any dispute or claim arising out of, or in connection with, this Agreement shall be finally settled by binding arbitration in California and the then-current rules and procedures of the American Arbitration Association by one (1) arbitrator appointed by the American Arbitration Association. The arbitrator shall apply the law of the State of California, without reference to rules of conflict of law or statutory rules of arbitration, to the merits of any dispute or claim. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The parties agree that, any provision of applicable law notwithstanding, they will not request, and the arbitrator shall have no authority to award, punitive or exemplary damages against any party. The proceedings and judgment on the award shall be treated confidential by the parties.
- 11.3 **Injunction; Cumulative Remedies.** Licensee acknowledges that the Trimark Software and Trimark Documentation contains valuable trade secrets and proprietary information of Trimark and its suppliers, that any actual or threatened breach of the licenses granted herein, or restrictions set forth herein, or any violation of Trimark's or its suppliers' Intellectual Property Rights or Confidential Information, will constitute immediate, irreparable harm to Trimark and its suppliers for which monetary damages would be an inadequate remedy, and that injunctive relief and any other equitable relief granted by a court of competent jurisdiction is an appropriate remedy for such breach and Trimark and its suppliers may seek such relief as appropriate directly from a court of competent jurisdiction without resorting to arbitration. Except as otherwise specified in this Agreement, the parties' rights and remedies under this Agreement are cumulative.
- 11.4 **Assignment.** Licensee may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement (including its licenses with respect to the Trimark Software and Trimark Documentation) or delegate any of its duties under this Agreement to any third party without Trimark's prior written consent except pursuant to a transfer of all or substantially all of Licensee's business and assets, whether by merger, sale of assets, sale of stock. Licensee shall provide Trimark written notice of the name of the assignee within thirty (30) days following the assignment or transfer. Any attempted assignment or transfer in violation of the foregoing will be void. Trimark may assign or transfer this Agreement without any restriction.
- 11.5 **Independent Contractors.** Each party will perform its obligations hereunder as an independent contractor and, except to the extent otherwise specified in this Agreement, will be solely responsible for its own financial obligations. Nothing contained in this Agreement will be construed to imply a joint venture or principal-agent relationship between the parties, and neither party will have any right, power, or authority to create any obligation, express or implied, on behalf of the other in connection with performance of its obligations hereunder. Notwithstanding anything in this Agreement to the contrary, Trimark may fulfill any of its obligations under this Agreement through the services of any third party, provided that Trimark shall, at all times, remain responsible for Trimark's obligations hereunder.
- 11.6 **Modification.** This Agreement may be modified only by a written amendment signed by Persons duly authorized to sign agreements on behalf of Licensee and Trimark. The terms on any purchase order or similar document submitted by Licensee will have no effect and such terms are hereby deemed material, are objected to, and are hereby rejected by Trimark unless specifically accepted in writing by Trimark.
- 11.7 **Severability; Waiver.** If any provision of this Agreement is held to be invalid or unenforceable for any

reason by a court of competent jurisdiction, the remaining provisions will continue in full force without being impaired or invalidated in any way. The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, will not be deemed to be a waiver of the future enforcement of such provision or right, and no waiver of any provision or right will affect the right of the waiving party to enforce any other provision or right herein. Without limiting the generality of the foregoing, Licensee agrees that Section 8 will remain in effect notwithstanding the unenforceability of any provision in Sections 6 and 7.

- 11.8 **Entire Agreement.** The parties agree that this Agreement and all appendices and exhibits attached hereto, and all addenda executed by Trimark and Licensee hereunder, are the complete and exclusive statement regarding the subject matter of this Agreement and supersede all prior agreements, understanding and communications, whether oral or written, between the parties regarding the subject matter of this Agreement.
- 11.9 **Notices.** Notices given by the parties to one another in connection with this Agreement shall be given in writing and delivered by certified or registered mail or express delivery service to the parties' respective addresses set forth below or to such other address as the parties may substitute by giving notice to one another in accordance with this Section.
- 11.10 **Construction.** Headings of Articles and Sections have been used herein for convenience and reference only, and are not intended to be a part of or to affect the interpretation or meaning of the agreements contained in this Agreement. This Agreement has been jointly prepared by the parties, and shall not be strictly construed against either party. When used in this Agreement, the term "including" means "including without limitation," unless expressly stated to the contrary.
- 11.11 **Force Majeure.** Each party shall be excused for any reasonable delay in its performance under this Agreement if such delay arose from any cause beyond its reasonable control, including, without limitation, acts of God, acts of the public enemy, valid law, acts or requests of any governmental authority, wars, floods, fires, storms, strikes, lockouts, delivery of nonconforming or defective raw materials, supplies or equipment, interruptions of transportation, freight embargoes or failures, exhaustion or unavailability on the open market or delays in delivery of raw material, supplies, equipment or services necessary for the performance of any provision hereof, or happening of any unforeseen acts, misfortune, or casualty by which performance hereunder is delayed or prevented (provided that if a party is the cause of such delay or event, it shall not be considered a Force Majeure event), provided, however, that each party shall use commercially reasonable efforts to remedy the situation, except that nothing contained herein shall require any party to make settlement of any labor dispute on terms unacceptable to it and no such party shall be liable to the other for any losses, damages or costs by reason of its inability to remedy the situation. If any such delay occurs, the party affected by the delay shall inform the other party of the occurrence of the circumstances causing the delay, and (unless the cause thereof shall frustrate or render impossible or illegal the performance of this Agreement or shall otherwise discharge the same), the period for performing obligations under this Agreement shall be extended (not limited to the length of the delay) as may be reasonably required to complete the delayed performance or obligation; provided further, however, that nothing herein shall relieve Licensee of its obligation to make payment of any and all License Fees accrued under Section 4.
- 11.12 **Publicity.** Licensee agrees to permit Trimark to identify Licensee as a customer and use Licensee's name and/or logo in Trimark's public materials.

U.S. Government Licensees. The Trimark Software is a “commercial item” as that term is defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government licensees acquire the Trimark Software with only those rights set forth therein.

12. **ADDITIONAL TERMS**

By signing the signature portion of the General Services Agreement , Licensee affirms that it is in agreement with the foregoing and that it has read and understands and agrees to be bound by the terms and conditions in the Software License Agreement and any addenda thereto which are executed and delivered by both Parties. APPENDIX A, any other appendices, all Exhibits and any addenda to the Software License Agreement shall be collectively referred to as the "Agreement." This Agreement shall not be binding upon Trimark until fully executed and delivered by both Parties.

Appendix A

LICENSED TRIMARK SOFTWARE, PREMISES and AUTHORIZED COMPUTERS

The Software delivered and licensed under this Agreement includes:

| Software Products Included: | Quantity |
|---------------------------------------|----------|
| T1-S Gateway | |
| T1-S Historian | |
| T1-S PowerViewer | |
| T1-S Solar Controller | |
| T1-S Forecaster | |
| T1-S DASViewer | |
| Premises Name and Address | |
| MAC Address of Authorized Computer(s) | |

If Licensee wishes to modify the scope of items listed, Licensee may be required to pay Trimark a different License Fee. The revised fees will be negotiated and documented in a new Software License Agreement.



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 17

Date: August 11, 2014
To: Lodi Energy Center Project Participant Committee
Subject: Siemens Energy, Inc. – Amended and Restated Long Term Maintenance Program Agreement

Proposal

Approve Amended and Restated Long Term Maintenance Program Agreement with Siemens Energy, Inc. (Siemens) for Lodi Energy Center to take advantage of new technology and parts to extend the time between outages. This Change Order would include upgrading combustion turbine parts to increase equivalent start intervals for Hot Gas Path (HGP) and Major Inspections (MI). In addition the proposed revisions include a contract extension, contract clarity for “open/close” warranty parts liability, an increase to property damage limits, the removal of the business interruption insurance requirement, escalation of the Extra Work Authorization benefit, flexible scheduling and Bulletin 6 inspections.

Background

In 2008, NCPA procured from Siemens the second to last FD3 model turbine being produced. Since that time, Siemens has gone on to produce the FD4 and FD5 models. Some of the features of the FD5 include increased mass flow, higher combustion temperatures, more power, greater efficiency and extended life on the components. Subsequent to the procurement of the turbine, NCPA and Siemens entered into a Long Term Maintenance Program (LTP) on September 13, 2010. The LTP outlines the responsibilities between NCPA and Siemens for minor and major maintenance for the combustion and steam turbine. The program also outlines the intervals of inspection by equivalent base hours (EBH) or equivalent starts (ES), whichever comes first. However, pricing of the contract was based on the EBH intervals being attained. Since LEC was commissioned, the operation profile of LEC has triggered the equivalent start based maintenance scenario. Due to this mode of operation, the contract requires a true-up, which is in effect, an early maintenance penalty. The order of magnitude of this penalty is about \$3.8mm. Generally speaking, with the components installed, there is no option to extend the maintenance beyond the 900 ES.

In February 2014, Siemens announced that the new advanced parts developed for the FD5 are available for retrofit into the FD3. These new components can extend the equivalent start based maintenance interval or major inspections and eliminate the smaller Combustion Inspections (CI). Because the new parts allow 1200 ES between maintenance intervals, it is expected that they could reduce the LEC true-up cost by a significant amount.

Because the new parts affect the maintenance intervals, modifications to the contract must be made to allow for the revised intervals. Also, because of the negotiated proposal, Siemens would require a contract extension to offset costs. Modifications to the LTP to address the

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extended duration are also addressed. Finally, there have been several other minor issues related to the contract that will be cleaned up and clarified. In summary, the contract terms to change are:

- 1) Modify the billing so that under periods of heavy starts and low hours, starts based maintenance penalties are paid early in smaller amounts, reducing the final penalty at the time of the significant outage
- 2) Extend the term of the contract to cover 3 majors (this includes the steam turbine as well). The term of the contract is currently set to expire at the conclusion of the 2nd major. However, if 3 majors have not been accomplished, the contract will expire 18 years from 2010 execution, unless both parties agree to continue.
- 3) Continue the Extra Work Authorization Allowances benefit into the extended term and calculate a new escalated benefit at the conclusion of the second major.
- 4) Increase property damage limit by \$3mm to account for the extended term
- 5) Include Bore Scope inspections
- 6) Eliminate Combustion Inspections
- 7) Extend the 900 ES requirement to 1200 ES
- 8) Clarify language that Siemens will be responsible for the cost of Open/Close on warranty repairs
- 9) Remove language requiring Business Interruption Insurance
- 10) Allow for Flexible Scheduling and Scope

The Amended and Restated Agreement would take effect on November 1, 2014.

Fiscal Impact

The capital cost of the project is \$0. Siemens would install the components at the next schedule maintenance interval. The project will be paid for through the continued payment of equivalent base hours as well as a contract extension. This project was not included in the current fiscal year budget. Additional funds beyond what are already budgeted are not required to fund this project. The contract extension period amounts to 50,000 hours of operation, under the base rate of \$521 / equivalent base hours (EBH) (escalation factor not applied), the cost of this extension will be \$26,050,000. Because of the calculation change, funds paid into the maintenance reserve accounts for the purpose of the starts based penalty may be used earlier than anticipated, as the costs of early maintenance will be spread over a longer duration.

Environmental Analysis

The combustion components being replaced are upgraded in materials and coatings for improved life and reliability. There were no design changes to the combustion itself or the emissions, fuel input or power output.

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.

Recommendation

NCPA staff recommends that the PPC authorize NCPA's General Manager to execute the Amended and Restated Long Term Maintenance Program Agreement as defined above. This includes upgrading combustion turbine parts to increase equivalent start intervals for Hot Gas Path (HGP) and Major Inspections (MI). In addition the proposed revisions include a contract extension, contract clarity for "open/close" warranty parts liability, an increase to property

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damage limits, the removal of the business interruption insurance requirement, escalation of the Extra Work Authorization benefit, flexible scheduling and Bulletin 6 inspections.

Prepared by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Amended and Restated Long Term Maintenance Program Agreement with Siemens Energy, Inc.

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| AMENDED AND RESTATED PROGRAM PARTS, NON-PROGRAM PARTS,
MISCELLANEOUS HARDWARE, PROGRAM
MANAGEMENT SERVICES AND SCHEDULED OUTAGE SERVICES CONTRACT

between

NORTHERN CALIFORNIA POWER AGENCY

and

SIEMENS ENERGY, INC.

| Dated as of _____, ~~2010~~ November 1, 2014

LODI ENERGY CENTER PROJECT

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AMENDED AND RESTATED PROGRAM PARTS, NON-PROGRAM PARTS,
MISCELLANEOUS HARDWARE, PROGRAM
MANAGEMENT SERVICES AND SCHEDULED OUTAGE SERVICES CONTRACT

THIS AMENDED AND RESTATED PROGRAM PARTS, NON-PROGRAM PARTS, MISCELLANEOUS HARDWARE, PROGRAM MANAGEMENT SERVICES AND SCHEDULED OUTAGE SERVICES CONTRACT is entered into as of November 1, 2014 (the "Effective Date"), by and between NORTHERN CALIFORNIA POWER AGENCY, a Joint Powers Agency formed under the California's Joint Exercise of Powers Act pursuant to Government Code § 6500, et seq., ("Buyer"), and SIEMENS ENERGY, INC., a Delaware corporation ("Seller").

WHEREAS, Buyer ~~is developing~~has developed a power project ~~to be~~ located in Lodi, California (the "Project"); and

WHEREAS, in connection with the Project, Buyer ~~desires to purchase, from Seller, and Seller agrees to provide, entered into that certain~~ Program Parts, Non-Program Parts, Miscellaneous Hardware, Scheduled Outage Services and Program Management Services dated as of September 13, 2010 and which the Parties wish to amend and restate in its entirety by this Contract all as more particularly described herein;

NOW, THEREFORE, in consideration of these premises and mutual covenants contained herein, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS; GENERAL REFERENCES

1.1 Defined Terms. The following terms shall have the following meanings when used in this Contract, unless the context requires otherwise:

"Baseline 12.5k Program Parts" means those Program Parts in Exhibit B of the type listed in the table titled "BASELINE 12.5k Program Parts Table."

"Basis Interval" has the meaning set forth in Exhibit A, Addendum 1A.

"Basis Scope" has the meaning set forth in Exhibit A, Addendum 1A.

"Buyer" has the meaning set forth in the Preamble. (Unless otherwise stated herein, the Buyer owns the plant ("Owner")).

"Calendar Year" means the period of time beginning on January 1st, 00:01 and concluding on December 31st, 24:00.

"Change" has the meaning set forth in Article 6.

"Change Order" means a change order to the Contract as mutually agreed by the Parties and issued in accordance with Article 6.

"Combustion Turbine" means the Project's one (1) SGT6-5000F combustion turbine.

"Combustion Turbine Interval Extension Program Parts" or "CIE" means those Program Parts in Exhibit B of the type listed in the table titled "Combustion Turbine Interval Extension Program Parts Table."

"Combustor Inspection Scheduled Outage" or "Combustor Scheduled Outage" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1A of Exhibit A.

"Commercial Operation" shall mean when the Project or any Combustion Turbine is operated by Buyer, or any agent, contractor, lessee, assignee or affiliate of Buyer or the Owner of the Project for commercial purposes.

"Contract" means this Amended and Restated Program Parts, Non-Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract, including all Exhibits hereto, as amended from time to time.

"Contract Price" has the meaning set forth in Section 4.1.

"Covered Work" has the meaning set forth in Exhibit J.

"Day" means a calendar day.

"Delayed Payment Rate" means a rate of interest per annum equal to ten percent (but not to exceed ten percent (10%)) or the maximum rate permitted by applicable Law, whichever is less.

"Delivery" has the meaning set forth in Article 7.

"Disputed Documents" has the meaning set for in Section 16.1.2.

"Dollar(s)" or "\$" means the lawful currency of the United States.

"Effective Date" means the date set forth in the opening paragraph of this Contract.

"Equivalent Base Hours" or "EBH" means the calculated result of equivalent base hours determined in accordance with Exhibit D, Service Bulletin 55004 as amended from time to time by Seller.

"Equivalent Starts" or "ES" means the calculated result of equivalent starts determined in accordance with Exhibit D, Service Bulletin 55004 as amended from time to time by Seller.

"Escalation Factor" means the net percentage increase or decrease (as the case may be) in the U.S. Consumer Price Index – Urban CUUR0000SA0 over the period from the published value for January 2010 ("Base Value") through the value as of the date of the invoice utilizing the most current escalation data that is released at the time such invoice is issued. If such index ceases to be published then such similar substitute index as is mutually agreed to by the Parties, shall apply. All payments to Seller of Fees shall be in U.S. Dollars, escalated at the time of invoice according to the Escalation Factor. All Fees are subject to the Escalation Factor calculated from the Base Value. With each invoice, Seller shall provide to Buyer the Escalation Factor applicable for such invoice. The Escalation Factor shall be calculated by the following formula:

Escalation Factor = $1 + ((X - \text{Base Value}) / \text{Base Value})$, where X is the lesser of:
(a) the latest month's U.S. Consumer Price Index-Urban (CUUR0000SA0) at the time such invoice is issued or (b) the Escalation Factor Cap.

"Escalation Factor Cap" means the net total allowable increase in the U.S. Consumer Price Index – Urban (CUUR0000SA0) over the period from the Base Value through the date of the applicable invoice during the Term. The Escalation Factor Cap shall be calculated by the following formula:

Escalation Factor Cap = the greater of:

- (a) $\text{Base Value} * (1.04)^{(n/12)}$, where n = number of months from the base date of January 2010 to the date of invoice, or
- (b) the latest month's value for the U.S. Consumer Price Index-Urban (CUUR0000SA0) at the time such invoice is issued * 0.95.

"Exhaust Components" means the following components: single piece exhaust cylinder, exhaust spacer piece transition, exhaust manifold, and exhaust expansion joint.

"Exhaust Components Warranty" has the meaning set forth in Section 8.7.

"Fee" or "Fees" means the payment amount calculated pursuant to the rates listed in Exhibit E, Payment Schedule.

"First Fire" means the date on which a Combustion Turbine has experienced combustion for the first time after initial installation.

"Fixed Annual Fee" has the meaning set forth in Exhibit E, Payment Schedule.

"Flex Interval" has the meaning set forth in Exhibit A, Addendum 1A.

"Flex Scope" has the meaning set forth in Exhibit A, Addendum 1A.

"Force Majeure" has the meaning set forth in Section 15.1 of this Contract.

"Government Authority" has the meaning set forth in Section 16.1.2.

"Hot Gas Path Inspection Scheduled Outage" or "Hot Gas Path Scheduled Outage" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1A of Exhibit A.

"Laws" means the laws applicable to the performance of this Contract, and includes statutes, rules, regulations, orders and ordinances or specified standards or objective criteria contained in any applicable license, permit or approval, or other legislative or administrative act, of the United States of America or any state of the United States, agency, department, authority, political subdivision or other instrumentality thereof, or a decree, judgment or order of a court, including but not limited to those governing wages, hours, employment discrimination and safety, laws regarding workers' compensation, disability laws and employee benefit laws.

"Major Inspection Scheduled Outage" or "Major Scheduled Outage" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1A of Exhibit A.

"Miscellaneous Hardware" means miscellaneous hardware items such as pins, springs, studs, gaskets, tie wires, fasteners, screws, washers, nuts or bolts which are required to roll out and roll in the Program Parts during a Scheduled Outage which is supplied by Seller during a Scheduled Outage under this Contract or in accordance with a Change Order hereto, issued pursuant to Article 6, Changes.

"Miscellaneous Hardware and Non-Program Part Warranty" has the meaning set forth in Section 8.2.

"Normal Carriage" has the meaning set forth in Section 7.3.2, Normal Carriage.

"Non-Program Part(s)" means all parts and components of a Combustion Turbine other than Program Parts, Miscellaneous Hardware and all instrumentation, control devices and wiring maintained by Buyer; *provided* that such parts or components are located on or inside of the applicable Combustion Turbine within the following boundaries: (a) from the Combustion Turbine side of the inlet bellmouth flange to and including (b) the Combustion Turbine side of the exhaust cylinder and (c) the Combustion Turbine side of all flanges and/or connections located directly on the Combustion Turbine proper which may be purchased by Buyer and supplied by Seller hereunder pursuant to a Change Order.

"Normal Wear and Tear" means the wear and tear incurred by the Program Parts as a result of operation and maintenance of the Combustion Turbine by Buyer in accordance with (i) Buyer's obligations specified in Exhibit A, Scope of Work Description and (ii) the warranty conditions specified in Section 8.4 below. Normal wear and tear expressly excludes any secondary/up or down stream/up or down flow damage caused by the failure of some other item, piece, part or equipment up or down stream/up or down flow.

"Original Equipment Supply Contract ("OESC")" means the contract for supply of the one (1) SGT6-5000F Combustion Turbine, and one (1) Steam Turbine between Siemens Energy, Inc. and Northern California Power Agency dated May 6, 2009.

"Parties" means Buyer and Seller.

"Party" means Buyer or Seller as applicable.

"Period" means the interval from the completion of one Scheduled Outage of the Combustion Turbine or the Steam Turbine through the completion of the next Scheduled Outage of such Combustion Turbine or Steam Turbine, per Exhibit C Projected Scheduled Outage Plan. For the purpose of this definition, the initial period shall begin on the date of First Fire of the Combustion Turbine.

"Price List" means the price quoted by Seller pursuant to this Contract, as amended from time to time by Seller.

"Program Initialization Fee" has the meaning set forth in Exhibit E, Payment Schedule.

"Program Management Services" means all of the services associated with Combustion Turbine or Steam Turbine maintenance program to be provided by Seller hereunder during the Term, as described in Exhibit A, Scope of Work Description.

"Program Part(s)" means the type of part(s) of the Combustion Turbine that are listed in Exhibit B, Program Parts List plus the equivalent parts to those listed in Exhibit B, Program Parts List, which were included in the original Combustion Turbine once the warranty for those equivalent parts under the OESC has expired.

"Program Parts Term Warranty" has the meaning given in Section 8.1.

"Project" has the meaning set forth in the Preamble.

"Project Financing Close" means Buyer's written notice to Seller that Buyer has successfully acquired financing for the Project.

"Remote Monitor System" has the meaning set forth in Exhibit K, Remote Monitor System.

"Scheduled Outage" means a planned outage of the Combustion Turbine or the Steam Turbine, each as applicable, to perform the applicable Scheduled Outage Services described in Exhibit A, Scope of Work Description.

"Scheduled Outage Services" means all of the services to be provided by Seller hereunder during the applicable Scheduled Outage, as described in Exhibit A, Scope of Work Description.

"Scheduled Outage TFA Services" means all of the TFA Services to be provided by Seller hereunder during the applicable Scheduled Outage.

"Scheduled Outage Technical Field Specialist Services" means all of the Technical Field Specialist Services to be provided by Seller hereunder during the applicable Scheduled Outage.

"Seller" has the meaning set forth in the Preamble.

"Serviceable Program Part" means, with respect to a Program Part, that such Program Part is suitable for operation in the Combustion Turbine until such Program Part's next Scheduled Outage.

"Services" means any and all services to be provided by Seller under this Contract including but not limited to Scheduled Outage TFA Services, Scheduled Outage Technical Field Specialist Services, Scheduled Outage Services, Program Management Services and any services performed in accordance with a Change Order hereto issued pursuant to Article 6, Changes.

"Services Warranty" has the meaning given in Section 8.3.

"SGSC" has the meaning set forth in Section 16.2.

"Site" means the real property located in Lodi, California, on which the Project is to be or has been constructed.

"Steam Turbine" means the Project's one (1) steam turbine.

"Steam Turbine Annual Safety Inspection" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1B of Exhibit A.

"Steam Turbine Limited Overhaul" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1B of Exhibit A.

"Steam Turbine Major Overhaul" means the type of Scheduled Outage and its associated Services as set forth in Addendum 1B of Exhibit A.

"Subcontractor(s)" shall mean any licensor, subcontractor or supplier of any tier supplying material, equipment, labor, goods or services directly to Seller in connection with its obligations under the Contract.

"Sunset Date" has the meaning given in Section 5.1.

"Technical Field Specialist Services" means the Combustion Turbine or Steam Turbine disassembly, field inspection, field welding and reassembly services provided by a technical field specialist of Seller on the Combustion Turbine or Steam Turbine.

"Term" has the meaning given in Section 5.1.

"TFA Services" or "Technical Field Assistance Services" means the advice and consultation given to Buyer's personnel by a technical field assistance service representative of Seller with respect to:

- (i) installation, inspection, repair and maintenance activities performed by others at the Site, and
- (ii) any Seller recommended quality assurance procedures for activities performed at the Site.

TFA Services does not include management, supervision or regulation of Buyer's personnel, agents and contractors.

"Unscheduled Outage" means any outage of a Combustion Turbine or Steam Turbine other than a Scheduled Outage per Exhibit C, Projected Scheduled Outage Plan.

"Variable Fee" has the meaning set forth in Exhibit E, Payment Schedule.

1.2 General References. As used in this Contract, the terms "herein," "herewith" and "hereof" are references to this Contract, taken as a whole, the term "includes" or "including" shall mean "including, without limitation," and references to a "Section," "subsection," "clause," "Article" or "Exhibit" shall mean a Section, subsection, clause, Article or Exhibit of this Contract, as the case may be, unless in any such case the context requires otherwise. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa.

ARTICLE 2. CONTRACT DOCUMENTS

2.1 Contract Documents. This Contract consists of this contract document itself and the following Exhibits which are specifically made a part hereof by reference:

| | | |
|-----------|---|--|
| Exhibit A | - | Scope of Work Description |
| Exhibit B | - | Combustion Turbine Program Parts List |
| Exhibit C | - | Projected Scheduled Outage Plan |
| Exhibit D | - | Service Bulletin 55004 |
| Exhibit E | - | Payment Schedule |
| Exhibit F | - | Not Used |
| Exhibit G | - | Cancellation Schedule |
| Exhibit H | - | Change Order Format |
| Exhibit I | - | Natural Gas, Fuel Oil and Water Specifications |
| Exhibit J | - | Maintenance Labor Agreement (MLA) |
| Exhibit K | - | Remote Monitor System |

2.2 Conflicting Provisions. This Contract document and the Exhibits are intended to be interpreted consistently to the maximum extent possible. In the event of any conflict between this document and any Exhibit hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the Exhibits, the following order of precedence shall govern: Exhibit G, E, A, J, B, C, D, I, K and H. Subject to the foregoing, the several instruments forming part of this Contract are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies within or between such parts the same shall be explained and adjusted by the mutual agreement of the Parties.

ARTICLE 3. SCOPE OF WORK

3.1 Seller's Scope. During the Term, Seller shall fulfill its workscope obligations specified in Exhibit A, Scope of Work Description, and shall supply any equipment, Program Parts, Non-Program Parts, Miscellaneous Hardware, Exhaust Components or Services mutually agreed to by the Parties and specified in a Change Order issued pursuant to Article 6, Changes.

3.2 Buyer's Scope. During the Term, Buyer shall fulfill its workscope obligations specified in Exhibit A, Scope of Work Description, and shall perform any other workscope obligations mutually agreed to by the Parties and specified in a Change Order issued pursuant to Article 6, Changes.

ARTICLE 4. CONTRACT PRICE AND PAYMENT TERMS

4.1 Contract Price. In consideration of the Program Parts, Non-Program Parts, Miscellaneous Hardware and Services provided by Seller, Buyer will pay to Seller the Fees as adjusted either up or down by the Escalation Factor at the time of each invoice. The "Contract Price" shall be the aggregate total of the Fees as adjusted plus any additional payment amount mutually agreed to by the Parties pursuant to a Change Order hereto.

4.2 Taxes. The Contract Price does not include any federal, state, or local property, license, privilege, sales, use, excise, value added, gross receipts, or similar taxes now or hereafter applicable to, measured by, or imposed upon or with respect to the transaction, the property, its sale, its value or its use, or any services performed in connection therewith. Buyer agrees to pay or reimburse Seller for any such taxes levied by the United States of America, the State of California, or other United States local political subdivision, which Seller or its Subcontractors are required to pay, except Seller will be responsible for its own federal and state income taxes as well as taxes on its own payroll. Should Buyer be exempted from any such tax, it shall

provide Seller with certification thereof within thirty (30) Days after the Effective Date or at the time the exemption is obtained, whichever first occurs. In the event of an audit by a taxing authority, the Parties shall cooperate with each other and disclose necessary documentation, subject to the provisions of Article 16, as required by the taxing authority in conjunction with the audit.

4.3 Invoices. Per Exhibit E, Payment Schedule, Seller shall furnish Buyer an invoice indicating the Fee being invoiced, as adjusted up or down by the Escalation Factor at the time of such invoice.

4.4 Payment. Within thirty (30) Days following the date Buyer receives each invoice under Section 4.3, Buyer shall pay to Seller the undisputed amount of the invoice. All payments to Seller shall be made by electronic transfer of funds to the account of the Seller at Mellon Bank, N. A. Account Number 038-0269, ABA No. 043000261, or such other depository as Seller shall designate by written notice to Buyer.

4.5 Notice of Payment Disputes. If prior to the expiration of the applicable period for payment referenced in Section 4.4, Buyer disputes any amount invoiced by Seller on the basis that any Program Parts, Miscellaneous Hardware or Scheduled Outage Services have not been provided in accordance with this Contract, then Buyer shall, prior to the expiration of such period, provide Seller with written notice identifying the basis for and precise amount of such dispute. Thereafter, the payment of any such genuinely disputed amounts may be deferred until such dispute has been resolved to the satisfaction of Buyer and Seller. Any dispute which is not resolved by mutual agreement shall be resolved in accordance with Section 16.4.

4.6 Late Payments. Any past due amounts shall, without prejudice to Seller's right to payment when due, bear interest at the Delayed Payment Rate beginning upon the Day following the date payment is due. If there is a dispute about any amount invoiced by Seller, the amount not in dispute shall be promptly paid as described in this Article 4, and any disputed amount which is ultimately determined to have been payable prior to the actual date of payment shall be paid with interest, at the Delayed Payment Rate, from the date due to the date of payment.

ARTICLE 5. TERM AND OUTAGES

5.1 Term. The Term of the Contract shall commence on the Effective Date and unless terminated early pursuant to Article 12, shall expire upon the earlier of:

- (i) the date the Combustion Turbine ~~accumulates one hundred thousand (100,000) EBHs~~ completes the third Major Scheduled Outage under the Contract, or
- (ii) the date that is ~~eighteen (18) years after the Contract's Effective~~ November 1, 2035 ("Sunset Date-").

5.2 Unscheduled Outage. If, during the Term, an Unscheduled Outage occurs, then Buyer shall, pursuant to a Change Order, hire Seller to supply any Program Parts, Non-Program Parts, Miscellaneous Hardware, TFA Service work, Technical Field Specialist Service work and/or Services on the Combustion Turbine and Steam Turbine required for such Unscheduled Outage, and Seller shall supply same to the extent not covered by Seller's warranties contained in Article 8 of this Contract, at the prices specified in Seller's then current domestic Price List(s)

in effect at the time of supply or performance or in Seller's price quote at the time of supply or performance for elements not included in Seller's domestic Price List(s).

5.3 Unscheduled Outage Work. Seller shall be entitled to a Change Order for any additional Program Parts, Non-Program Parts, Miscellaneous Hardware, TFA Service work, Technical Field Specialist Service work and/or Services on the Combustion Turbine and Steam Turbine pursuant to Section 5.2 above in accordance with Article 6. In addition, Buyer shall give Seller the opportunity to perform, at Seller's expense, a root cause analysis of the Unscheduled Outage. In the case of an Unscheduled Outage, Seller, upon notification from Buyer via a Change Order, agrees to take prompt action(s) to mobilize its service personnel to the Site to provide the Services requested in such Change Order, and agrees to provide any Program Parts, Non-Program Parts or Miscellaneous Hardware specified in such Change Order, as soon as reasonably practicable, to minimize downtime.

5.4 Seller's Responsibility for Access to Warranty Non-Conformities and Damage to Buyer's Property.

5.4.1 Subject to the provisions stated in this Section 5.4 below, if a Program Part, an item of Miscellaneous Hardware or a Service provided by Seller pursuant to this Contract fails to conform to the corresponding Program Parts Term Warranty stated in Section 8.1, the Miscellaneous Hardware and Non-Program Part Warranty stated in Section 8.2 or the Services Warranty stated in Section 8.3, ~~and such failure causes sudden and accidental damage to Buyer's property~~ then for each such event Seller shall credit Buyer for the actual direct costs incurred by Buyer for the following:

- (i) Seller's uncovering, gaining access to, removing and replacing the Program Part, Miscellaneous Hardware or Service, including disassembly and reassembly of the Combustion Turbine or Steam Turbine that does not conform to its respective warranty as set forth in Section 8, Warranties, to the extent that Seller provided such uncovering, gaining access to, removal and replacement of the non-conforming Program Part, item of Miscellaneous Hardware or such Services hereunder and
- (ii) sudden and accidental damage to Buyer's property to the extent that such property damage was caused by the failure of a Program Part, an item of Miscellaneous Hardware or a Service to conform to its respective warranty as set forth in Article 8, Warranties.

Seller's obligations under this Section 5.4 shall be limited on a per event basis to the lesser of:

- (a) the actual direct cost incurred by Buyer to repair the property damage including uncovering, gaining access to, removal and replacement costs, to be substantiated to the reasonable satisfaction of Seller, or
- (b) an amount of one million Dollars (U.S. \$1,000,000).

Seller's obligations under this Section 5.4 shall be limited to an aggregate financial limitation of two million Dollars (U.S. \$2,000,000) for all such events occurring within each Calendar Year and a total aggregate financial limitation of sixnine million Dollars (\$~~69~~,000,000) for all such events occurring during the Contract's Term.

- 5.4.2 As a condition precedent to Seller's performance of its obligations under this Section 5.4, (i) Buyer will be responsible for performing the obligations equivalent to that which would be required of Buyer pursuant to Exhibit A, Addendum 2A, Combustion Turbine Scheduled Outage Division of Responsibilities and Addendum 2B, Steam Turbine Scheduled Outage Division of Responsibilities, and (ii) the Parties shall enter into a Change Order pursuant to which Buyer shall purchase and Seller shall provide all labor, parts, repairs and materials required for the repair of the related property damage necessary to return the applicable Combustion Turbine or Steam Turbine to an operable condition. Seller's obligations under Section 5.4, shall not apply to any liabilities arising out of or related to events or circumstances occurring after either the expiration of the Contract's Term or the termination of the Contract, whichever occurs first.
- 5.4.3 If Buyer has property damage insurance, it shall obtain waivers of rights of subrogation from its property damage insurer(s) against Seller. If any such waiver of subrogation is not obtained by Buyer, Buyer shall defend, indemnify and hold Seller and its affiliates harmless in and from any claim or proceeding by Buyer's insurer(s) seeking subrogation which should have been waived.
- 5.4.4 The crediting of the amounts by Seller to Buyer as set forth in this Section 5.4 shall be Buyer's sole and exclusive remedy for damage to Buyer's Property and access to warranty non-conformities including uncovering, gaining access to, removing and replacing the Program Part, Miscellaneous Hardware or Service, including disassembly and reassembly of the Combustion Turbine and Steam Turbine whether claims of the Buyer are based in contract, in tort (including negligence and strict liability) or otherwise. Such amounts due Buyer by Seller pursuant to this Section 5.4 shall be effected by a credit to Buyer's account toward payments due under this Contract.

ARTICLE 6. CHANGES

6.1 Request For Changes. Buyer or Seller may request changes within the scope of the Contract and if accepted by the other Party the price, performance, schedule, and other pertinent provisions of the Contract will be adjusted by mutual agreement of the Parties and documented in a written "Change Order" prior to implementation of the "Change". The format for Change Orders is listed in Exhibit H, Change Order Format.

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6.2 Adjustment. Additional expenses incurred and time spent by Seller due to (i) delays, other than delays within the reasonable control of Seller, and (ii) changes in applicable Laws and requirements after the Effective Date of the Contract, as applicable, will be treated as changes to the scope of work and the Contract will be adjusted as set forth in the previous paragraph.

6.3 No Additional Compensation Changes. Seller may make a change(s) in its Program Parts and Miscellaneous Hardware, or Services supplied hereunder without additional compensation from Buyer if such change(s) does not adversely affect the warranties or performance of any Scheduled Outage.

6.4 Minimum Operating Requirements. The basis of this Contract is that the Combustion Turbine shall be operated at (a) no less than four thousand (4,000) Equivalent Base Hours per Calendar Year and (b) no ~~more~~less than two hundred fifty (250) Equivalent Starts per Calendar Year. Should the actual operations differ from these operating parameters then the Seller shall

be entitled to adjustment in its scope, schedule and price to address such differences pursuant to a Change Order.

6.5 Changes in Program Parts. To the extent that Seller makes changes in style or configuration of any Program Parts and the style numbers of such Program Parts, as originally supplied at the inception of this Contract, are no longer made available for sale by Seller, such changed or re-configured Program Parts shall be made available to Buyer in their normal replacement sequence, without additional charge, during the Term of this Contract. However, if both the originally supplied Program Part and a changed or reconfigured Program Part are made available by Seller, then Buyer shall receive the original styles without additional charge, or at its option, Buyer may elect to use any upgraded styles available at an additional price to be mutually agreed upon by the Parties.

6.6 Allowance for Certain Extra Work. If Buyer and Seller agree pursuant to a Change Order that in connection with a Scheduled Outage Seller will perform additional work that is not included in Seller's Scheduled Outage workscope pursuant to Addendum 1A of Exhibit A, then Seller shall bear without charge to Buyer, the following: (a) the first seventy five thousand Dollars (U.S. \$75,000.00) of price for additional work purchased from Seller related to a Combustor Inspection Scheduled Outage, (b) the first one hundred thousand Dollars (U.S. \$100,000.00) of price for additional work purchased from Seller related to a Hot Gas Path Inspection Scheduled Outage, and (c) the first one hundred twenty five thousand Dollars (U.S. \$125,000.00) of price for additional work purchased from Seller related to a Major Inspection Scheduled Outage. After completion of the second Major Scheduled Outage, for each subsequent Scheduled Outage remaining during the Term of the Contract, such amounts will be escalated from the completion date of the second Major Scheduled Outage, calculated the same as the Escalation Factor but using the completion date of the second Major Scheduled Outage as the base value."

6.7 Exhaust Cylinder and Manifold Replacement.

6.7.1 Components. If Buyer elects to purchase replacements for the Combustion Turbine's exhaust cylinder or exhaust manifold during the Term, then Buyer may purchase such components from Seller pursuant to a Change Order at the prices specified in Seller's then current domestic Price List(s) in effect at the time of supply with a twenty percent (20%) discount applied. In addition to such discounts, and provided that the applicable allowance set forth in Section 6.6 above has not been exhausted, Buyer may apply any remaining balance from the extra work allowance toward the replacement price for such exhaust cylinder or exhaust manifold.

6.7.2 Services. Buyer may elect, pursuant to a Change Order, to hire Seller to install such Exhaust Components at the prices specified in Seller's then current domestic Price List(s) in effect at the time of performance or in Seller's price quote at the time of performance for elements not included in Seller's domestic Price List(s). The Parties agree that such installation shall be covered by, and subject to, the provision of Section 8.3, Services Warranty.

ARTICLE 7. DELIVERY, TITLE, RISK OF LOSS AND TRANSPORTATION

7.1 Program Parts, Non-Program Parts, Miscellaneous Hardware or Exhaust Components. Delivery of each Program Part, Non-Program Part, item of Miscellaneous Hardware or Exhaust Component supplied under this Contract shall be made when the transporting conveyance

comes to a rest at the place of unloading at the delivery point ("Delivery"). The delivery point shall be to the Site, the area on the Site or adjacent laydown area designated by Buyer. If a scheduled Delivery cannot be accommodated by Buyer, then Delivery will be made to a Buyer-designated storage facility and Buyer shall be responsible for all storage costs. Buyer shall be responsible for unloading the cargo from the transporting conveyance upon Delivery.

7.2 Title and Risk of Loss. In the case of Section 7.1, risk of loss or damage shall pass from Seller to Buyer upon Delivery. Legal and equitable title to Non-Program Parts and Exhaust Components shall pass from Seller to Buyer upon Delivery. Legal and equitable title to Program Parts and Miscellaneous Hardware shall pass from Seller to Buyer upon installation into the Combustion Turbine. Upon removal of Program Parts from a Combustion Turbine, transfer of title and risk of loss of such Program Parts shall be as specified in Section 8.1.

7.3 Transportation

7.3.1 Transportation and Storage. When Program Parts, Non-Program Parts or Miscellaneous Hardware are ready for shipment, Seller will (i) in the absence of shipping instructions, inform Buyer of pending shipment and Buyer will thereafter promptly give shipping instructions to Seller, (ii) determine the method of transportation and the routing of the shipment and (iii) ship the Program Parts, Non-Program Parts or Miscellaneous Hardware freight prepaid and included in the price by Normal Carriage to the Site.

7.3.2 Normal Carriage. Normal Carriage means carriage by either highway transport (provided this does not necessitate use of specialized riggers trailers) or by rail transport on normal routing from the manufacturing/repair facility to the Site as designated in Section 7.1, above.

7.3.3 Special Transportation and Services. Buyer agrees to pay for, or to reimburse, in accordance with the Change Order provisions set forth in Article 6 of the Contract, any verifiable and substantiated transportation charges incurred by Seller in excess of those for Normal Carriage due to changes in the existing transportation conditions, which changes may include without limitation, the construction and repair of transportation and handling facilities, bridges and roadways, excess charges for special routing, special trains, special vessels, specialized riggers trailers, demurrage and air transport. Seller agrees to use all reasonable efforts to minimize such excess transportation charges. Additional transportation costs and impacts on Delivery or other times in connection with performance of the work, if any, shall be submitted to Buyer or Seller, each as applicable and processed through the Change Order process.

ARTICLE 8. WARRANTIES

8.1 Program Parts Term Warranty and Exclusive Remedy. Seller warrants that each Program Part and Miscellaneous Hardware used to affix a Program Part supplied or warranted hereunder, including any Program Part that is (i) included in the original Combustion Turbine once the warranty for those equivalent Program Parts under the OESC has expired or (ii) repaired or provided as a replacement pursuant to this warranty, will not require repair or replacement (other than for Scheduled Outage maintenance and associated Program Part and Miscellaneous Hardware maintenance) due to defects in material or workmanship of such Program Part or of such Miscellaneous Hardware used to affix a Program Part or due to Normal

Wear and Tear from the date supplied until the end of the Term (the "Program Parts Term Warranty"). If prior to the end of the Term, a Program Part or an item of Miscellaneous Hardware used to affix a Program Part fails to conform to the above warranty and Seller is notified in writing by Buyer of the failure, Seller shall, at its option and as its exclusive warranty obligation either (i) repair the non-conforming Program Part or at Seller's expense (ii) provide a replacement Serviceable Program Part for the non-conforming Program Part or provide replacement Miscellaneous Hardware for the non-conforming Miscellaneous Hardware (Seller shall provide unencumbered title to Buyer for all Program Parts and Miscellaneous Hardware furnished under this Contract). Unless Seller elects otherwise, if a replacement Program Part is provided under this warranty or during either a Scheduled Outage or Unscheduled Outage, then title to, possessory right to, and risk of loss to such replaced Program Part shall transfer from the Buyer to Seller upon such Program Part's replacement and the Parties hereby agree that such Program Part shall be scrap with a deemed value of \$0. Furthermore, unless Seller elects otherwise, Buyer shall waive any and all liens/security interests with respect to such Program Part, shall do everything necessary to effectuate such waiver, and shall indemnify Seller against any loss or damage Seller may incur as a result of any liens/security interests being asserted against such Program Part.

8.2 Miscellaneous Hardware and Non-Program Part Warranty and Exclusive Remedy. Seller warrants that the Miscellaneous Hardware not otherwise covered under the Program Parts Term Warranty and Non-Program Parts provided to Buyer hereunder, including any item of Miscellaneous Hardware or Non-Program Part repaired or provided as a replacement by Seller under this Miscellaneous Hardware and Non-Program Part Warranty, will be free of defects in workmanship and materials until the earlier of:

- (i) one (1) year from the date of installation of the original item of Miscellaneous Hardware or original Non-Program Part, as applicable, into the Combustion Turbine;
- (ii) four hundred (400) Equivalent Starts after installation of the original item of Miscellaneous Hardware or original Non-Program Part, as applicable, into the Combustion Turbine;
- (iii) eight thousand (8,000) Equivalent Base Hours after installation of the original item of Miscellaneous Hardware or original Non-Program Part, as applicable, into the Combustion Turbine; or
- (iv) one (1) year from the date of Delivery of the original item of Miscellaneous Hardware or original Non-Program Part, as applicable;

except that the warranties on all Miscellaneous Hardware and Non-Program Parts shall expire no later than the earlier of either the termination of the Contract or the conclusion of the Term of the Contract, (the "Miscellaneous Hardware and Non-Program Part Warranty"). In no event shall a re-warranty of a Non-Program Part or an item of Miscellaneous Hardware extend beyond the original warranty period for such Non-Program Part or item of Miscellaneous Hardware. If during the Miscellaneous Hardware and Non-Program Part Warranty period, an item of Miscellaneous Hardware or a Non-Program Part fails to conform to the Miscellaneous Hardware and Non-Program Part Warranty and Seller is promptly notified in writing by Buyer of the failure, Seller shall, at its option and as its exclusive warranty liability, either (i) repair the non-conforming Miscellaneous Hardware or non-conforming Non-Program Part or at Seller's expense (ii) provide a replacement for the non-conforming Miscellaneous Hardware or non-conforming Non-Program Part.

8.3 Services Warranty and Exclusive Remedy. Seller warrants for each item of Services provided hereunder that (i) the engineering services of its personnel will be competent and consistent with prudent engineering practices, (ii) the technical information, reports, analyses and recommendations transmitted by Seller in connection therewith will be competent and consistent with prudent engineering practices, and (iii) the Services will be free from defects in the workmanship for a period of one (1) year from the date of completion of that item of Services; except that the warranties on Services shall expire no later than the earlier of either one (1) year after the termination of the Contract or the conclusion of the Term of the Contract, (the "Services Warranty"). In no event shall a re-warranty of a Service extend beyond the original warranty period for such Service. If during the Services Warranty period any portion of the Service fails to conform to the Services Warranty and Seller is promptly notified in writing thereof, Buyer's sole remedy shall consist of Seller's reperformance of such nonconforming portion of the Services.

8.4 Warranty Conditions. The warranties and remedies set forth herein are conditioned upon:

- (1) Buyer's receipt, handling, storage, operations and maintenance during any storage, operation and maintenance, including tasks incident thereto, of the Project, including any Program Parts, Non-Program Parts, Exhaust Components and Miscellaneous Hardware, shall be in all material respects in accordance with the terms of the Combustion Turbine and Steam Turbine instruction manuals, Exhibit D Service Bulletin 55004 Seller's written instructions provided to Buyer, the operating criteria provided to Buyer by the original equipment manufacturer and in general accordance with independent power industry practices.
- (2) the Combustion Turbine shall have been operated using natural gas, fuel oil and water consistent with the requirements specified in Exhibit I, Natural Gas, Fuel Oil and Water Specifications and neither the Combustion Turbine nor the Steam Turbine shall have been subject to alteration, abuse or misuse;
- (3) any accidental damage to the Combustion Turbine or Steam Turbine shall be repaired consistent with the original equipment manufacturer's reasonable recommendations,
- (4) the Buyer, without expense to Seller:
 - (a) providing working access to the non-conforming Program Parts, Non-Program Parts, Miscellaneous Hardware or Services, except as provided for and subject to the financial limitations set forth in Section 5.4, including disassembly and reassembly of the Combustion Turbine or Steam Turbine;
 - (b) bearing the expense of, and paying as and when due Seller's invoices for amounts in excess of those amounts for which Seller provides a credit as set forth in Section 5.4 above. Monitoring and calculation of the foregoing amount shall be based upon Seller's then current prices for which Seller would normally charge a customer for Seller's performance of such activity;

- (c) providing reasonable access to the Project and operating and maintenance data, including but not limited to continuous access to the control system and associated data for monitoring purposes;
- (d) making its Site facilities and Site operators available to assist Seller in the performance of its warranty obligations, to the extent they are reasonably available; and
- (e) hiring Seller to provide (i) labor, parts, repairs and materials required to remove the Combustion Turbine casing and to repair, and install or replace the Program Parts, Non-Program Parts, Exhaust Components or Miscellaneous Hardware in the Combustion Turbine after it has been disassembled, (ii) labor and repairs required for the Steam Turbine,

and

- (5) Buyer will maintain and operate the Steam Turbine in accordance with the original equipment manufacturer's recommendations.

8.5 Exclusivity of Warranties and Remedies. THE WARRANTIES/GUARANTEES SET FORTH IN THIS ARTICLE ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES/GUARANTEES WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE). The remedies set forth in this Article by correction of non-conformities in the manner and for the period of time provided shall constitute Seller's sole liability and Buyer's exclusive remedies for failure of Seller to meet its warranty or guarantee obligations whether claims of the Buyer are based in contract, in tort (including negligence and strict liability), or otherwise.

8.6 Warranty Liabilities. In the event that physical loss of or damage to Buyer's property results from the failure of (i) a Program Part to comply with the Program Parts Term Warranty per Section 8.1, (ii) Miscellaneous Hardware to comply with the applicable provisions of the Program Parts Term Warranty per Section 8.1 or the Miscellaneous Hardware and Non-Program Part Warranty per Section 8.2, (iii) a Non-Program Part provided hereunder to comply with the Miscellaneous Hardware and Non-Program Part Warranty per Section 8.2, (iv) a Service to comply with the Services Warranty per Section 8.3 or (v) or an Exhaust Component to comply with the Exhaust Components Warranty per Section 8.7, Seller's liability under the terms of such respective warranties shall not exceed the cost of performing the warranty remedy, either by repair, modification, re-performance, or replacement, which Seller would have had to perform if such warranty remedy had been completed immediately prior to the occurrence of the resultant physical loss or damage. In no event shall Seller have liability under this Article 8 for physical loss or damage to Buyer's property that results from the failure to comply with the warranties under this Article 8. Seller's responsibility for any such resultant physical loss or damage shall be exclusively as set out in Section 5.4 above.

8.7 Exhaust Components Warranty and Exclusive Remedy. Seller warrants that new Exhaust Components provided to Buyer pursuant to Section 6.7.1, including any Exhaust Components repaired or provided as a replacement by Seller pursuant to this warranty, will be free of defects in workmanship and materials until the earlier of (i) twelve (12) months from the date of Delivery of the original Exhaust Component item or (ii) for a period of twelve (12)

months from the date of installation of the original Exhaust Component; except that the warranties on all Exhaust Components shall expire no later than the earlier of either the termination of the Contract or the conclusion of the Term of the Contract ("the Exhaust Components Warranty"). In no event shall a re-warranty of an Exhaust Component extend beyond the original warranty period for such Exhaust Component. If during the Exhaust Components Warranty period, an Exhaust Component fails to conform to the Exhaust Component Warranty and Seller is promptly notified in writing by Buyer of the failure, Seller shall, at its option and as its exclusive warranty liability, either (i) repair the non-conforming Exhaust Component or at Seller's expense (ii) provide a replacement for the non-conforming Exhaust Component.

ARTICLE 9. INTELLECTUAL PROPERTY

9.1 Patent, Trademark or Copyright Infringement. Seller will, at its own expense, indemnify and defend or at its option settle any suit or proceeding brought against Buyer provided that such claim is based on an allegation that any Program Parts, Miscellaneous Hardware or any of the processes used by Seller in connection with the Services, supplied by Seller hereunder and used for its intended purpose, constitutes an infringement of any filed or registered United States patent, trademark or copyright, if Seller is notified promptly in writing and given authority, information and assistance in a timely manner for the defense of said suit or proceeding. Seller will pay the damages and costs awarded in any suit or proceeding so defended. Seller will not be responsible for any settlement of such suit or proceeding made without its prior written consent. However, in no event shall Seller have any authority to accept or enter any judgment against Buyer without the express written consent of Buyer after approval of Buyer's governing body, which approval shall not be unreasonably withheld. In case the Program Parts, Miscellaneous Hardware or processes used by Seller in connection with the Services supplied by Seller hereunder, as a result of any suit or proceeding so defended, is held to constitute infringement of any United States patent, trademark or copyright, or its use by Buyer is enjoined, Seller will, at its option and its own expense, either: (a) procure for Buyer the right to continue using said Program Part, Miscellaneous Hardware or process; (b) replace it with a substantially equivalent noninfringing Program Part, Miscellaneous Hardware or process; or (c) modify it so it becomes noninfringing.

9.2 Limitation of Intellectual Property Obligations. Seller will have no duty or obligation to Buyer under this Article to the extent that the Program Parts, Miscellaneous Hardware or any of the processes used by Seller in connection with the Services supplied by Seller hereunder is (a) supplied according to Buyer's design or instructions wherein compliance therewith has caused Seller to deviate from its normal course of performance, (b) modified by Buyer or its contractors after delivery, or (c) combined by Buyer or its contractors with items not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Buyer. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Seller, Buyer shall protect Seller in the same manner and to the same extent that Seller has agreed to protect Buyer under the provisions of Section 9.1 above.

9.3 Protection of Seller's Intellectual Property Rights. Buyer acknowledges and agrees that Seller and its affiliates have a considerable investment in its intellectual property rights and technology associated with the Combustion Turbine, Steam Turbine and Program Parts. Buyer therefore agrees not to take any action, either directly or through an affiliate, which would

infringe or violate Seller's or its affiliates' rights in its patents, trademarks, copyrights, trade secrets or other intellectual property. Buyer further agrees to use its best efforts to ensure that its suppliers, contractors and other agents not take any action inconsistent with Seller's or its affiliates' intellectual property rights.

9.4 Exclusivity of Duties and Remedies. THIS ARTICLE IS AN EXCLUSIVE STATEMENT OF ALL THE OBLIGATIONS AND LIABILITIES OF THE SELLER, RELATING TO PATENTS, TRADEMARKS OR COPYRIGHTS AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF AND OF ALL THE REMEDIES OF BUYER RELATING TO ANY CLAIMS, SUITS, OR PROCEEDINGS INVOLVING PATENTS, TRADEMARKS OR COPYRIGHTS. Compliance with this Article as provided herein shall constitute fulfillment of all liabilities of the Seller under the Contract with respect to patents, trademarks or copyrights.

ARTICLE 10. COMPLIANCE WITH LAWS

10.1 Generally. Subject to the provisions of Section 10.2, Seller shall at all times comply, and shall assure that the Program Parts, Miscellaneous Hardware and Services supplied by Seller, at the time of Delivery or performance comply in all material respects with all Laws applicable to the design and manufacture of the Program Parts and Miscellaneous Hardware, and the performance by Seller of its other obligations hereunder.

10.2 Changes in Law. In the event that any change in Laws enacted or otherwise approved after the Effective Date of this Contract requires or makes advisable any modifications to the Program Parts, Non-Program Parts, Miscellaneous Hardware or Services, Buyer or Seller, as the case may be, shall reasonably promptly notify the other thereof in writing upon its discovery of such change in Laws. If any such modification is required by any changes in Laws, Seller shall make such modification provided such modification is reasonably technically feasible, and if such modification increases Seller's cost of producing the Program Parts, Non-Program Parts Miscellaneous Hardware, or performing the Services, or delays Seller's schedule or affects any other provision of this Contract, the Parties shall negotiate in good faith and enter into a Change Order in accordance with the provisions of Section 6.2 above.

ARTICLE 11. INSURANCE

11.1 Seller's Insurance. Without limiting Seller's liability under this Contract, Seller shall maintain in full force and effect during the Term of this Contract with insurance companies having a Best's Insurance Guide rating of "A" or better (or otherwise satisfactory to Buyer), the insurance described in 11.1(a), (b), (c), and (d) below, with coverage limits as indicated, and shall provide to Buyer certificates evidencing such coverages, or, if requested by Buyer (in the event of a claim that falls within the scope of coverage conferred by such insurance), copies of applicable policies. The minimum required coverage limits set forth below in 11.1(a), (b), (c), and (d) may be met by any combination of applicable policies and limits as long as the combined limits thereof equal or exceed the required limits:

- (a) Commercial general liability insurance, including bodily injury, property damage, products/completed operations, contractual, and personal injury liability, with a combined single limit of one million Dollars (U.S. \$1,000,000) per occurrence with a two million Dollar (U.S. \$2,000,000) annual aggregate;

- (b) Excess liability coverage providing excess general liability, automobile liability and employer's liability with a combined single limit of five million Dollars (U.S. \$5,000,000);
- (c) Workers' compensation insurance with statutory limits, and employers liability insurance with limits of one million Dollars (U.S. \$1,000,000) per accident; and
- (d) Business automobile liability insurance in comprehensive form covering owned, non-owned and hired automobiles for a combined single limit of one million Dollars (U.S. \$1,000,000) per occurrence.

11.1.2 Seller agrees to cause such insurance policies to be endorsed to provide that it is primary to any insurance carried by Buyer, and agrees to cause its commercial general liability, umbrella excess liability, employer's liability and automobile liability policies/coverages listed in Sections 11.1(a), (b), and (d) to name Buyer, its affiliates and its subcontractors of every tier, identified in writing for this purpose to Seller by Buyer, as an additional insured to the extent that bodily injury, death or third party property damage are caused by the negligence of Seller or Seller's Subcontractors. Buyer shall be given thirty (30) Days advance notice of cancellation or material change. All policies furnished by Seller shall include waivers of subrogation rights against Buyer and its affiliates. If any such waiver of subrogation is not obtained by Seller, Seller shall defend, indemnify and hold Buyer and its affiliates harmless in and from any claim or proceeding by Seller's insurer(s) seeking subrogation which should have been waived. Buyer shall not be obligated to perform under this Contract at any time when Seller is not in full compliance with this Article 11.

11.2 Buyer's Insurance.

11.2.1 Without limiting Buyer's liability under this Contract, Buyer shall maintain in full force and effect during the Term of this Contract with insurance companies having a Best's Insurance Guide rating of "A" or better (or otherwise satisfactory to Seller), the insurance described below, with coverage limits as indicated, and shall provide to Seller certificates evidencing such coverages, or, if requested by Seller, copies of applicable policies. The minimum required coverage limits set forth below may be met by any combination of applicable policies and limits as long as the combined limits thereof equal or exceed the required limits:

- (a) Property damage insurance, including boiler and machinery coverage covering all real and personal property of Buyer on a replacement cost basis ~~and business interruption/extra expense insurance coverage reasonably customary for a not-for-profit public entity, for twelve (12) months. (Subject to availability, the maximum waiting period on the business interruption insurance shall not be more than sixty (60) Days.);~~
- (b) Commercial general liability insurance, including bodily injury, property damage, products/completed operations, contractual, and personal injury liability, with a combined single limit of one million Dollars (U.S. \$1,000,000) per occurrence with a two million Dollar (U.S. \$2,000,000) annual aggregate;
- (c) Excess liability coverage providing excess general liability, automobile liability and employer's liability with a combined single limit of five million Dollars (U.S. \$5,000,000);

- (d) Workers' compensation insurance with statutory limits, and employers liability insurance with limits of not less than one million Dollars (U.S. \$1,000,000) per accident; and
- (e) Business automobile liability insurance in comprehensive form covering owned, non-owned and hired automobiles for a combined single limit of one million Dollars (U.S. \$1,000,000) per occurrence.

11.2.2 Buyer agrees to cause such insurance policies to be endorsed to provide that it is primary to any insurance carried by Seller, and agrees to cause its commercial general liability, umbrella excess liability, employer's liability and automobile liability policies/coverages listed in Sections 11.2.1(b), (c) and (e) to name Seller, its affiliates and its Subcontractors of every tier, identified in writing for this purpose to Buyer by Seller, as an additional insured to the extent that bodily injury, death or third party property damage are caused by the negligence of Buyer or Buyer's other subcontractors. Seller shall be given thirty (30) Days advance notice of cancellation or material change. All policies furnished by Buyer shall include waivers of subrogation rights against Seller and its affiliates. If any such waiver of subrogation is not obtained by Buyer, Buyer shall defend, indemnify and hold Seller and its affiliates harmless in and from any claim or proceeding by Buyer's insurer(s) seeking subrogation which should have been waived. Seller shall not be obligated to perform work under this Contract at any time when Buyer is not in full compliance with this Article 11.

ARTICLE 12. TERMINATION

12.1 Termination for Seller's Inability to Perform. If any proceeding is instituted against Seller seeking to adjudicate Seller as bankrupt or insolvent, or if Seller makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Seller, or if Seller files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts and, in the case of any such proceeding instituted against Seller (but not by Seller) if such proceeding is not dismissed within forty-five (45) Days of such filing, Buyer may terminate this Contract by written notice to Seller.

12.2 Termination for Seller's Failure to Perform. If Seller is in material default of any provision of this Contract, and provided Seller has not commenced cure of such default within thirty (30) Days after receipt of written notice from Buyer of such material default, Buyer may terminate this Contract by written notice to Seller.

12.3 Buyer's and Seller's Rights, Duties and Obligations Upon Buyer's Termination. If Buyer elects to terminate this Contract pursuant to Section 12.1 or 12.2, then Seller shall be entitled to retain or receive amounts paid or payable hereunder at the time of termination. Upon such a termination, Seller shall stop work on this Contract and place no further orders or lower tier subcontracts. Buyer shall transfer title to all Program Parts that are not installed in the Combustion Turbine as of the date of termination to Seller. Seller, at its expense, shall arrange transportation for and shall remove from the Site, all Program Parts to which Seller holds title. Seller shall protect Buyer's property which is in Seller's possession (if any), and upon Buyer's written instructions, Seller shall deliver to Buyer any of Buyer's property that is in Seller's possession and to which Seller has no claim of title. The cost of such delivery will be paid by Seller. Within thirty (30) Days from the effective date of such termination, Buyer shall either (a) return to Seller any of Seller's Confidential Information which had been in Buyer's possession

(excluding this Contract) or (b) certify to Seller that all of Seller's Confidential Information which had been in Buyer's possession has been destroyed. If Buyer elects to terminate this Contract pursuant to the provisions of Section 12.1 or 12.2, then:

- (a) Seller shall credit Buyer's account for the applicable portion of the Variable Fee that Buyer has paid to Seller for the Combustion Turbine since the completion of the most recent Scheduled Outage or Unscheduled Outage (whichever most recently occurred) for such Combustion Turbine during which the workscope of a Combustor Inspection Scheduled Outage was completed (the Parties acknowledge that such workscope can be completed as part of an outage including the full or partial workscope of a Hot Gas Path Scheduled Outage or an outage including the full or partial workscope of a Major Inspection Scheduled Outage), and
- (b) Seller shall credit Buyer's account on a pro-rated basis, for the applicable portion of the Fixed Annual Fee that, based upon the date of termination, Buyer has paid but not used under the Contract or Seller shall charge Buyer's account for the portion of the Fixed Annual Fee that Buyer has used but has not paid for (each as applicable).

Within thirty (30) Days after receipt of Buyer's notice of termination, Seller will submit to Buyer in writing its calculation of the amount owed to Buyer or amount owed to Seller as a result of such termination, including the items stated in subclauses (a) and (b) above. The Party due the net credit hereunder (the "Invoicing Party") will then invoice the other Party (the "Paying Party") therefore, and the Paying Party will pay the undisputed amounts of such invoice within thirty (30) Days of its receipt of such invoice. If prior to the expiration of such thirty (30) Day period of time, the Paying Party disputes all or any portion of such invoice, the Paying Party shall, prior to the expiration of such time period, provide the Invoicing Party with written notice identifying the basis for such dispute. Thereafter, the payment of such disputed amount shall be deferred until such dispute has been resolved to the satisfaction of the Parties or pursuant to the provisions of Section 16.4. Any disputed amount which is ultimately determined to have been payable prior to the actual date of payment shall be paid with interest, at the Delayed Payment Rate, from the date due to the date of payment. No further rights or obligations shall exist between the Parties with respect to this Contract except for those that expressly survive, per Section 16.21, Survival.

WITH THE EXCEPTION OF THOSE RIGHTS AND REMEDIES THAT EXPRESSLY SURVIVE PURSUANT TO SECTION 16.21, THIS SECTION IS AN EXCLUSIVE STATEMENT OF ALL THE RIGHTS, DUTIES AND OBLIGATIONS OF THE PARTIES, RELATING TO TERMINATION UNDER SECTIONS 12.1 AND 12.2 AND OF ALL THE REMEDIES RELATING TO TERMINATION FOR SELLER'S INABILITY OR FAILURE TO PERFORM. Compliance with this Section as provided herein shall constitute fulfillment of all liabilities of the Parties under the Contract with respect to termination for Seller's inability or failure to perform.

12.4 Termination Prior to Period 1. The Parties expressly agree that the terms and conditions of this Contract, including in particular the prices stated herein, are based upon this Contract being in full force and effect beginning with the Effective Date of the Contract and continuing through the full Term of the Contract. The Parties further agree that it would be extremely difficult to determine the precise amount of economic harm that would be suffered by Seller due to the occurrence of any of the following after the Effective Date and prior to the beginning of Period One as identified in Exhibit C, Projected Scheduled Outage Plan: (a)

Buyer's termination of the OESC or (b) Seller's termination of this Contract for Buyer's breach or default of the same or of the OESC. The Parties accordingly agree that an amount of ten percent (10%) of the Contract Price is a fair and reasonable estimation of the amount of economic harm that would be suffered by Seller for any such termination, and that the amount does not constitute a penalty. In the event of any such termination the Buyer agrees to make payment to Seller of the amount stated above within thirty (30) Days of Seller's invoice for same. If termination is effected under this Section 12.4, Termination Prior to Period 1, then the obligations of the Parties pursuant to either Section 12.3 or Section 12.6 (each as applicable) shall remain.

12.5 Termination by Seller. Seller may at its option terminate or suspend its performance of the work under this Contract or suspend its performance of the work under this Contract then terminate the Contract by written notice to Buyer if:

- (i) with respect to any invoice delivered pursuant to Section 4.3, Buyer neither makes payment thereon in accordance with Section 4.4 nor provides a notice of dispute relating thereto in accordance with Section 4.5, in either case within the thirty (30) Day period provided in such Sections,

- (ii) a proceeding is instituted against Buyer seeking to adjudicate Buyer as bankrupt or insolvent and such proceeding is not dismissed within forty-five (45) Days of such filing,
- (iii) Buyer makes a general assignment for the benefit of its creditors,
- (iv) a receiver is appointed on account of the insolvency of Buyer,
- (v) a force majeure event has persisted for six (6) months or longer,
- (vi) Buyer files a petition seeking to take advantage of any other Law relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts,
- (vii) a change in Laws has made Seller's performance impracticable as determined by Seller,
- (viii) Buyer is in material default of any provision of this Contract and provided Buyer has not commenced cure of such default within thirty (30) Days after receipt of written notice of such material default from Seller or
- (ix) a change in the ownership or ultimate management control of Buyer that Seller reasonably believes could materially affect Seller's interests, including without limitation the sale of any ownership interest in Buyer or the Project to any entity in competition with Seller.

12.6 Buyer's and Seller's Rights, Duties and Obligations Upon Seller's Termination. If Seller elects to terminate this Contract pursuant to Section 12.5, then, upon such a termination, Seller shall stop work on this Contract and place no further orders or lower tier subcontracts. Buyer shall transfer title to all Program Parts that are not installed in the Combustion Turbine as of the date of termination to Seller. Seller, at its expense, shall arrange transportation for and shall remove from the Site, all Program Parts to which Seller holds title. Seller shall protect Buyer's property which is in Seller's possession (if any), and upon Buyer's written instructions, Seller shall deliver to Buyer any of Buyer's property that is in Seller's possession and to which Seller has no claim of title. The cost of such delivery will be paid by Buyer. Within thirty (30) Days from the effective date of such termination, Buyer shall either (a) return to Seller any of Seller's Confidential Information which had been in Buyer's possession (excluding this Contract) or (b) certify to Seller that all of Seller's Confidential Information which had been in Buyer's possession has been destroyed. If Seller elects to terminate this Contract pursuant to Section 12.5, then:

- (a) Seller shall credit Buyer's account for the applicable portion of the Variable Fee that Buyer has paid to Seller for the Combustion Turbine since the completion of the most recent Scheduled Outage or Unscheduled Outage (whichever most recently occurred) for such Combustion Turbine during which the workscope of a Combustor Inspection Scheduled Outage was completed (the Parties acknowledge that such workscope can be completed as part of an outage including the full or partial workscope of a Hot Gas Path Scheduled Outage or an outage including the full or partial workscope of a Major Inspection Scheduled Outage),

- (b) Seller shall credit Buyer's account on a pro-rated basis, for the applicable portion of the Fixed Annual Fee that, based upon the date of termination, Buyer has paid but not used under the Contract or Seller shall charge Buyer's account for the portion of the Fixed Annual Fee that Buyer has used but has not paid for (each as applicable),
- (c) Buyer's account shall be charged the cancellation amount listed in Exhibit G, in effect at the time of such termination. For the avoidance of doubt, if the Contract is terminated by Seller pursuant to the provisions of Section 12.4, Termination Prior to Period 1, then the cancellation charge stated in this Section 12.6(c) shall not be additionally applied to such termination,
- (d) Buyer's account shall be charged for demonstrable reasonable expenses actually incurred by Seller in settling Seller's terminated orders and subcontracts hereunder and the protection of Buyer's property that is in Seller's possession (if any), and
- (e) Buyer's account shall be charged for demonstrable reasonable expenses of demobilization, equipment storage, transportation, and handling.

Within thirty (30) Days after receipt of Seller's notice of termination, Seller will submit to Buyer in writing its calculation of the amount owed to Buyer or amount owed to Seller as a result of such termination, including the items stated in subclauses (a), (b), (c), (d), and (e) above. The Party due the net credit hereunder (the "Invoicing Party") will then invoice the other Party (the "Paying Party") therefore, and the Paying Party will pay the undisputed amounts of such invoice within twenty-five (25) Days of its receipt of such invoice. If prior to the expiration of such twenty-five (25) Day period of time, the Paying Party disputes all or any portion of such invoice, the Paying Party shall, prior to the expiration of such time period, provide the Invoicing Party with written notice identifying the basis for such dispute. Thereafter, the payment of such disputed amount shall be deferred until such dispute has been resolved to the satisfaction of the Parties or pursuant to the provisions of Section 16.4. Any disputed amount which is ultimately determined to have been payable prior to the actual date of payment shall be paid with interest, at the Delayed Payment Rate, from the date due to the date of payment. No further rights or obligations shall exist between the Parties with respect to this Contract except for those that expressly survive, per Section 16.21, Survival.

The Parties agree that it would be difficult or impossible to determine the precise amount of damages that would be incurred by Seller as a result of Buyer's breach or early termination of this Contract. Accordingly, the Parties expressly agree that Buyer's payment of the amounts listed in the Cancellation Schedule set forth in Exhibit G are in lieu of actual damages, are the Parties' reasonable estimates of fair compensation for the losses that may reasonably be anticipated to be incurred by the Seller in respect of such matters and do not constitute a penalty.

ARTICLE 13. INDEMNIFICATION

13.1 Seller's Indemnity. Seller shall defend, indemnify and hold harmless Buyer from and against liability resulting from injury to or death of persons and from physical damage to or loss

of third party property to the extent caused by the negligent acts or omissions or willful misconduct of Seller while performing Services at the Site. Seller's indemnity obligation under this Section 13.1 shall not apply to any liabilities arising out of or relating to events or circumstances occurring after the end of the Contract's Term. In no event shall Seller's indemnification obligations apply to any claim by a customer of Buyer for voltage or frequency fluctuation or service interruption of any kind, or to any claim by any third party for failure of Buyer to provide power or capacity under any contract. For the purposes of this Section 13.1, third party property shall be deemed to exclude property of the Buyer, operator, lender, Buyer's affiliates, or any other property at the Site (except for property belonging to contractors temporarily working at the Site). If a third party claim is filed against Buyer pursuant to Seller's obligations under this Section 13.1, then Buyer shall provide Seller with prompt written notice thereof and Buyer shall give Seller the unrestricted right to defend the respective claim on Buyer's behalf. However, in no event shall Seller have any authority to accept or enter any judgment against Buyer without the express written consent of Buyer after approval of Buyer's governing body, which approval shall not be unreasonably withheld.

13.2 Buyer's Indemnity. Buyer shall defend, indemnify and hold harmless Seller from and against liability resulting from injury to or death of persons and from physical damage to or loss of third party property to the extent caused by the negligent acts or omissions or willful misconduct of Buyer. Buyer's indemnity obligation under this Section 13.2 shall not apply to any liabilities arising out of or relating to events or circumstances occurring after the end of the Contract's Term.

ARTICLE 14. LIMITATION OF LIABILITY

14.1 Restrictions on Recoverable Damages. BUYER EXPRESSLY AGREES THAT NEITHER SELLER NOR ITS SUBCONTRACTORS, AGENTS, AFFILIATES OR ASSIGNS WILL UNDER ANY CIRCUMSTANCES BE LIABLE TO BUYER FOR CLAIMS UNDER OR ARISING OUT OF OR RELATING TO THIS CONTRACT UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR: ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OR PUNITIVE DAMAGES WHATSOEVER; DAMAGE TO OR LOSS OF BUYER'S PROPERTY OR EQUIPMENT (EXCEPT AS OTHERWISE PROVIDED FOR AND SUBJECT TO THE LIMITATIONS STATED IN SECTION 5.4); LOSS OF DATA AND INFORMATION; LOSS OF PROFITS OR REVENUE; LOSS OF USE BY THE BUYER OF ITS MATERIAL, EQUIPMENT OR POWER SYSTEM; INCREASED COSTS OF ANY KIND, INCLUDING BUT NOT LIMITED TO CAPITAL COST, FUEL COST AND COST OF PURCHASED OR REPLACEMENT POWER; OR CLAIMS OF CUSTOMERS OF BUYER.

SELLER EXPRESSLY AGREES THAT BUYER WILL NOT UNDER ANY CIRCUMSTANCES BE LIABLE TO SELLER FOR CLAIMS UNDER OR ARISING OUT OF OR RELATING TO THIS CONTRACT UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR: ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OR PUNITIVE DAMAGES WHATSOEVER; LOSS OF DATA AND INFORMATION; OR LOSS OF PROFITS OR REVENUE.

NOTHING IN THIS SECTION 14.1 SHALL LIMIT: (A) EITHER PARTY'S RIGHT TO AMOUNTS EXPRESSLY AGREED TO BY THE PARTIES PURSUANT TO A CHANGE ORDER HERETO, OR APPLICABLE AMOUNTS CALCULATED PURSUANT TO ARTICLE 12; OR (B) SELLER'S

RIGHT TO (i) ALL OR ANY PART OF THE CONTRACT PRICE OR OTHER AMOUNTS OTHERWISE PAYABLE HEREUNDER INCLUDING BUT NOT LIMITED TO ANY OVERHEAD OR PROFITS, (ii) INTEREST ON AMOUNTS NOT PAID BY BUYER, (iii) ANY DAMAGES RESULTING FROM A CLAIM FOR INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION UNDER APPLICABLE LAWS, AND (iv) ANY DAMAGES RESULTING FROM VIOLATION OF CONFIDENTIALITY OBLIGATIONS.

EXCEPT FOR BUYER'S OBLIGATIONS UNDER ARTICLE 9 (INTELLECTUAL PROPERTY), SECTION 16.1 (CONFIDENTIAL OR PROPRIETARY INFORMATION), AND SECTION 16.20 (TRANSFER), EACH PARTY EXPRESSLY AGREES THAT NEITHER THE OTHER PARTY NOR IN THE CASE OF THE SELLER, SELLER'S SUBCONTRACTORS WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE BEYOND FOUR (4) YEARS SUBSEQUENT TO THE EARLIER OF EITHER THE EXPIRATION OR TERMINATION OF THE TERM.

14.2 Exclusive Remedy and Limitation on Liability. BUYER EXPRESSLY AGREES THAT THE REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND THAT UNDER NO CIRCUMSTANCES SHALL THE TOTAL AGGREGATE CLAIMS AGAINST OR LIABILITY OF SELLER DURING A GIVEN CALENDAR YEAR UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, EXCEED THE GREATER OF FIVE MILLION DOLLARS (\$5,000,000) OR ONE HUNDRED PERCENT (100%) OF THE TOTAL PRICE PAID TO SELLER FOR THAT GIVEN CALENDAR YEAR UNDER THIS CONTRACT. THE PARTIES FURTHER EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL THE TOTAL AGGREGATE CLAIMS AGAINST OR LIABILITY OF EITHER PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, EXCEED SEVENTY FIVE PERCENT (75%) OF THE TOTAL PRICE PAID TO SELLER UNDER THIS CONTRACT; PROVIDED HOWEVER, THAT THE PROVISIONS AND LIMITATIONS OF SECTION 14.2 SHALL NOT APPLY TO BUYER'S LIABILITIES ARISING OUT OF SECTION 5.4.3, ARTICLE 9, SECTION 11.2.2, ARTICLE 13, SECTION 16.1 AND SECTION 16.20 AND EXPRESSLY EXCLUDE ALL PAYMENTS MADE OR REQUIRED TO BE MADE FROM BUYER TO SELLER FOR WORK PERFORMED UNDER THIS CONTRACT OR UPON TERMINATION OF THIS CONTRACT.

14.3 Extent of Waivers. THE WAIVERS AND DISCLAIMERS OF LIABILITY, RELEASES FROM LIABILITY, AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS ARTICLE SHALL EXTEND TO SELLER AND ITS AFFILIATES, SUCCESSORS AND ASSIGNS, AND ITS AND THEIR RESPECTIVE PARTNERS, PRINCIPALS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS.

14.4 Extent of Conflicts. THE PROVISIONS OF THIS ARTICLE SHALL PREVAIL OVER ANY CONFLICTING OR INCONSISTENT PROVISIONS SET FORTH ELSEWHERE IN THIS CONTRACT.

ARTICLE 15. FORCE MAJEURE

15.1 Excuse by Force Majeure. Seller will not be liable for failure to perform any obligation or delay in performance resulting from or contributed to by any cause beyond the reasonable control of Seller or its Subcontractors including without limitation any act of God; act of civil or military authority; act of war whether declared or undeclared; act of terrorism; act (including delay, failure to act, or priority) of any governmental authority or Buyer; civil disturbance; insurrection or riot; sabotage; fire; inclement weather conditions; earthquake; flood; strike; work stoppage or other labor difficulty; embargo; car shortage; fuel or energy shortage; delay or accident in shipping or transportation; or failure or delay beyond its reasonable control in obtaining necessary manufacturing facilities, labor, necessary import or export licenses or materials from usual sources. Notwithstanding the foregoing and for the avoidance of doubt, the following shall not be considered events of Force Majeure: economic hardship; lack of money or credit; loss of profit or loss of return on investment; changes in commodity prices and the price of raw materials, fuel and supplies; changes in labor costs, wages and benefits; changes in exchange rates; Seller's inability to perform and complete the work for the Contract Price; and, for either Party, the obligation to make payment in accordance with the terms of the Contract.

15.2 Effect of Force Majeure. In the event of a delay in performance excusable under this Article, the date of Delivery or time for performance of the work will be extended by a period of time reasonably necessary to overcome the effect of such delay and Buyer will reimburse Seller for its reasonable and identifiable additional costs and expenses resulting from said delay.

ARTICLE 16. MISCELLANEOUS

16.1 Confidential or Proprietary Information.

16.1.1 Confidentiality Obligation. Information furnished pursuant to the Contract may be regarded by Seller as confidential or proprietary information ("Confidential Information"), including Seller's proposal and the Contract itself. Buyer will (a) maintain Confidential Information in confidence with the same level of care as Buyer maintains its own confidential or proprietary information but in no event maintained with any less than a reasonable standard of care; (b) restrict the disclosure of Confidential Information within Buyer to those persons having a need for access; (c) not disclose to any third party (including affiliates, contractors or financing entities) any such information which is specifically designated as confidential or proprietary information of Seller without the prior written permission of Seller; and (d) not use any such Confidential Information for other than the express purpose for which it is supplied. Prior to disclosing such Confidential Information to any party, Buyer shall (i) enter into an agreement with such third party requiring said third party to protect the Confidential Information and to keep it confidential, and (ii) obtain Seller's prior written approval (not to be unreasonably withheld or unduly delayed) of the agreement before any Confidential Information is disclosed to the third party. The provisions of this paragraph shall not apply to information, notwithstanding any confidential designation thereof, which was rightfully known by Buyer without any restriction as to disclosure or use at the time it is furnished, which is or becomes generally available to the public without breach of any agreement, or which is received from a third party without limitation or restriction on said third party or Buyer at the time of disclosure.

16.1.2 Disclosure Pursuant to Government Mandate. When required by appropriate governmental authority, including governmental regulations, applicable law or regulation, by

order of a court of competent jurisdiction or lawful subpoena (hereinafter collectively referred to as ("Government Authority") or when Buyer has received a valid request under the California Public Records Act, Buyer may disclose such proprietary information to such Government Authority or requestor under any California Public Records Act request, subject to the following conditions: (a) Buyer shall provide Seller within five (5) Days of receiving the request written notice of the request and will include a copy of such request with the written notice; (b) Buyer shall provide to Seller reasonable access to the documents Buyer proposes to produce in response to any such request; (c) after Seller is provided reasonable access to the documents Buyer proposes to produce, Seller shall have twenty (20) Days within which to provide Buyer with a list of those documents that Seller objects to the Buyer producing based on said documents being confidential, proprietary or trade secret information of Seller (hereinafter the "Disputed Documents"); (d) within five (5) Days of receiving any objection from Seller, Buyer shall provide a written notice to Seller stating whether Buyer agrees with Seller's objections; (e) if Buyer does not agree to some or all of Seller's objections, Buyer shall so state this in the response and shall specifically identify to Seller which Disputed Documents Buyer proposes to produce; and (f) Buyer agrees, however, that it shall not produce any Disputed Documents until ten (10) days after it has provided Seller with written notice in accordance with 16.1.2 (d) above so that Seller can take further action to protect any Disputed Documents from being produced including the filing of a motion for protective order in court. In the event that Buyer is found by a court of competent jurisdiction to be responsible for reimbursing attorneys' fees or costs as a result of failing to produce Disputed Documents to such requestor that files a valid California Public Records Act request, Seller agrees to indemnify Buyer for such fees and costs to the extent that Buyer's failure to produce documents was based solely on Seller's actions.

Under any and all circumstances relating to a request to the Buyer for documentation, Buyer shall make every reasonable effort (which shall include participation by Seller in discussions with the Government Authority involved) to secure confidential treatment and minimization of the proprietary information to be provided. In the event that efforts to secure confidential treatment are unsuccessful, Seller shall have the prior right to revise such information to minimize the disclosure of such information in a manner consonant with its interests and the requirements of the Government Authority involved.

16.1.3 Indemnity. Buyer shall be responsible for maintaining Seller's Confidential Information subject to the provisions of Section 16.1.1 and 16.1.2. Any unauthorized disclosure of Confidential Information or other violation of the provisions of this Contract shall be deemed a material breach of this Contract. The Parties agree that monetary damages for any breach of the provisions of this Article are inadequate and that the non-breaching Party is entitled to appropriate equitable relief (including without limitation, injunctive relief or specific performance) for any breach of such provisions. Such remedies shall neither be exclusive nor be in derogation of any other rights or remedies which a Party may have under this Contract or under applicable law. All of the non-breaching Party's rights and remedies shall be cumulative and may be exercised separately or concurrently.

16.1.4 Other Agreements. The provisions of this Section 16.1 shall be in addition to, and not in lieu of, any other confidentiality agreements or arrangements between Seller and Buyer.

16.2 Subcontractors. Seller shall have the right to have individual items of the Program Parts, Non-Program Parts or Miscellaneous Hardware supplied to it or Services performed by Subcontractors, provided that no such Subcontractor is intended to be or shall be deemed a third party beneficiary of this Contract. Notwithstanding the foregoing, no arrangements

between Seller and any Subcontractor shall create any contractual relationship between any Subcontractor and Buyer. Seller shall be solely responsible for the engagement and management of Subcontractors in the performance of work, for all work performed and items provided by Subcontractors and for all acts and omissions of Subcontractors.

Seller will not sign the Lodi Energy Center Project Maintenance Labor Agreement ("MLA") (attached hereto as Exhibit J), however, Seller agrees to subcontract Covered Work as defined in Exhibit J that is included in the Contract only to Subcontractors who abide by the project MLA. Seller anticipates subcontracting the labor for Covered Work that is included in the Contract to the Seller's subsidiary company named Siemens Generation Services Co. ("SGSC"). SGSC is a national contractor which specializes in using union building trade labor to perform maintenance on combustion turbine generators, steam turbine generators and their auxiliaries.

16.3 Third Parties. Except as otherwise expressly provided in this Contract, nothing in this Contract shall be construed to create any duty to, or standard of care with respect to or any liability to any person who is not a Party to this Contract.

16.4 Dispute Resolution. In the event a dispute arises between Seller and Buyer regarding the application or interpretation of any provision of this Contract that cannot be resolved pursuant to the alternative dispute resolution procedures described below, the Parties expressly agree, notwithstanding that the Project is located in the City of Lodi, San Joaquin County, California that the County of San Francisco and specifically, the Superior Court of the State of California in and for the County of San Francisco or the United States District Court for the Northern District of California shall be the venue for any action or proceeding between the Parties with respect to this Contract. Pending the resolution of any dispute, protest or claim under this Section 16.4, Seller or Buyer shall proceed with the performance of its undisputed obligations consistent with its respective position in the dispute, including but not limited to payment. Notwithstanding any provisions of this Dispute Resolution Article, including the alternative dispute resolution procedures described below, Seller shall have the right at any time to pursue equitable relief, including injunctive relief, under Section 16.1.

16.4.1 All questions of fact, and any and all disputes with reference thereto, arising out of the performance of this Contract, or changes therein, or extra work in connection therewith, shall be submitted in writing to the applicable Party.

16.4.2 Prior to initiating litigation in a court of competent jurisdiction, both Seller and Buyer shall undergo alternative dispute procedures as outlined in California Public Contract Code Section 20104, et seq. for claims that do not exceed one million, five hundred thousand Dollars (\$1,500,000). The Parties also expressly agree that the Alternative Dispute Resolution procedures outlined in California Public Contract Code Sections 20104, et seq. shall apply to all claims that exceed three hundred seventy-five thousand Dollars (\$375,000) but are equal to or less than one million five hundred thousand Dollars (\$1,500,000), and that such procedures are incorporated as though fully set forth in this Contract.

16.4.3 For claims in excess of one million five hundred thousand Dollars (\$1,500,000) in the aggregate, both Seller and Buyer agree to the following process:

- (a) The claim shall be in writing and include documentation, if available, that substantiates the claim;

- (b) The Party receiving the claim shall have sixty (60) Days to respond in writing to the claim;
- (c) If the claimant disputes the written response, or a written response has not been provided within the sixty (60) Day period, claimant may notify the other Party, within fifteen (15) Days of receipt of the written response or within fifteen (15) Days of when the response was due, that it demands an informal conference to meet and confer for settlement of the issues in dispute. This meeting must be held within thirty (30) Days of such demand and shall be attended by senior management of the Parties;
- (d) Following the meet and confer set forth in Section 16.4.3(c), claimant is free to pursue any legal remedies accorded by the law including, but not limited to, filing a lawsuit in court; and
- (e) Seller and Buyer agree that the procedures set forth in California Public Contract Code Sections 20104, et seq., do not apply to disputes that exceed one million, five hundred thousand Dollars (\$1,500,000) in the aggregate.

16.5 Assignment and Delegation. The Contract will not be assigned by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld. However, Seller may assign the Contract without prior written consent, in whole or in part, to any subsidiary, parent, or successor organization (whether as a result of reorganization, restructuring or sale) or affiliate of Seller, or may assign the Contract in whole or in part, to such entity that substantially all of the assets or direct ownership thereof relating to the power generation business have been transferred. Any purported assignment without such prior written consent shall be null and void.

16.6 Severability. If any phrase, sentence, clause, Section or Article contained in this Contract is held invalid by a court of competent jurisdiction, such a ruling shall not affect the validity of the remaining portions of the Contract so long as the material purposes of this Contract can be determined and effectuated. The Parties shall negotiate appropriate modifications to the Contract to restore the Contract to the Parties' original intent.

16.7 Amendments. No change, amendment or modification of this Contract shall be valid or binding upon the Parties hereto unless such change, amendment or modification shall be in writing and duly executed by both Parties hereto.

16.8 Joint Effort. Preparation and negotiation of this Contract has been a joint effort of the Parties and neither the Contract nor any of its provisions shall be construed against either of the Parties as the drafting party or otherwise. Each Party has retained its own experts and professionals, and has not relied on the expert or professional advice of the other Party hereto.

16.9 Captions. The captions contained in this Contract are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Contract or the intent of any provision contained herein.

16.10 Non-Waiver. Any failure of any Party to enforce any of the provisions of this Contract or to require compliance with any of its terms at any time during the pendency of this Contract

shall in no way affect the validity of this Contract, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision.

16.11 Applicable Law. This Contract shall be governed by, construed and enforced in accordance with the laws of the State of California, exclusive of conflicts or choice of law provisions or the United Nations Convention on Contracts for the International Sale of Goods.

16.12 Successors and Assigns. This Contract shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns.

16.13 Counterparts. This Contract may be signed in any number of counterparts and each counterpart shall represent a fully executed original.

16.14 Notices. Any written notice, direction, instruction, request, or other communication required or permitted under this Contract, including payment invoices from Seller to Buyer, shall be deemed to have been duly given on the date of receipt, and shall be either served personally or by telefacsimile to the Party to whom notice is to be given, or mailed to the Party to whom notice is to be given, by first class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by written notice given to the other Party in the manner provided in this Section 16.14.

BUYER: Northern California Power Agency
Lodi Energy Center
12745 North Thorton Rd.
P.O. Box 1478
Lodi, CA 95242
Attention: Plant Manager
Tel: (209) 333-6730

With copies to

Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
Attention : General Manager and General Counsel
Tel : (916) 781-3636
Fax : (916) 781-4254

SELLER: Siemens Energy, Inc.
4400 Alafaya Trail MC-605
Orlando, FL 32826-2399
Attention: Long-Term Programs c/o Gregory Wendt
Telephone: (407) 736-3543
Fax: (407) 736-5015

16.15 Complete Contract. This Contract, including all Exhibits attached hereto, constitutes the complete agreement between the Parties as of the Effective Date of the Contract, and

supersedes any and all agreements (oral or written), proposals, discussions or representations made or dated prior thereto concerning the subject matter therein.

16.16 Site Access. Seller's personnel performing Services at the Site shall comply with Buyer's Site safety and security measures at the Site.

16.17 Permits and Licenses. Buyer shall be responsible for obtaining all necessary approvals, permits and licenses for the Project from governmental agencies having jurisdiction including any import and export licenses. Notwithstanding any other provision herein, the obligation of Buyer to pay for Program Parts, Non-Program Parts, Miscellaneous Hardware or Services as set forth in this Contract shall not be affected by any delay or failure to secure or renew, or by the cancellation of, any such necessary approvals, permits or licenses.

16.18 Special Packing. Seller will pack for standard shipment via truck or rail transportation. When this packing will not meet Buyer's requirements covering preparation of Program Parts, Non-Program Parts or Miscellaneous Hardware for special shipments, Buyer must notify Seller of the special packing specifications involved during negotiation of the Contract. The charge made for such packing will be based on its cost to Seller and will be shown as a separate item on the invoice.

16.19 Return of Program Parts, Non-Program Parts or Miscellaneous Hardware. Seller shall pack and arrange for transportation off of the Site, all Program Parts that were removed from the Combustion Turbine during the preceding outage and, when possible, Seller shall use the same shipping containers for such Program Parts as Seller provided to Buyer. In no event will Seller be responsible for Program Parts, Non-Program Parts or Miscellaneous Hardware returned by Buyer without proper authorization and identification.

16.20 Transfer. Prior to the transfer to a third party of any Program Parts, Non-Program Parts and Miscellaneous Hardware or the transfer of any interest in said Program Parts, Non-Program Parts and Miscellaneous Hardware or Buyer's power generation facility in which said Program Parts, Non-Program Parts and Miscellaneous Hardware are installed, Buyer shall obtain for Seller written assurances from the transferee of limitation of and protection against liability following the proposed transfer at least equivalent to that afforded Seller and its Subcontractors under the Contract. Transfer contrary to the provisions of this Section shall make Buyer the indemnitor of Seller and its Subcontractors against any liabilities incurred by Seller and its Subcontractors in excess of those that would have been incurred had no such transfer taken place.

16.21 Survival. The provisions of Articles 9, Intellectual Property, 13, Indemnification, and 14, Limitation of Liability and Sections 16.1, Confidential or Proprietary Information and 16.20, Transfer, of this Contract shall survive the expiration or other termination of the Contract.

16.22 Environmental Compliance. The performance of Service at the Site may involve the generation of regulated waste (as defined below).

Buyer shall be responsible for the handling, storage and disposal of all regulated wastes at its expense and agrees to indemnify Seller against any related claims or actions. Buyer shall furnish Seller with appropriate containers for regulated wastes and shall designate a waste storage facility at the Site where such containers are to be placed by Seller for removal and disposal by Buyer. Buyer shall handle, store and dispose of regulated waste in accordance with

all applicable governmental, federal, state and local laws, rules, regulations and ordinances. "Regulated waste" shall mean (a) (i) "hazardous waste" or (ii) "industrial waste", as either (i) or (ii) is defined in or regulated under or by the national laws of the country, the state/provincial and the local laws applicable to the Site, or (b) any other waste the handling, storage, or disposal of which requires a permit, license, authorization, approval, or other special handling.

16.23 Asbestos and Thermal Insulation.

The terms "Asbestos" and "Presumed Asbestos Containing Material" shall have the meanings set forth in United States Code of Federal Regulations Chapter 29 Section CFR 1926.1101 et seq.

- (1) The Buyer, by allowing access to any Site, thereby warrants, represents, and certifies that any areas there associated with the Seller's scope of work, including, without limitation, areas of ingress and egress thereto (the "Work Areas") either (a) are free of asbestos or asbestos containing materials (collectively "ACM"), or (b) any ACM there present is lawfully abated and conspicuously and specifically marked as asbestos or ACM, and all thermal insulation, sprayed-on surfacing material, and/or Presumed Asbestos Containing Material ("PACM") the disturbance of which could occur in or removal of which is required for the performance of the Services has been removed. Without limiting its other rights and remedies Seller shall not be obligated to commence or may stop any work in any Work Areas unless fully satisfied that the Buyer is in compliance with this paragraph and shall be entitled to an equitable adjustment in the schedule, price and other provisions of the Contract affected thereby or otherwise affected by Buyer's non-compliance.
- (2) Seller does not represent that it is licensed to abate ACM. Where the Services include activities such as handling, modification, removal, or reinstallation of generator wedges, packing, or high temperature gaskets (such materials herein "GPW"), then, and unless Seller is provided satisfactory written evidence that such GPW is not ACM, Seller shall be obligated only to the extent (a) such activities would be classified as Class II or Class III activity under United States Code of Federal Regulations Chapter 29 Section CFR 1926.1101 et seq., (b) such activities do not require a permit, license, or authorization, (c) such activities are not likely to generate airborne asbestos fibers, and (d) all such GPW is non-friable. In all other cases, such activities shall be Buyer's responsibility and Seller shall be entitled to an equitable adjustment in the schedule, price and other pertinent affected provisions of this Contract should the same not be performed in a timely manner. The disposal of any GPW or scrap or waste material resulting from its disturbance or removal shall in all cases be the Buyer's responsibility.

16.24 Export Law Compliance. Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the Program Parts, Non-Program Parts, Miscellaneous Hardware and Services provided under the Contract, including any export license requirements. Buyer agrees that such Program Parts, Non-Program Parts, Miscellaneous Hardware and Services shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in a non-compliance with such applicable export laws

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and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times.

NOW, THEREFORE, the Parties hereto have entered into this Contract as of the Effective Date first appearing above.

SELLER

SIEMENS ENERGY, INC.

BUYER

NORTHERN CALIFORNIA POWER AGENCY

By: _____

Name: _____

Title: _____

By: _____

James H. Pope, General Manager

ATTEST

By: _____

Denise Dow, Assistant Secretary

APPROVED AS TO FORM

By: _____

Michael F. Dean, General Counsel

Exhibit A
Scope of Work Description

1.0 SCOPE DOCUMENTS

1.1 Scope Documents. This Scope of Work Description consists of this general description and the following addenda which are specifically made a part hereof by reference:

| | | |
|-------------|---|--|
| Addendum 1A | - | Combustion Turbine Scheduled Outage Services Description |
| Addendum 1B | - | Steam Turbine Scheduled Outage Services Description |
| Addendum 2A | - | Combustion Turbine Scheduled Outage Division of Responsibilities |
| Addendum 2B | - | Steam Turbine Scheduled Outage Division of Responsibilities |
| Addendum 3 | - | Scope of Program Management Services |

1.2 Conflicting Provisions. In the event of any conflict between this document and any addendum hereto, the terms and provisions of this document, as amended from time to time, shall control. In the event of any conflict among the addenda, the following order of precedence shall govern: Addendum 1A, 1B, 2A, 2B, and 3. Subject to the foregoing, the several instruments forming part of this Scope of Work Description are to be taken as mutually explanatory of one and another and in the case of ambiguities or discrepancies within or between such parts shall be explained and adjusted by the mutual agreement of the Parties.

2.0 SELLER'S OBLIGATIONS

2.1 Program Part(s) During the Term, Seller shall deliver the type and quantity of Serviceable Program Parts as required per the Scheduled Outage plan jointly developed and revised in accordance with Section 4.2 of this Exhibit A, Scope of Work Description.

2.2 Miscellaneous Hardware, Non-Program Parts, and Exhaust Components. During the Term, Seller shall deliver the type and quantity of Miscellaneous Hardware as required per the Scheduled Outage plan jointly developed and revised in accordance with Section 4.2 of this Exhibit A, Scope of Work Description. Seller shall supply any Non-Program Parts and Exhaust Components as mutually agreed to by the Parties and specified in a Change Order issued pursuant to Article 6.

2.3 Scheduled Outage Services. During the Term, Seller shall, per the Scheduled Outage plan jointly developed and revised in accordance with Section 4.2 of this Exhibit A, Scope of Work Description, provide all labor, supervision and technical field assistance (TFA engineering) to complete its Scheduled Outage Services, specified in Addenda 1A and 1B hereto for the applicable Scheduled Outage. Furthermore, as part of such Scheduled Outage Services, Seller is responsible for those responsibilities listed in Addenda 2A and 2B which have an "X" in the Seller column.

2.4 Program Management Services. Seller shall provide Program Management Services to manage the Steam Turbine and Combustion Turbine maintenance program, in accordance with Addendum 3 hereto, throughout the Term of this Contract.

2.5 Remote Monitor System. Seller, at its sole discretion, at any time during the Term of this Contract, may place, at no cost to Buyer, a monitoring system pursuant to the provisions of Exhibit K, Remote Monitor System.

2.6 Transportation. Seller will transport Program Parts, Non-Program Parts and items of Miscellaneous Hardware to and from the Site in accordance with its obligations under the Contract.

3.0 BUYER'S OBLIGATIONS

3.1 Storage. Buyer will store and maintain the parts, including any Program Parts, Non-Program Parts, Exhaust Components and Miscellaneous Hardware supplied by Seller hereunder, materials, tools and bolting kits at the Site in accordance with the original equipment manufacturer's and Seller's written instructions.

3.2 Project Operation. Buyer will maintain and operate the Combustion Turbine and Steam Turbine consistently with the warranty conditions stated in Article 8, Warranty, of the Contract.

3.3 Training. Buyer will ensure that its operator and maintenance personnel are properly trained in the correct operation and maintenance of the Project including the control system.

3.4 Scheduled Outage. Buyer will provide indoor work space for the Scheduled Outage Services personnel, including the outage manager, outage engineers and Combustion Turbine and Steam Turbine technicians. Additionally, Buyer will provide the resources listed in Addenda 2A and 2B which have an "X" in the Buyer column.

3.5 Hazardous Waste. Buyer will arrange for the disposal of all hazardous wastes generated by the Seller and Buyer.

3.6 Operating Data. At the end of each month Buyer will provide to Seller the number of Equivalent Starts and EBHs incurred by the Combustion Turbine and Steam Turbine during that month and the data to support the calculations.

3.7 Remote Monitor System. If a monitoring system is provided by Seller pursuant to Exhibit K, Remote Monitor System, Buyer shall also perform the obligations stated therein.

3.8 Transportation. Buyer will transport Program Parts that are removed from the Combustion Turbine after outages from the Site to Seller's designated facility.

4.0 JOINT OBLIGATIONS

4.1 Deviations to Scope. Either Party shall inform the other of any unexpected findings or any deviations from the Scheduled Outage plan and Seller and Buyer shall jointly modify, pursuant to a Change Order, the scope of the deliverables and Services related to the affected Scheduled Outage.

4.2 Outage Schedule. Buyer and Seller shall jointly develop the Scheduled Outage plan and shall jointly revise such plan during each interval between each Scheduled Outage, if necessary. The projected Scheduled Outage plan is contained in Exhibit C, Projected

Scheduled Outage Plan. The Parties shall mutually agree upon the commencement date for each Scheduled Outage at least six (6) months prior to such Scheduled Outage's expected date of commencement. Should this plan be revised, changing the number or type of Program Parts, Non-Program Parts or Services to be provided or the type of Scheduled Outage(s) or the dates for which the Scheduled Outages are to be performed, such shall constitute a Change in scope and entitle Seller to a Change Order pursuant to Section 6.4, Minimum Operating Requirements. Buyer will schedule each Combustor Scheduled Outage, Hot Gas Path Scheduled Outage and Major Scheduled Outage for the Combustion Turbine at no longer than the applicable interval indicated in the then current version of Exhibit D, Service Bulletin 55004. Buyer will schedule each Steam Turbine Major Overhaul, Steam Turbine Limited Overhaul, and Steam Turbine Annual Safety Inspection Scheduled Outages as set forth in Exhibit C. Seller will be entitled to a Change Order in the event of such a change in the applicable Scheduled Outage interval.

Addendum 1A
Combustion Turbine Scheduled Outage Services Description

The following paragraphs become effective upon installation of the CIE hardware at the Period 2 Hot Gas Path Scheduled Outage.

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The Parties agree that this Contract is designed to accommodate modifications to the operating interval and scope as technologies, techniques and procedures evolve over the Term. As such, Seller shall have the right to request modifications during the Term to the (i) Basis Interval, which upon installation of the CIE hardware at the Period 2 Hot Gas Path Scheduled Outage is not less than the earlier of 25,000 EBH or 1,200 ES ("Basis Interval") and (ii) the scope within the Basis Scope, which as of the Period 2 Hot Gas Path Scheduled Outage is the scope of work defined below ("Basis Scope").

Whenever Seller desires to modify the Basis Interval (such modification referred to as "Flex Interval") or Basis scope (such modification referred to as "Flex Scope"), then Seller must present such requested modification via the Scheduled Outage planning set forth in Exhibit A, Section 4.2. As part of such application, Seller must provide and present information to support the requested change(s) to Buyer. Such presentation may include Seller's methodology, evaluation criteria and assessment process used to define both the interval and/or scope, as applicable. Buyer shall review such request(s) in a timely manner. If Buyer desires to review specific technical information in connection with such Flex Interval or Flex Scope modification, then Seller shall make its relevant resources and documents that are approved for external distribution available to Buyer in a timely manner (to include hosting a review of documents at Seller's facility, if necessary), subject to the provisions of Section 16.1.1.

Similarly, if Buyer desires for Seller to make modifications to extend the Basis Interval, subject Section 6.5 of the Contract, then Buyer shall present such request to Seller also via the Scheduled Outage planning process. Seller shall review such request(s) in a timely manner.

In no instance shall either Party knowingly request or implement modifications which would adversely affect the operation and performance of the Combustion Turbines. Adverse effects would include adverse impacts to safety, operation, efficiency and/or emissions or dynamics. Further, the Parties agree to work cooperatively to mitigate effects of such modifications to outage scheduling and implementation. The Parties agree to work together to reach mutual agreement on whether, and to what extent, a Flex Interval and/or a Flex Scope or modifications to extend the Base Interval shall be implemented. Under no circumstances will a Flex Interval, Flex Scope or modifications to extend the Base Interval be unilaterally implemented and neither Party shall unreasonably withhold its approval for such Flex Interval and/or a Flex Scope or modifications to extend the Base Interval, on condition that it will be reasonable to withhold consent for reasons consistent with generally accepted electric power industry practices.

For clarity, each type of Scheduled Outage is subject to revision pursuant to the application and modification procedure set forth herein. Other than the modification process described above, all other requested changes shall be implemented pursuant to Article 6.

After the Period 2 Hot Gas Path Scheduled Outage, Seller agrees to perform one borescope inspection on the Combustion Turbine, at Seller's expense, during each Period between the Hot Gas Path and Major Scheduled Outages (currently projected as Periods 3, 5, 7, 9 and 11 per Exhibit C, Projected Scheduled Outage Plan), limited to once per Period and a total of five (5)

borescope inspections in aggregate over the Term. Each Party will be responsible for performing, at its own expense, its obligations required pursuant to Exhibit A, Addendum 2A, Combustion Turbine Scheduled Outage Division of Responsibilities.

Basis Scope

Disassembly, inspections, and reassembly will be performed per applicable Seller field Service procedures. The following Scheduled Outage workscope description, defined as the "Basis Scope", illustrates a typical ~~outage~~Scheduled Outage but may not reflect the actual workscope performed which may vary, at Seller's discretion, from this description. Seller will complete Seller's workscope using the level of effort necessary in accordance with prudent engineering practices. Under the Basis Scope, components which have reached their repair or replacement interval or were deemed not fit for continued service through the inspection process will be replaced as specified by the Contract.

COMBUSTOR INSPECTION

INLET SECTION

Disassembly

- Remove access cover on inlet manifold.

Inspection

- Visually inspect compressor inlet for damage and oil leaks.
- Visually inspect the inlet guide vanes and row #1 compressor blades.
- Measure the row #1 compressor blade radial clearances.

Assembly

- Install the inlet manifold access cover.

COMBUSTOR SECTION

Disassembly

- Remove the combustor access manway covers.
- Remove the following components:
 1. Fuel nozzles and piping
 2. Cross-flame tubes
 3. Combustor baskets
 4. Transitions
 5. Row #1 vanes

Inspection

- Visually inspect the fuel nozzles, cross-flame tubes, combustor baskets, and transitions for damage.
- Perform visual inspection of the rotor cooling air pipes in place.
- Perform visual inspection of the row #1 turbine vanes.
- Perform visual inspection of row #1 blades in place.
- Perform boroscope inspection of row #2 in place.

Assembly

- Install row #1 vanes

- Install and align replacement transitions per the applicable Service Bulletin and measure clearances.
- Measure and record transition outlet mouth clearances.
- Install replacement combustor baskets and check alignment to the transitions.
- Install replacement cross-flame tubes.
- Install replacement fuel nozzles.
- Install fuel nozzle piping.

EXHAUST SECTION

Inspection

- Perform visual inspection of the turbine exhaust including the strut shields.
- Visually inspect the row #4 turbine blades and measure the radial clearances.

Notes:

1. Document and map all defects, cracks, wear, etc. as found.
2. Document all as found clearances and as left clearances.
3. Document all parts by location and serial number as installed in the engine and removed from the engine.

HOT GAS PATH INSPECTION

INLET SECTION

Disassembly

- Remove access cover on inlet manifold.

Inspection

- Visually inspect compressor inlet for damage and oil leaks.
- Visually inspect the inlet guide vanes and row #1 compressor blades.
- Measure the row #1 compressor blade radial clearances.

Assembly

Install the inlet manifold access cover.

COMBUSTOR SECTION

Disassembly

- Remove the following components:
- Turbine cylinder cover
- Fuel nozzles and piping
- Cross-flame tubes
- Combustor baskets
- Transitions

Inspection

- Visually inspect the fuel nozzles, cross-flame tubes, combustor baskets, and transitions for damage.
- Visually inspect the rotor cooling air pipes in place.

Assembly

- Install and align replacement transitions per the applicable Service Bulletin.
- Measure and record the transition outlet mouth clearances.
- Install replacement combustor baskets and measure alignment to transitions.
- Install replacement cross-flame tubes.
- Install replacement fuel nozzles.
- Install fuel nozzle piping.

TURBINE SECTION

Disassembly

- Remove the turbine cooling air piping and cylinder cover.
- Unbolt and remove the upper half rows 2, 3, and 4 blade rings and interstage seals.
- Measure the turbine axial and radial clearances.
- Remove the lower half rows 2, 3, and 4 blade rings.
- Remove the rows 1, 2, 3, and 4 vanes.
- Remove the turbine blades.

Inspection

- Clean and NDE the turbine discs per the applicable Service Bulletin.

- Visually inspect the turbine ring segments.
- Clean and inspect the vanes per the applicable Service Bulletin.
- Clean and inspect the blades per the applicable Service Bulletin.
- Clean and visually inspect the turbine cylinder and piping.

Assembly

- Install replacement ring segments as needed.
- Install replacement vanes.
- Install replacement turbine blades.
- Install lower half rows 2, 3, and 4 blade rings and measure the axial and radial clearances.
- Install and bolt the upper half interstage seals and blade rings.
- Align the blade rings to the rotor.
- Install and bolt the turbine cylinder cover and piping.

EXHAUST SECTION

Inspection

- Perform visual inspection of the turbine exhaust including the strut shields.

Notes:

1. Document and map all defects, cracks, wear, etc., as found.
2. Document all as found clearances and as left clearances.
3. Document all parts by location and serial number as installed in the Combustion Turbine and removed from the Combustion Turbine.
4. Provide moment weight and sequence charts for all rotating parts (i.e., 1st stage blades) by serial number and location.

MAJOR INSPECTION INLET SECTION

Disassembly

- Remove upper half inlet manifold and inlet casing.
- Measure the inlet end journal bearing clearances and remove the bearing.
- Measure thrust bearing axial clearance and disassemble bearing.
- Measure air and oil seal clearances and remove seals.

Inspection

- Clean and visually inspect inlet manifold, inlet casing, and inlet guide vanes.
- Perform ultrasonic inspection of journal bearing babbitt.
- Perform ultrasonic inspection of thrust bearing babbitt.
- Perform visual and dimensional inspection of the oil and air seals.

Assembly

- Install air and oil seals and measure clearances.
- Install journal bearing and measure clearances.
- Assemble thrust bearing and measure clearance.
- Install and bolt upper half inlet casing and inlet manifold.

COMPRESSOR SECTION

Disassembly

- Remove upper half compressor covers.
- Measure compressor axial and radial clearances.
- Remove compressor diaphragms.

Inspection

- Clean and visually inspect compressor cylinders.
- Clean and visually inspect compressor diaphragms.

Assembly

- Install compressor diaphragms.
- Measure compressor axial and radial clearances.
- Install and bolt compressor cylinder covers.

COMBUSTOR SECTION

Disassembly

- Remove the following components:
- Fuel nozzles and piping.
- Combustor baskets.
- Transitions.
- Rotor cooling air pipes.

Inspection

- Visually inspect the combustor components for damage.
- Visually inspect the rotor cooling air pipes.

Assembly

- Install the rotor cooling air pipes.
- Install and align replacement transitions per the applicable Service Bulletin.
- Measure the transition outlet mouth clearances.
- Install replacement combustor baskets, and check alignment to the transitions.
- Install replacement cross-flame tubes.
- Install replacement fuel nozzles.
- Install fuel nozzle piping.

TORQUE TUBE SEAL HOUSING

Disassembly

- Remove the upper half torque tube seal housing.
- Measure the torque tube seal clearances.
- Remove the torque tube seals.

Inspection

- Clean and visually inspect the torque tube seals.
- Visually inspect the static seal segments.
- Clean and visually inspect the torque tube seal housing.

Assembly

- Install the torque tube seals and measure clearances.
- Install and bolt the upper half torque tube seal housing.

TURBINE SECTION

Disassembly

- Remove the turbine cooling air piping and cylinder cover.
- Unbolt and remove the upper half rows 2, 3, and 4 blade rings and interstage seals.
- Measure the turbine axial and radial clearances.
- Remove the lower half rows 2, 3, and 4 blade rings.
- Remove the rows 1, 2, 3, and 4 vanes.
- Remove the turbine blades.

Inspection

- Visually inspect the turbine ring segments.
- Clean and inspect the vanes per the applicable Service Bulletin.
- Clean and inspect the blades per the applicable Service Bulletin.
- Clean and visually inspect the turbine cylinder and piping.

Assembly

- Install replacement ring segments as needed.
- Install replacement vanes.
- Install replacement turbine blades.
- Install the lower half rows 2, 3, and 4 blade rings and measure the axial and radial clearances.
- Install and bolt the upper half interstage seals and blade rings.
- Align the blade rings to the rotor.
- Install and bolt the turbine cylinder cover and piping.

EXHAUST SECTION

Disassembly

- Remove the exhaust cylinder cover.
- Measure the exhaust end journal bearing clearances and remove the bearing.
- Measure the air and oil seal clearances and remove the seals.

Inspection

- Clean and visually inspect the exhaust cylinder including the struts and strut shields.
- Perform ultrasonic inspection of journal bearing babbitt.
- Perform visual and dimensional inspection of the oil and air seals.

Assembly

- Install air and oil seals and measure clearances.
- Install the journal bearing and measure the clearances.
- Install and bolt the exhaust cylinder cover.

ROTOR SECTION**Disassembly**

- Unbolt turbine/generator coupling and measure alignment.
- Rig and remove the rotor.
- Remove the turbine blades.

Inspection

- Clean and NDE the turbine discs.
- Clean and inspect the compressor blades in place per the applicable Service Bulletin.
- Clean and dimensionally inspect the bearing journals and thrust collar.
- Clean and inspect the coupling.

Assembly

- Rig and install rotor.
- Measure coupling alignment and bolt coupling.

Addendum 1B
SST-900RH Steam Turbine Scheduled Outage Services Description

Disassembly, inspections, and reassembly will be performed per applicable Seller field Service procedures. The following Scheduled Outage workscope description illustrates a typical outage but may not reflect the actual workscope performed which may vary, at Seller's discretion, from this description.

STEAM TURBINE ANNUAL SAFETY INSPECTION (ASI)

This consists of verification and testing of the Steam Turbine and generator instrumentation and safety systems. The purpose of this inspection is to verify the turbine-generator set protection equipment are working and will function when necessary.

- Participation and observation at shut down of the plant
- Visual inspection for leaks, noises or other deviations from normal turbine behavior.
- Shut down procedure
- Leakage test, control valves
- Stroke test, emergency stop valve and check valves
- Test of tripping devices (switches and transmitters)
- Function and logic test of hydraulic oil system
- Function and logic test of lube oil system
- Gear box inspection (through inspection covers)
- Visual inspection of earth grounding device

STEAM TURBINE LIMITED OVERHAUL (LO)

This inspection also incorporates the Steam Turbine Annual Safety Inspection. The Steam Turbine Limited Overhaul includes inspection of several components of the Steam Turbine and is listed below.

- Participation and observation at shut down of the plant
- Visual inspection for leaks, noises or other deviations from normal turbine behavior
- Shut down procedure
- Leakage test, control valves
- Stroke test, emergency stop valve and check valves
- Linearity test, control valves
- Test of tripping devices (switches and transmitters)
- Function and logic test of hydraulic oil system
- Function and logic test of lube oil system
- Turbine bearing inspection
- Perform borescope inspection of accessible areas
- Turbine coupling alignment check
- Turbine bearing housing to foundation alignment inspection
- Turbine rupture disk inspection
- Disassemble/clean & inspect/reassemble all turbine stop/control valves
- Disassemble/clean & inspect/reassemble bypass stop/control valve (if applicable)
- Disassemble/clean & inspect/reassemble non-return valve (if applicable)

STEAM TURBINE MAJOR OVERHAUL (MO)

This inspection also incorporates the Steam Turbine Annual Safety Inspection and the Steam Turbine Limited Overhaul. The Steam Turbine Major Overhaul includes inspection of several components of the Steam Turbine and is listed below.

- Participation and observation at shut down of the plant
- Visual inspection for leaks, noises or other deviations from normal turbine behavior.
- Shut down procedure.
- Dismantling procedure on HP and LP-turbine.
- Inspection and NDT of turbine casing, rotor, blades, diaphragms, guide vanes, bearings, couplings and sealings on turbine.
- Inspection and NDT of wheel, pinion, bearings on the gearbox.
- Inspection and NDT of main valves, inlet steam valves, extraction valves.
- Inspection of valves, actuators, strainers for gland- and leak-off system.
- Inspection of valves, pumps, motors, filters, coolers, servomotors, for lube- and hydraulic oil system.

Turning Gear

- Disassemble
- Clean and inspect
- Reassemble

Bearing Pedestals

- Check alignment of bearing housing
- Clearance check of bearing housing to seal rings
- Check anchor bolt pre-stress

Bearings

- Disassemble bearings – check bearing seats in bearing housing
- Inspect bearing guides for wear and binding
- Check bearing surfaces
- Ultrasonic test babbitt bonding
- Check bearing clearances
- Check seal rings
- Check condition and performance of shaft lift oil system
- Check condition and performance of temperature monitoring
- Reassemble bearings

Coupling

- Open coupling, inspect coupling bolts
- Check axial and radial alignment and runnout check
- Close coupling

Bypass Stop and Control Valves (If applicable)

- External inspection
- Steam side inspection, clearance check
- Perform NDE

Electric Hydraulic Actuators

- Function test
- Inspect cup spring packs
- Inspect for wear, binding, clearance check

Hydraulic Supply System

- Drain control Fluid tank
- Clean control-fluid tank
- Perform functional testing
- Record results

Non-return Valve (extraction and exhaust valves if applicable)

- External Inspection
- Steam side inspection, clearance check

Control and Governing System

- Functional check of control and governing system
- Functional test of mechanical, electrical, hydraulic and pneumatic equipment and calibration
- Check of internals

Turbine

- Open casing
- Remove rotor
- Cleaning and NDE on turbine internals (rotor, diaphragms)
- Inspection of casing

Addendum 2A
Combustion Turbine Scheduled Outage Division of Responsibilities

The following list specifies the key resources necessary to perform the Scheduled Outages and assigns responsibility for their supply, either to Seller or Buyer.

Outage Responsibility Checklist

| | | | Seller | Buyer |
|--|-----|--|--------|-------|
| | 1. | Review the scope of work, scheduling and planning with Owner's representative(s). | X | |
| | 2. | Provide field engineers, and specialists as required by the scope of work. | X | |
| | 3. | Provide qualified labor and perform the work with good safety and housekeeping practices. | X | |
| | 4. | Provide tools for workforce including transportation | X | |
| | 5. | Expendable materials | X | |
| | 6. | Clerical support/administrative support | X | |
| | 7. | Final field report | X | |
| | 8. | Dustblast equipment, material and services | X | |
| | 9. | NDE equipment, material and services | X | |
| | 10. | Compressed air | | X |
| | 11. | Removal and replacement of insulation | X | |
| | 12. | Office trailer, change trailers, chemical toilets, potable water | | X |
| | 13. | Telephone service | | X** |
| | 14. | Cribbing for disassembled parts/scaffolding (as required) | | X |
| | 15. | Cable slings, lifting devices and associated special tooling supplied with the original equipment order | | X |
| | 16. | Operated crane & crane operators | X | |
| | 17. | Electrician for disconnection and connections | | X |
| | 18. | Electrical power including: (120/480 VAC single phase and 480 VAC three phase up to 100 amps), service water, oxygen, acetylene gas, and lubricants as necessary | | X |
| | 19. | Trash containers and disposal service | | X |
| | 20. | Fire protection equipment/first aid facilities | | X |
| | 21. | All asbestos removal and disposal | | X |
| | 22. | Disposal of hazardous waste | | X |
| | 23. | Forklifts & welding machine | | X |
| | 24. | I&C technicians | | X |
| | 25. | Painting | | X |

** Seller responsible for the phone bill

Addendum 2B
Steam Turbine Scheduled Outage Division of Responsibilities

The following list specifies the key resources necessary to perform the Scheduled Outages and assigns responsibility for their supply, either to Seller or Buyer.

Outage Responsibility Checklist

| | Seller | Buyer |
|---|--------|-------|
| <u>PRE-OUTAGE REVIEW</u> | | |
| Review the scope of work and provide a schedule | X | X |
| Review the availability of required outage parts including asbestos free gaskets and gasket material in Buyer's stock | X | X |
| Review inventory and condition of Buyer supplied Steam Turbine special tooling | X | X |
| Review masonry work requirements and provide recommendations prior to outage | X | X |
| Review lighting requirements and provide recommendations prior to outage | X | X |
| Review crane and scaffold requirements and provide recommendations for any supplemental cranes or scaffold | X | X |
| Review fork truck requirements and provide recommendations | X | X |
| Review gasses and lubricant requirements and provide recommendations | X | X |
| Review fire protection requirements and provide recommendations for any supplemental fire protection measures | X | X |
| Review storage and enclosure requirements and provide recommendations | X | X |
| Review Foreign Materials Exclusion (FME) program to assure all debris, tools and other materials do not enter or are left inside the equipment that may cause damage or operational problems. | X | X |
| Review Site for obstacles of interference and provide recommendations | X | X |

| | Seller | Buyer |
|---|--------|-------|
| OUTAGE STAFFING / SUPPORT | | |
| Provide field engineers, technicians and specialists as required by the scope of work | X | |
| Provide qualified craft labor and perform the work with good safety and housekeeping practices | X | |
| Outage clerical support/administrative support | X | |
| Instrument and controls (I & C) technicians | | X |
| Electrician(s) for electrical disconnect and reconnect | | X |
| Certified crane and operator | X | |
| DOCUMENTATION | | |
| Observe unit operation during shutdown and obtain data as necessary | X | X |
| Scheduling and planning | X | X |
| Detailed final report and recommendations | X | |
| Supply daily updates to the schedule manager and attend progress meetings with work updates during the outage | X | |
| MATERIAL & FACILITIES | | |
| Provide tool set for the craft labor | X | |
| Bolt induction heating | X | |
| Expendable materials | X | |
| Non-destructive (NDE) testing service and material | X | |
| Supply rigging equipment (not to include special equipment supplied with Steam Turbine) | X | |
| Provide oxygen, acetylene gas, argon, hydrogen, carbon dioxide and lubricants as necessary. | | X |
| Supply tooling (except as noted below) including bolt-heating equipment, slug wrenches, chain falls | X | |
| Provide all turbine / generator tools that were originally supplied by the original equipment manufacture for these units. These include jack bolts, major lifting cables, lifting beam, hydrogen cooler lifting brackets, generator skid pan, shoes and hydrogen seal housing brackets, cable slings and lifting devices | | X |
| Washroom facilities, portable toilets and potable water | | X |
| Office trailer and equipment, change trailers, and telephones | | X** |
| Telephone service and high-speed internet connection | | X |
| Provide turbine floor protection when required to prevent damage during material storage and work activities. | | X |
| Overhead and portable crane(s) | X | |
| Scaffolding materials and erection | | X |

| | | |
|---|--|---|
| Plant machine facilities and operators, if required | | X |
| Fork trucks | | X |
| Compressed air at 100 psi, 480 and 120 volt outlets, phone lines to office facilities, non-potable water source, trash containers outside of building and parts storage trailer | | X |

| | Seller | Buyer |
|---|--------|-------|
| SUPPORT SERVICES | | |
| Provide start-up and balancing support (performed on a 1-10-6 shift arrangement basis) | X | |
| Dustblast equipment, material and services for cleaning turbine components | X | |
| Arc welding machine(s), if required | X | |
| Storage and work enclosures for disassembled components | X | |
| Transport (if required) of disassembled parts from/to T/G to/from work/storage areas. | X | |
| Support the moving, loading in and out, prepping for shipment and receiving of equipment for all the turbine work | | X |
| Pre-inspection of the overhead crane(s) as required | | X |
| Operations for tagging, draining, filling and testing of equipment | | X |
| Removal and installation of acoustical enclosure, as required | X | |
| Removal and replacement of non-asbestos insulation blankets | X | |
| All asbestos insulation removal and disposal | | X |
| Disposal of hazardous and non-hazardous waste including material containing asbestos, if encountered | | X |
| Removal and disposal of lead paint | | X |
| Trash containers and disposal service | | X |
| Oil flush program (This service can be provided by Seller upon request on time & material basis.) | X | |
| Electrical power including: (120/240V single phase and 240/480, three phase) | | X |
| Area lighting | | X |
| Check and calibrate gauges, instrumentation and thermocouples associated with the turbine-generator | | X |
| Fire protection equipment (existing plant equipment) | | X |
| Repack, repair or replace small hand valves | | X |
| Repaint as necessary | | X |
| Weather protection | | X |

| | | |
|--|--|---|
| On-site first aid facilities and ambulance service | | X |
| Sufficient and convenient lay down, cleaning, storage and work areas in close proximity to T/G which isolates the Seller work area from routine plant activity | | X |
| Removal of any obstacles of interference outside of the control of Seller that may be encountered prior to or during the outage which may hinder or prevent Seller from performing the work outlined in this offer | | X |

| In Addition to "General" Section | | |
|--|---|--|
| Rotor stands available for the LP rotor and one set of power rollers. Cribbing and pallets for disassembled parts | X | |
| Condenser protection | X | |

— **Seller responsible for the phone bill.

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Addendum 3
Scope of Program Management Services

Seller will provide Program Management Services throughout the Contract's Term, commencing twelve (12) months prior to the Project's scheduled date of First Fire.

The Program Management Services will include:

1. Providing contacts for communication between Seller and the Buyer's designated representatives (Operation and Maintenance staff) for the major maintenance of the plant.
2. Working with the Seller's inventory and manufacturing personnel (located at Seller factories throughout the world) to expedite Program Parts and Miscellaneous Hardware as required to facilitate the success of each Scheduled Outage.
3. Maintaining a parts tracking database on Program Parts.
4. Communicating and coordinating with the plant purchasing agent regarding warehouse stock of Program Parts and Miscellaneous Hardware, delivery and shipment of Program Parts and Miscellaneous Hardware.
5. Providing final review of Program Parts and Miscellaneous Hardware inventory prior to Scheduled Outages to verify that all required Program Parts and Miscellaneous Hardware are on Site.
6. Initiating and resolving product warranty claims to the best interest of all Parties involved.
7. Initiating, determining the status, and verifying completion of (E-FAR's) regarding plant issues.
8. Providing technical support, assistance, and evaluation when operating or maintenance problems occur. Assisting in areas of technical issues and helping to facilitate resolution.
9. Communicating to Buyer's designated representative technical bulletin updates as published.
10. Delivering to Buyer's designated representative outage reports and repair reports after Scheduled Outages.
11. Providing sourcing assistance for procurement of Siemens Energy, Inc. parts.

QUARTERLY DELIVERABLES

1. Updated Projected Scheduled Outage Plan if requested
2. Issues summary report indicating maintenance issues and outage findings at other similar frame plants
3. Updated Seller's section of the Schedule Outage Plan
4. Program Parts order and delivery status report
5. Program Parts status report

Exhibit B
Combustion Turbine Program Parts List

Baseline 12.5k Program Parts Table

| Baseline Program Parts | |
|------------------------|-------------------|
| • | Combustor Baskets |
| • | Fuel Nozzles |
| • | Transitions |
| • | Transition Seals |
| • | Ring Segments – |
| Row 1 | |
| • | Ring Segments – |
| Row 2 | |
| • | Ring Segments – |
| Row 3 | |
| • | Ring Segments – |
| Row 4 | |
| • | Row 1 Blade |
| • | Row 1 Vane |
| • | Row 2 Blade |
| • | Row 2 Vane |
| • | Row 3 Blade |
| • | Row 3 Vane |
| • | Row 4 Blade |
| • | Row 4 Vane |
| • | Compressor Blades |
| • | Compressor |
| Diaphragms | |
| • | Diaphragm Seals |

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Combustion Turbine Program Parts to be changed for 25k EBH/ 1200 ES Basis intervals
(Combustion Turbine Interval Extension Program Parts)

| <u>CIE Program Parts</u> |
|---------------------------------|
| <u>Baskets</u> |
| <u>Pilot Nozzles</u> |
| <u>Support Housing</u> |
| <u>Transitions</u> |
| <u>Transition Seals</u> |

Exhibit C
Projected Scheduled Outage Plan

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The projected Scheduled Outage plan below is based on the current revision of the ~~Combustion Turbine Service Bulletin 55004~~Bulletins as ~~of the Effective Date of the Contract provided in Exhibit D.~~ Combustion Turbine Scheduled Outages will be performed as required by the ~~Service Bulletin, which may be amended from time to time. All Contact, subject to the application and modification process set forth in Exhibit A, Addendum 1.~~

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| <u>Combustion Turbine</u> | |
|---------------------------|------------------------------|
| <u>Period</u> | <u>Scheduled Outage Type</u> |
| <u>1</u> | <u>CI</u> |
| <u>2</u> | <u>HGP*</u> |
| <u>3</u> | |
| <u>4</u> | <u>Major</u> |
| <u>5</u> | |
| <u>6</u> | <u>HGP</u> |
| <u>7</u> | |
| <u>8</u> | <u>Major</u> |
| <u>9</u> | |
| <u>10</u> | <u>HGP</u> |
| <u>11</u> | |
| <u>12</u> | <u>Major</u> |

* Installation of Combustion Turbine Interval Extension Program Parts at Period 2 HGP

Steam Turbine Scheduled Outages will be performed in conjunction with the corresponding Combustion Turbine Scheduled Outage as set forth below; should a change to the Service Bulletin adversely affect the Buyer, the Parties will negotiate changes to the Contract in good faith.

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| Period | Equivalent Base Hours (Since First Fire) | Combustion Turbine Outage Type | Steam Turbine Outage Type |
|--------|--|-----------------------------------|------------------------------|
| 1 | 12,500 | CI | ASI |
| 2 | 25,000 | HGP | LO |
| 3 | 37,500 | CI | ASI |
| 4 | 50,000 | Major | MO |
| Period | Equivalent Base Hours (Since First Major Inspection) | Combustion Turbine Outage Type | Steam Turbine Outage Type |
| 5 | 12,500 | CI | ASI |
| 6 | 25,000 | HGP | LO |
| 7 | 37,500 | CI | ASI |
| 8 | 50,000 | Major | MO |

Major –
Major
Schedul
ed
Outage
ASI –
Steam
Turbine
Annual
Safety
Inspecti
on
LO –
Steam
Turbine
Limited
Overhau
l
MO –
Steam
Turbine
Major
Overhau
l

| Steam Turbine | |
|---------------|------------------------------|
| Period | Schedule d Outage Type |
| 1 | ASI |
| 2 | LO |
| 3 | ASI |
| 4 | MO |
| 5 | ASI |
| 6 | LO |
| 7 | ASI |
| 8 | MO |
| 9 | ASI |
| 10 | LO |
| 11 | ASI |
| 12 | MO |

Exhibit C (continued)

Outage Definitions:

CI – Combustor Scheduled Outage
HGP – Hot Gas Path Scheduled Outage

Lodi Energy Center Project LTP
Siemens Energy, Inc. Confidential Information

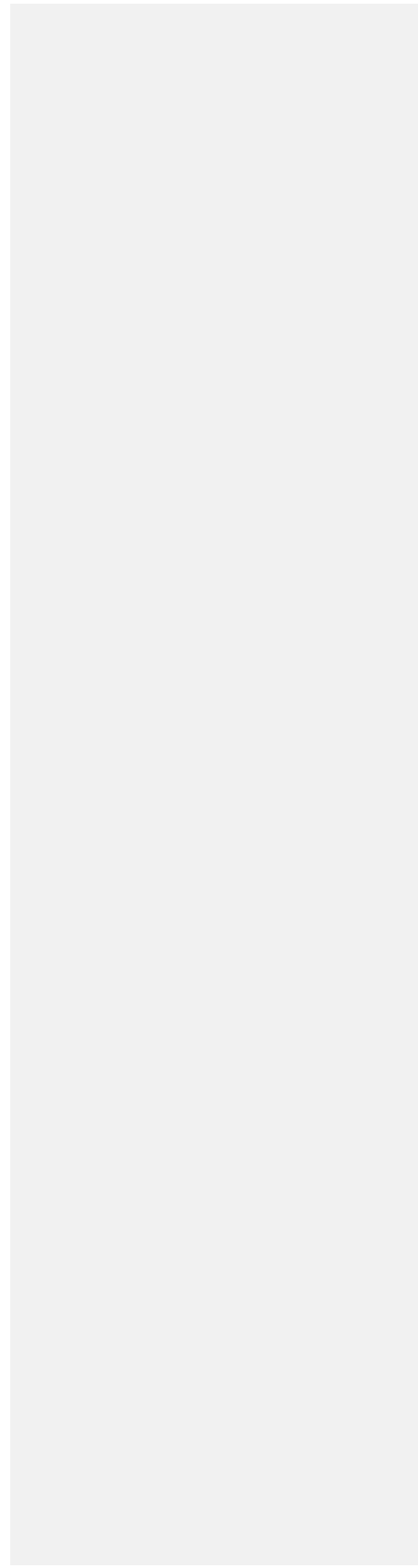
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Exhibit D
Service Bulletin

Service Bulletin 55004

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To Be Attached. Prior to installation of Combustion Turbine Interval Extension Program Parts, the current Service Bulletin for the Combustion Turbine is Service Bulletin 55004. Service Bulletin 55004 is attached separately.

Service Bulletin SB4-11-0018-GT-EN-01

Upon installation of Combustion Turbine Interval Extension Program Parts into the Combustion Turbine the applicable Service Bulletin will be Service Bulletin SB4-11-0018-GT-EN-01.

Service Bulletin SB4-11-0018-GT-EN-01 is attached separately and is modified by the following:

Exhibit D Addendum 1: Service Program Inspection Intervals (Basis Intervals)

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Exhibit D (continued)

Addendum 1

Service Program Inspection Intervals

This Addendum 1 to Exhibit D provides recommendations for gas turbine inspection intervals for certain SGT6-5000F and 501F units. The inspection intervals provided herein are particular to Buyer's Combustion Turbine and are to be used in lieu of the minimum interval requirements outlined in Exhibit SB4-11-0018-GT-EN. Calculation methodology and inspection scope recommendations are as provided in such SB SB4-11-0018-GT-EN.

Table 1. Inspection Interval Summary (to be applied in place of the inspection intervals provided in SB4-11-0018-GT-EN).

| <u>Inspection Type</u> | <u>Interval</u> |
|--|-------------------------------------|
| <u>Hot Gas Path (includes the Combustor Inspection workscope)</u> | <u>25,000 EBH or 1200 ES</u> |
| <u>Major</u> | <u>50,000 EBH or 2400 ES</u> |
| <u>Rotor Assessment</u> | <u>See Note 2 below.</u> |

Notes

1.) EBH and ES are to be calculated using the service counter calculation parameters/counters/methods provided per in SB4-11-0018-GT-EN.

2.) Specific Rotor scope and interval will be based on rotor design and application. Consult your Siemens Service representative for details.

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Exhibit E
Payment Schedule

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Pricing Schedule:

1. Program Initialization Fee:

Within 30 Days of Effective Date Seller shall invoice Buyer and Buyer shall pay to Seller a Program Initialization Fee in the amount of one million five hundred thousand Dollars (U.S. \$1,500,000.00)

2. Fixed Annual Fee:

Seller shall invoice Buyer and Buyer shall pay to Seller a "Fixed Annual Fee" of one hundred thousand Dollars (U.S. \$100,000.00) to be paid in advance of each Calendar Year, beginning on June 1, 2012.

3. Variable Fee:

Seller shall invoice Buyer and Buyer shall pay to Seller a Variable Fee of five hundred twenty one Dollars per Equivalent Base Hour (US \$521.00/EBH).

The "Variable Fee" is calculated and invoiced based upon the Equivalent Base Hours (EBH) accumulated by the Combustion Turbine. Commencing as of First Fire with respect to the Combustion Turbine, at the end of each calendar quarter thereafter for such Combustion Turbine (or at the time of a Scheduled Outage), Seller shall invoice Buyer for the Variable Fee (per above), based on the actual operation of such Combustion Turbine during such calendar quarter (or during such calendar quarter up to the commencement of the next Scheduled Outage).

True Up of Variable Fees:

1. At the commencement of each Hot Gas Path Scheduled Outage, Seller, notwithstanding other amounts invoiced under this Contract, will invoice Buyer from First Fire or from the commencement of the first Major Inspection, each as applicable to the commencement of the Hot Gas Path Scheduled Outage, the Variable Fee multiplied by twenty-five thousand (25,000) EBH.

2. At the commencement of each Major Scheduled Outage, Seller, notwithstanding other amounts invoiced under this Contract, will invoice Buyer from the most recent Hot Gas Path Scheduled Outage to the Major Scheduled Outage, the Variable Fee multiplied by twenty-five thousand (25,000) EBH.

Variable Fee after Period 2 Hot Gas Path Scheduled Outage

1. Variable Fee After Period 2 Hot Gas Path Scheduled Outage.

Beginning upon completion of installation of the CIE hardware at the Period 2 Hot Gas Path Scheduled Outage, Seller shall invoice Buyer and Buyer shall pay to Seller a Variable Fee (subject to escalation as provided below in this Exhibit E) of five hundred twenty-one Dollars per Equivalent Base Hour (US \$521/EBH) or ten thousand eight hundred fifty-four Dollars and seventeen cents per Equivalent Start (US \$10,854.17/ES), depending on the actual mode of operation, as described below.

The "Variable Fee" is calculated and invoiced based upon the Equivalent Base Hours (EBH) or Equivalent Starts (ES) accumulated by the Combustion Turbine during each calendar quarter. Commencing as of the Period 2 Hot Gas Path Scheduled Outage, at the end of each calendar quarter thereafter (or at the time of a Scheduled Outage), Seller shall invoice Buyer for the Variable Fee (per above), based on the actual operation during such calendar quarter (or during such calendar quarter up to the commencement of the next Scheduled Outage).

For invoicing purposes, the mode of operation is based on the most recent completed calendar quarter. A ratio is calculated by taking the total EBH accumulated over the previous calendar quarter divided by the total ES accumulated over the same time period. If the EBH/ES ratio exceeds 21, Seller will invoice based on EBH. If the EBH/ES ratio is equal to or below 21, Seller will invoice based on ES.

The Variable Fee will be calculated in accordance with the following:

Where:

X = Ratio of accumulated EBH to accumulated ES

Y = U.S. \$521/EBH

Z = U.S. \$10,854.17/ES

Calculation of the Variable Fee:

When X is > 21, then the Variable Fee shall equal the amount of EBH accrued in that calendar quarter multiplied by Y.

When X is ≤ 21, then the Variable Fee shall equal the amount of ES accrued in that calendar quarter multiplied by Z.

Example calculation of the Variable Fee for different values of X:

(i) _____

X = EBH/ES = 32

EBH accrued in that calendar quarter = 1,800

ES accrued in that calendar quarter = 56

Variable Fee = (1,800)*(\$521) = \$937,800

(ii) _____

X = EBH/ES = 20

EBH accrued in that calendar quarter = 1,400

ES accrued in that calendar quarter = 70

Variable Fee = (70)*(\$10,854.17) = \$759,791.90

2. True Up of Variable Fees after Period 2 Hot Gas Path Scheduled Outage.

a. If the Hot Gas Path or Major Scheduled Outage is scheduled based on ES per Exhibit C, at the commencement of each Hot Gas Path or Major Scheduled Outage, Seller, notwithstanding other amounts invoiced under this Contract, will invoice Buyer from the Period 2 Hot Gas Path Scheduled Outage or from the prior Hot Gas Path or Major Inspection, each as applicable, to the commencement of the Hot Gas Path or Major Scheduled Outage, the ES Variable Fee multiplied by the greater of the total ES accumulated or 1,200 ES, and credit to Buyer any Variable Fees that have been paid by Buyer since the last Hot Gas Path Scheduled Outage or Major Scheduled Outage.

b. If the Hot Gas Path or Major Scheduled Outage is scheduled based on EBH per Exhibit C, at the commencement of each Hot Gas Path or Major Scheduled Outage, Seller, notwithstanding other amounts invoiced under this Contract, will invoice Buyer from the Period 2 Hot Gas Path Scheduled Outage or from the prior Hot Gas Path or Major Inspection, each as applicable, to the commencement of the Hot Gas Path or Major Scheduled Outage, the EBH Variable Fee multiplied by the greater of the total EBH accumulated or 25,000 EBH, and credit to Buyer any Variable Fees that have been paid by Buyer since the last Hot Gas Path Scheduled Outage or Major Scheduled Outage.

Escalation:

Payments will be due net thirty (30) Days from date of each invoice. All payments shall be in U.S. Dollars, escalated at the time of invoice according to the Escalation Factor.

Exhibit F
Not Used

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Exhibit G
Cancellation Schedule

| Termination Interval | Fee |
|--|-------------|
| After First Fire but prior to completion of Period 1 | \$2,500,000 |
| After Period 1 but prior to completion of Period 2 | \$4,000,000 |
| After Period 2 but prior to completion of Period 3 | \$4,000,000 |
| After Period 3 but prior to completion of Period 4 | \$7,000,000 |
| After Period 4 but prior to completion of Period 5 | \$7,000,000 |
| After Period 5 but prior to completion of Period 6 | \$4,000,000 |
| After Period 6 but prior to completion of Period 7 | \$2,000,000 |
| After Period 7 but prior to completion of Period 8 | \$1,000,000 |

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The cancellation amount owed by Buyer to Seller, pursuant to Section 12.6 of the Contract, shall be equal to twelve percent (12%) of the remaining Fees that Buyer would have owed to Seller if the third Major had been performed on the Combustion Turbine based on the predominant mode of operation. Such cancellation amount will be calculated from the date of termination of the Contract.

Exhibit H
Change Order Format

CHANGE ORDER NO.

Contract:

Effective Date:

Buyer:

Seller:

1. **Introduction.** This Change Order No. ____ (this "Change Order") is agreed to pursuant to that certain Amended and Restated Program Parts, Non-Program Parts, Miscellaneous Hardware, Program Management Services and Scheduled Outage Services Contract, dated _____, November 1, 2014 (the "Contract") by and between Siemens Energy, Inc. ("Seller") and Northern California Power Agency ("Buyer"). Capitalized terms used but not defined herein shall have the meaning given them in the Contract. This Change Order as submitted by one Party to the other shall constitute a request for a Change Order. Upon its countersignature in the space provided below, this Change Order shall constitute a Change Order within the meaning of the Contract.
2. **Scope of Change.** Describe in pertinent detail (a) the addition or removal of a Program Part, Non-Program Part or Miscellaneous Hardware Item from the Contract, (b) a change to the Services, (c) a change in schedule of Program Parts, Non-Program Parts or Services, (d) any other change to the workscope obligations. Attach any necessary documentation as Attachment 1 hereto, including any revisions to Exhibits to the Contract.

(a) _____

(b) _____

(c) _____

(d) _____
3. **Timing.** Describe in pertinent detail the timing of implementation of this Change Order. Attach any necessary documentation as Attachment 2 hereto, including any revisions to Exhibits to the Contract.

4. **Payment and Term.** Describe in pertinent detail the effect of this Change Order on the Fees and/or the Term. If payment is to be made by other than an adjustment to the

Fees, specify. Attach any necessary documentation as Attachment 3 hereto, including any revisions to Exhibits to the Contract.

5. **Other Terms and Conditions.** Except as otherwise specifically provided in this Change Order, all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Change Order No. ____ to be executed by their duly authorized representatives to be effective as of the date first above written.

[Seller]

[Buyer]

By: _____
Name:

By: _____
Name

Title:

Title:

Date:

Date:

Exhibit I
Natural Gas, Fuel Oil and Water Specifications

To Be Attached.

Exhibit J
Maintenance Labor Agreement (MLA)

To Be Attached.

Exhibit K
Remote Monitor System

Seller, at its sole discretion, at any time during the term of this Contract, may place at no cost to Buyer a remote monitor system ("Remote Monitor System") at a location selected by Seller, to access data from the control system of the Combustion Turbine and Steam Turbine. The Remote Monitor System (which is provided solely for Seller's purposes) will be connected (as described in (g) below) to a diagnostic center located in either Orlando, Florida or Erlangen, Germany. Buyer agrees and consents to such installation and connection. Buyer agrees to provide Seller and its representatives reasonable access to the area where the Remote Monitor System will be located to effect such installation, removal or modification, and to carry out any other activities to which Seller is entitled pursuant to this Exhibit.

The Remote Monitor System includes the following general components:

1. A personal computer system including software.
2. Interconnection devices to interface with the "Link" as further described in (g) below.
3. The software package and configuration to collect and monitor data from the control system, and any other devices mutually agreed upon between the Parties.

The following conditions and/or requirements shall apply to the Remote Monitor System:

- (a) The Remote Monitor System is passive and neither it nor its installation interferes with the operation of the Combustion Turbine(s).
- (b) Title to the Remote Monitor System hardware and software shall remain with Seller or its affiliates. No ownership or license or any other right, title or interest to or in the Remote Monitor System is granted to Buyer or any other party. Buyer shall not (and shall not permit others to) alter the hardware, software, connections or configuration of the Remote Monitor System or its connection to the data stream, and will not add tags, links to other devices or systems or otherwise change the Remote Monitor System setup, function and configuration, or connectivity.
- (c) The Remote Monitor System may include the capability for display of certain data which, in the sole discretion of Seller, Buyer may view, and Seller may furnish to Buyer the password(s) necessary to do so. Seller assumes no liability whatsoever (whether express or implied) for any use, application, action, (or inaction) or interpretation of any data viewed or otherwise obtained by Buyer.
- (d) Buyer agrees not to attempt to access any data, displays, information, software or other parts or functions of the Remote Monitor System that have not been specifically made available to it by Seller, whether or not protected or otherwise restricted.
- (e) Buyer shall not (and shall not permit others to) access, copy, download, disassemble, reverse engineer, reverse assemble, decompile, tamper with or otherwise attempt to derive the source code of any Remote Monitor System software, including without

limitation any third party software. Buyer shall indemnify and hold harmless Seller (and its suppliers or vendors) from all claims, losses, damages, judgments, expenses, including attorney's fees and litigation expenses, arising out of or related to any such violation of this paragraph (e) by Buyer (including Buyer's employees) or its subcontractors, vendors or suppliers.

Seller shall not, except as may be required (i) to assist Seller in performance of its obligations under this Contract or (ii) by any act, statute, law or ruling of governmental authority, release, divulge or otherwise make available to unaffiliated third parties any data or information dealing with the operating characteristics of the Combustion Turbine and Steam Turbine as obtained through the Remote Monitor System in a manner which identifies such information as specifically pertaining to Buyer.

- (f) Seller shall, at its own cost, defend, indemnify and hold harmless Buyer, its affiliates, officers, employees, agents, assigns and successors in interest from and against any and all liability, damages, losses, claims, demands, causes of action and other expenses (including attorney fees) arising out of any claims of infringement by Seller of any patents, copyrights, or other intellectual property rights based upon Seller's manufacture, installation or use of the Remote Monitor System. Notwithstanding the foregoing, Seller will have no duty or obligation under this paragraph f to the extent that the Remote Monitor System or any of its components is modified by Buyer or its subcontractors after delivery and by reason of said modification, a suit is brought against Buyer. In addition, if by reason of such modification, a suit or proceeding is brought against Seller, Buyer shall protect Seller in the same manner and to the same extent that Seller has agreed to protect Buyer under the first sentence of this paragraph (f).
- (g) Buyer shall make an appropriate dedicated communication link (phone line and/or other communication link acceptable to Seller, hereinafter "Link") available for Seller connection to the Remote Monitor System assigned specifically for use of the Remote Monitor System. The Link shall be and remain continuously connected to the Remote Monitor System unless Buyer receives written authorization from Seller to disconnect. The Remote Monitoring System shall comply with all applicable NERC cyber security requirements. In the event that, after the Effective Date, Buyer's facility is subject to security requirements of NERC that are related to the Remote Monitor System and the Remote Monitor System does not meet such requirements, then the Parties will reasonably cooperate to cause the Remote Monitor System interfaces to become compliant with such NERC security requirements. Seller's costs related to the modification of hardware and software of the Remote Monitor System shall be borne by Seller. In the event that, the Remote Monitor System is not compliant, or the Parties are unable to cause the Remote Monitor System to become compliant, then Buyer shall have the right to disconnect the Remote Monitor System until such time as the Remote Monitor System becomes compliant. Seller will provide such cooperation and documentation as reasonably requested by Buyer to demonstrate such compliance by the Remote Monitor System as required by NERC or any other applicable Government Authority.
- (h) Seller will provide instruction to Buyer's personnel on-site concerning the Remote Monitor System features to which Buyer will have access.

- (i) Buyer shall supply and maintain a reliable electric power source for the Remote Monitor System.

The Remote Monitor System may be removed by Seller, at no expense to Buyer, at any time during the Term of the Contract or upon or after termination of this Contract, in the sole discretion of Seller and without recourse by Buyer. However, in the event the Contract is either terminated by Buyer for its convenience, or terminated by Seller for cause, Seller shall (without prejudice to any other rights or remedies) be entitled to recover reasonable expenses incurred by Seller for the installation, maintenance and removal of the Remote Monitor System.

- (j) The Remote Monitor System shall in no case be deemed a deliverable hereunder and Seller's obligations under the provisions of this Contract shall not apply to the Remote Monitor System. FURTHER WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OR ANY PROTECTIONS AGAINST OR DISCLAIMERS OR LIMITATIONS OF LIABILITY SET FORTH IN THE AGREEMENT, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE (1) SELLER SHALL HAVE NO OBLIGATION OR LIABILITY WHATSOEVER FOR ANY FAILURE TO FURNISH ANY INFORMATION OR DATA FROM THE REMOTE MONITOR SYSTEM TO BUYER OR ADVISE OR NOTIFY BUYER REGARDING ANY CONDITIONS OR EVENTS DESCRIBED IN OR INDICATED IN ANY SUCH INFORMATION OR DATA, (2) ANY INFORMATION OR DATA PROVIDED TO BUYER IS ON AN "AS IS, WHERE IS" BASIS, WITHOUT ANY WARRANTIES WHATSOEVER WHETHER STATUTORY, EXPRESS, OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR PURPOSE, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, AS TO THE ACCURACY, ADEQUACY, TIMELINESS, COMPLETENESS OR USEFULNESS THEREOF, OR OTHERWISE, AND (3) NEITHER SELLER NOR ITS SUPPLIERS WILL UNDER ANY CIRCUMSTANCES BE LIABLE UNDER ANY THEORY OF RECOVERY, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY OR OTHERWISE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER; DAMAGE TO OR LOSS OF PROPERTY OR EQUIPMENT; LOSS OF PROFITS OR REVENUE; LOSS OF USE OF BUYER'S MATERIAL, EQUIPMENT OR POWER SYSTEM; CLAIMS OF CUSTOMERS; OR INCREASED COSTS OF ANY KIND.

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ARTICLE 7

DIFFERENTIAL TRANSMISSION COST ADJUSTMENT

7.1 Differential Transmission Cost Adjustment

Each Participant acknowledges that Exporting Participant(s) may or could have their GES of Project Energy delivered to a different Balancing Authority. As a result, such Exporting Participant(s) may be subject to additional or duplicative Balancing Authority Area charges. All Participants agree that the PPC is authorized to establish, approve, implement, administer and revise from time to time a differential transmission cost adjustment to mitigate or partially mitigate additional or duplicative Balancing Authority Area charges applicable to affected Exporting Participant(s) when Project Energy is delivered to such Exporting Participant(s)' load. NCPA will track the cumulative charges and benefits for each Exporting Participant. The PPC will consider the following general principles, and such other protocols and guidelines as it deems necessary, pursuant to Agreement Schedule 7.00, in determining the differential transmission cost adjustment.

7.1.1 Limitations

Any differential transmission cost adjustment shall apply only to Exporting Participant(s) and shall be limited to that portion of the Exporting Participant(s)' GES of the Project that is exported from the Balancing Authority Area in which the Project is located to another Balancing Authority Area adjacent to the Project and in which the Exporting Participant has load.

7.1.2 Calculation Methodology

The established differential transmission cost adjustment shall be understandable by all Participants, calculable, and based on publicly available information sources or agreed upon factors as determined by the PPC; pursuant to Agreement Schedule 7.00.

7.1.3 Mitigation

All Parties agree to cooperate as reasonably required to establish such Project protocols and guidelines that reduce the expected amount and incidence of the differential transmission cost adjustment, as more particularly described in Agreement Schedule 7.00.

7.1.4 Other Benefits

All Parties agree that, to the extent that an Exporting Participant receiving the benefit of the differential transmission cost adjustment attains additional Project value above what such Exporting Participant would have attained, or would likely have attained, if the Project had been located in the same Balancing Authority Area as such Exporting Participant's load subject to Section 7.1.1, these additional benefits will be netted from the differential transmission cost adjustment as approved by the PPC,

pursuant to Agreement Schedule 7.00. If at the end of the Fiscal Year, the cumulative charges are greater than the cumulative benefits for an Exporting Participant, the Exporting Participant shall be reimbursed the net amount or credited the net amount by the Project. Any reimbursement will be billed to all Project Participants based upon their GES. If at the end of the Fiscal Year, the cumulative benefits are greater than the cumulative charges for an Exporting Participant, the Exporting Participant shall reimburse or credit the Project up to any differential transmission cost adjustments the Exporting Participant previously received. Any reimbursement received by the Project shall be reimbursed or credited to all Project Participants based on their GES up to the amount of differential transmission cost adjustments each Participant has paid. For each Exporting Participant, the PPC shall review the cumulative charges and benefits and make determination of when payments shall be reimbursed to avoid large accumulation of obligations under this Article. Any such reimbursement shall be calculated and credited pursuant to Agreement Schedule 7.00. Cumulative charges and benefits that are not reimbursed at the end of a Fiscal Year shall be carried over to the next Fiscal Year.

7.1.5 Billing

Any differential transmission cost adjustment approved for implementation by the PPC will be billed according to the procedures approved by the PPC in Agreement Schedule 7.00 and shall be allocated to all Participants in proportion to their respective GES.

7.1.6 Annual Review

The PPC shall at least annually review the application and result of any applied differential transmission cost adjustment. The PPC shall compare this cost adjustment against the net of the actual transmission cost differential experienced and other benefits received during the same period by the Exporting Participants, and collect or refund any significant under or over cost adjustment amounts. In addition, the PPC shall make any needed changes to the differential transmission cost adjustment methodology used in Agreement Schedule 7.00 for the subsequent period.

7.1.7 Audit Rights

Any Participant, at its own expense and upon reasonable notice to NCPA and the PPC, may review and audit the calculation and implementation of the differential transmission cost adjustment.