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January 29, 2020

TO: Facilities Committee

FROM: Carrie Pollo

SUBJECT: Notice of the Facilities Committee Meeting

Facilities Committee: In compliance with the Brown Act, if participating on the conference call **and/or online presentation**, please attend one of the locations listed below and post this notice at a publicly accessible location at the participation location **72-hours** before the call begins.

Date:	Wednesday, February 5, 2020
Time:	9:00 am
Where:	NCPA Headquarters 651 Commerce Drive Roseville, CA 95678
Contact at NCPA:	Carrie Pollo 916.781.4282

ALAMEDA MUNICIPAL PWR 2000 Grand St., Alameda 510.748.3901	BAY AREA RAPID TRANSIT 300 Lakeside Drive, Oakland 510.464.6435	CITY OF BIGGS 465 "C" Street, Biggs 530.868.5493
CITY OF GRIDLEY 685 Kentucky Street, Gridley 530.846.5695	CITY OF HEALDSBURG 401 Grove Street, Healdsburg 707.431.3317	CITY OF LODI 1331 S. Ham Lane, Lodi 209.333.6762
CITY OF LOMPOC 100 Civic Ctr. Plaza, Lompoc 805.875.8299	CITY OF PALO ALTO 250 Hamilton Ave, Palo Alto 650.329.2273	PORT OF OAKLAND 530 Water Street, Oakland 510.627.1100
PLUMAS-SIERRA REC 73233 Hwy 70, Portola 530.832.4261	CITY OF REDDING 3611 Avtech Parkway, Redding 530.339.7344	CITY OF ROSEVILLE 2090 Hilltop Cir, Roseville 916.774.5602
CITY OF SANTA CLARA 881 Martin Avenue, Santa Clara 408.261.5490	TURLOCK IRR. DISTRICT 333 E. Canal Drive, Turlock 209.883.8300	CITY OF UKIAH 300 Seminary Ave, Ukiah 707.463.6200



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Agenda

Date: Wednesday, February 5, 2020
Subject: Facilities Committee Meeting
Location: NCPA Headquarters, 651 Commerce Drive, Roseville CA.
Time: 9:00 am

The 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 Informational Item. This agenda is often supplemented by various documents which are available to the public upon request. Pursuant to Government Code Section 54957.5, the following is the location at which the public can view agendas and other public writings: NCPA Offices, 651 Commerce Drive, Roseville California, or www.ncpa.com.

Persons requiring accommodation in accordance with the Americans with Disabilities Act in order to attend or participate in this meeting are requested to contact the NCPA Secretary at 916.781.3636 in advance of the meeting to arrange for such accommodations.

REVIEW SAFETY PROCEDURES

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

Any member of the public who wishes to address the Committee on matters not on the Agenda, but within the subject matter jurisdiction of the Committee, or any member of the public who desires to address the Committee on any item considered by the Committee at this meeting before or during the Committee's consideration of that item, shall so advise the Chair and shall thereupon be given an opportunity to do so.

OPEN SESSION

DISCUSSION / ACTION ITEMS

2. Approve Minutes from the January 8, 2020 Facilities Committee Meeting.
3. **All Generation Services Facilities, Members, SCPPA – Industrial Door Company MTGSA –** Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Industrial Door Company for commercial and industrial door maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Geo*)
4. **NCPA Geothermal Facility – Vince Sigal Electric, Inc. MTGSA –** Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Vince Sigal Electric, Inc. for specialized electrical services, including labor and materials for

miscellaneous maintenance purposes, with a not to exceed amount of \$500,000, for use at NCPA's Geothermal facility. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Geo*)

5. **All Generation Services Facilities, Members, SCPPA – Farwest Insulation Contracting First Amendment to MTGSA** – Staff is seeking a recommendation for Commission approval of a First Amendment to the Multi-Task General Services Agreement with Farwest Insulation Contracting, increasing the not to exceed amount from \$500,000 to \$3,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: CTs*)
6. **All Generation Services Facilities, Members, SCPPA – Maxim Crane Works, L.P. First Amendment to MTGSA** – Staff is seeking a recommendation for Commission approval of a First Amendment to the Multi-Task General Services Agreement with Maxim Crane Works, L.P., increasing the not to exceed amount from \$500,000 to \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: CTs*)
7. **All Generation Services Facilities – Nalco Company, LLC MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Nalco Company, LLC for specialty chemicals and related services, with a not to exceed amount of \$2,500,000, for use at all facilities owned and/or operated by NCPA. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: CTs*)
8. **Nexant Cost Allocation Model Billing Determinants** – Staff will review the finalized calendar year 2019 billing determinants that will be used in the FY2021 Nexant Cost Allocation Model. Staff will seek a recommendation for Commission approval of the modification to exclude contract deals from NCPA's deal capture system having 'Submitted' deal status for use as inputs into the Nexant Model. (*Commission Category: Consent; Sponsor: Administrative Services*)
9. **NCPA Hydroelectric Facility – Hydro Wildfire Risk Mitigation Project** – Staff is seeking a recommendation for Commission approval of the Hydroelectric Wildfire Risk Mitigation Project, with a not to exceed amount of \$3,000,000, and approval of budget augmentation for the FY20 Hydroelectric Budget in the amount of \$1,700,000, and use of up to \$1,300,00 in Hydro Capital Development Reserve funds. (*Commission Category: Discussion/Action; Sponsor: Hydro*)
10. **NCPA Geothermal Facility – Geo Wildfire Risk Mitigation Project** – Staff is seeking a recommendation for Commission approval of the Geothermal Wildfire Risk Mitigation Project, with a not to exceed amount of \$450,000, to be funded from existing Geothermal bond fund account(s). (*Commission Category: Discussion/Action; Sponsor: Geo*)
11. **NID Services Agreement** – Staff will present and seek a recommendation for Commission approval of a Services Agreement with Nevada Irrigation District, pursuant to which NCPA will supply certain scheduling and dispatch services to NID. (*Commission Category: Discussion/Action; Sponsor: Power Management*)

INFORMATIONAL ITEMS

12. **NCPA Generation Services Plant Updates** – NCPA Plant Staff will provide the Committee with an informational update on current plant activities and conditions. (*Sponsor: Generation Services*)

- 13. New Business Opportunities** – Staff will provide an update regarding new business opportunities.
(Sponsor: Power Management)
- 14. Planning and Operations Update** – Staff will provide an update on issues related to planning and operations. (Sponsor: Power Management)
- 15. Schedule next meeting date** – A Special Facilities Committee meeting is scheduled for February 11, 2020 to review the FY 2021 budget. The next regular Facilities Committee meeting is scheduled for March 4, 2020.

ADJOURNMENT

/cp



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Minutes - Draft

Date: January 13, 2020
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: January 8, 2020 Facilities Committee Meeting Minutes

1. **Call meeting to order & Roll Call** – The meeting was called to order by Committee Chair Tikan Singh at 9:05 am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Alan Harbottle (Alameda), Paul Eckert (Gridley), Shiva Swaminathan, and Jim Stack (Palo Alto), Steve Hance (Santa Clara), and Willie Manual (TID). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Biggs, Healdsburg, Plumas-Sierra, Port of Oakland, Redding, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

2. **Approval of Facilities Committee 2020 Chair and Vice Chair** – The Facilities Committee has appointed Brian Schinstock, City of Roseville, as the 2020 Chair and has nominated Basil Wong, City of Santa Clara, as the new Vice Chair.

Motion: A motion was made by Steve Hance and seconded by Jiayo Chiang recommending approval of the appointment of Brian Schinstock as the 2020 Chair, and nominates Basil Wong as the new Vice Chair. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

The new Committee Chair Brian Schinstock, took over the meeting at this time.

3. **Approve minutes from the November 6, 2019 Facilities Committee meeting.**

Motion: A motion was made by Jiayo Chiang and seconded by Tikan Singh recommending approval of the November 6, 2019 Facilities Committee meeting minutes. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

4. **All Generation Services Facilities, Members, SCPPA – Process Innovations, Inc. MTCSA** – Staff reviewed background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Process Innovations, Inc. for OSIssoft PI software support services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

This is a renewal agreement with an existing vendor. It is an enabling agreement with no commitment of funds. NCPA had a previous agreement in place with Process Innovations, Inc., which is expiring. Staff have utilized this vendor in the past, and have a good working relationship. NCPA would like to continue using this vendor going forward. All purchase orders will be issued following NCPA procurement policies and procedures. Another enabling agreement is in place for similar services with DST Controls. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Process Innovations, Inc. for OSIsoft PI software support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

5. All Generation Services Facilities, Members, SCPPA – Premium Inspection Company

MTGSA – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Premium Inspection Company for maintenance inspection services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

This is a renewal agreement with an existing vendor. It is an enabling agreement with no commitment of funds. NCPA has a current agreement in place with Premium Inspection Services, however, the agreement is restricted for use only on the Geothermal P-Site & Q-Site well workover project. The well workover project has been completed, with final invoices to be paid in February for the services. NCPA continues to have a strong working relationship with this vendor, seeks to enter into a new multi-year agreement with more expansive services, and to continue use with this vendor going forward. All purchase orders will be issued following NCPA procurement policies and procedures. Similar enabling agreements in place with other vendors include Team Industrial Services, Inc., and Quality Tong Services, Inc. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Brian Schinstock and seconded by Tikan Singh recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Premium Inspection Company for maintenance inspection services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

6. All Generation Services Facilities, Members, SCPPA – Fossil Consulting Services, Inc.

MTCSA – Staff reviewed background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Fossil Consulting Services, Inc. for services to review and update training and qualification manuals, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

This is a renewal agreement with an existing vendor. It is an enabling agreement with no commitment of funds. NCPA had a previous agreement in place with Fossil Consulting Services, Inc. which has since expired. Staff have utilized this vendor in the past and have a good working relationship. NCPA would like to continue using this vendor going forward. All

purchase orders will be issued following NCPA procurement policies and procedures. Another enabling agreement is in place for similar services with Reliability Management Group. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Brian Schinstock recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Fossil Consulting Services, Inc. for services related to developing, reviewing and updating training and qualification manuals, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

- 7. All Generation Services Facilities and Members – Kimberly Fields dba K. Weatherman Logging First Amendment to MTGSA** – Staff provided background information and was seeking a recommendation for Commission approval of a First Amendment to the Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging, increasing the not to exceed amount from \$235,000 to \$1,000,000 and adjusting the Scope of Work to include road and easement maintenance, for use at all facilities owned and/or operated by NCPA, and NCPA Members.

This is an enabling agreement with no commitment of funds. Similar enabling agreements in place include Ronwright Logging Lumber Construction, Inc., and Tanner Logging. With vegetation management a high priority for NCPA due to recent wildfires, this agreement will not be available as a shared services agreement with SCPPA, and their Members. It will still be available to NCPA Members, however. NCPA entered into a five-year Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging, effective March 21, 2019, for an amount not to exceed \$235,000. Staff anticipate additional years of aggressive vegetation management in an effort to mitigate wildfire fuel, and now desire to amend this agreement to increase the not to exceed amount from \$235,000 to \$1,000,000. All purchase orders will be issued following NCPA procurement policies and procedures. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Brian Schinstock and seconded by Jiayo Chiang recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging, with any non-substantial changes as recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$235,000 to \$1,000,000, expanding the Scope of Work to include heavy machinery usage and road easement maintenance, and amending the Compensation Schedule to include heavy equipment rates, for continued use at any facilities owned and/or operated by NCPA, and NCPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

- 8. All Generation Services Facilities, and Members – Ronwright Logging Lumber Construction, Inc. First Amendment to MTGSA** – Staff presented background information and was seeking a recommendation for Commission approval of a First Amendment to the Multi-Task General Services Agreement with Ronwright Logging Lumber Construction, Inc., increasing the not to exceed amount from \$225,000 to \$1,000,000 and adjusting the Scope of Work to include road and easement maintenance, for use at all facilities owned and/or operated by NCPA, and NCPA Members.

This is an enabling agreement with no commitment of funds. Similar enabling agreements in place include Kimberly Fields dba K. Weatherman Logging, and Tanner Logging. With vegetation management a high priority for NCPA due to recent wildfires, this agreement will not

be available as a shared services agreement with SCPA, and their Members. It will still be available to NCPA Members, however. NCPA entered into a five-year Multi-Task General Services Agreement with Ronwright Logging Lumber Construction, Inc., effective May 14, 2018, for an amount not to exceed \$225,000. This vendor has been the successful bidder on a number of projects, and the contract is now running low on funds. Staff now desire to amend the current agreement to increase the not to exceed amount from \$225,000 to \$1,000,000. All purchase orders will be issued following NCPA procurement policies and procedures. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Brian Schinstock recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Ronwright Logging Lumber Construction, Inc., with any non-substantial changes as recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$225,000 to \$1,000,000 and expanding the Scope of Work to include road and easement maintenance, for continued use at any facilities owned and/or operated by NCPA, and NCPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

- 9. All Generation Services Facilities, and Members – Tanner Logging, Inc. Second Amendment to MTGSA –** Staff provided background information and was seeking a recommendation for Commission approval of a Second Amendment to the Multi-Task General Services Agreement with Tanner Logging, Inc., increasing the not to exceed amount from \$225,000 to \$1,000,000 and adjusting the Scope of Work to include road and easement maintenance, for use at all facilities owned and/or operated by NCPA, and NCPA Members.

This is an enabling agreement with no commitment of funds. Similar enabling agreements in place include Kimberly Fields dba K. Weatherman Logging, and Ronwright Logging Lumber Construction, Inc. NCPA entered into a Five Year Multi-Task General Services Agreement with Tanner Logging, Inc. for vegetation management services on February 16, 2018. The first amendment adjusted the contract rate sheet for prevailing wages on March 29, 2018. NCPA has utilized this vendor to maintain transmission line clearances and intends to do additional aggressive vegetation management to prevent wildfires in the coming years. With vegetation management a high priority for NCPA due to recent wildfires, this agreement will not be available as a shared services agreement with SCPA, and their Members. It will still be available to NCPA Members, however. The Second Amendment will increase the not to exceed amount from \$225,000 to \$1,000,000, allowing sufficient funds to complete the additional work, as well as extra funds for other facilities and Member use for the remaining three years of this agreement. All purchase orders will be issued following NCPA procurement policies and procedures. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Tikan Singh and seconded by Jiayo Chiang recommending Commission approval authorizing the General Manager or his designee to enter into a Second Amendment to the Multi Task General Services Agreement with Tanner Logging, Inc., with any non-substantial changes as recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$225,000 to \$1,000,000 and expanding the Scope of Work to include road and easement maintenance, for continued use at any facilities owned and/or operated by NCPA, NCPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

- 10. NCPA Geothermal Facility – Plant 1 HVAC System Project –** Staff presented background information and was seeking a recommendation for Commission approval of the NCPA Geothermal Plant 1 HVAC System Project, with a not to exceed amount of \$893,817, and granting authority to the NCPA General Manager to enter into agreements and issue purchase orders for the work, for use at NCPA's Geothermal Facility only.

The HVAC system at NCPA's Geothermal Plant 1 was originally installed in 1982. This system is no longer performing efficiently. Numerous repairs have been made over the past 10 years. More recent efforts to keep the system functional have been met with poor success. After multiple attempts to fix the existing system, a determination has been made that a new system is required. An HVAC engineering firm was hired to design a system incorporating usable components from the existing system while replacing components that are no longer functional. The Plant 1 HVAC System Project will cost approximately \$893,817. This project was deferred from the FY19 budget to FY20 budget. A draft Commission Staff Report was available for review. All purchase orders will be issued following NCPA procurement policies and procedures.

Motion: A motion was made by Jiayo Chiang and seconded by Brian Schinstock recommending Commission approval authorizing the NCPA Geothermal Plant 1 HVAC System Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA Purchasing Policies and Procedures, without further approval by the Commission, for a total not to exceed amount of \$893,817. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

11. NCPA Geothermal Facility – Plant 2 Unit 4 NCG Steam Ejector Replacement Project –

Staff presented background information and was seeking a recommendation for Commission approval of the NCPA Geothermal Plant 2 Unit 4 NCG Steam Ejector Replacement Project, with a not to exceed amount of \$300,000, and granting authority to the NCPA General Manager to enter into agreements and issue purchase orders for the work, for use at NCPA's Geothermal Facility only.

The NCPA Geothermal Plant 2 Unit 4 NCG Steam Ejector Replacement Project will include upgrading the existing steam ejectors at NCPA's Geothermal Plant 2. This work is part of NCPA's asset management program to ensure the plant continues to operate at an optimal level. This upgrade will increase steam production and lessen auxiliary steam usage. Staff estimate that these upgrades will result in a gain of approximately 0.25 MW in generation for the Geothermal facility. The Steam Ejector Replacement Project was included as a part of NCPA's Geothermal facility FY20 budget, and approved at the May 28, 2019 Commission meeting (Resolution 19-43). This project was originally budgeted to cost \$200,000. The forecasted project cost has increased, and staff is now seeking an additional \$100,000, for a total revised project cost not to exceed \$300,000. The additional requested funds can be absorbed within the FY20 budget, and no budget augmentation is required. A draft Commission Staff Report was available for review. All purchase orders will be issued following NCPA procurement policies and procedures.

Motion: A motion was made by Tikan Singh and seconded by Brian Schinstock recommending Commission approval authorizing the NCPA Geothermal Plant 2 Unit 4 NCG Steam Ejector Replacement Project, and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$300,000. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and TID. The motion passed.

12. NID Services Agreement – Staff will present and seek approval of a Services Agreement with Nevada Irrigation District, pursuant to which NCPA will supply certain scheduling and dispatch services to NID. ***This item was pulled from the agenda, and will be brought back to a later Committee meeting.***

- 13. Amendment to SJCE Services Agreement** – Staff presented background information and was seeking Commission approval of an amendment to the Services Agreement between NCPA and the City of San José to extend the term of the Services Agreement.

NCPA entered into a Services Agreement with the City of San José on May 7, 2018, through which NCPA supplies a variety of wholesale market services to the San José Clean Energy Community Choice Aggregation Program (SJCE) that is administered by the City of José. The end of the Initial Term of the Services Agreement is August 31, 2020. SJCE has expressed interest in extending the Services Agreement through August 31, 2021, for a one year extension of services. SJCE has also requested the following modification be made to the Services Agreement which is removal of the obligation for SJCE to become its own Schedule Coordinator (SC). SJCE plans to continue working with CAISO to register as their own SC, but due to the outstanding issue with CAISO, it may take an extended period of time to complete this process. SJCE maintains a security deposit with NCPA to mitigate the risk of default.

In response to the City of San José's request to extend and modify the terms and conditions of the Services Agreement, staff has developed Amendment No. 2 to the Services Agreement to (i) extend the term of the agreement through August 31, 2021 at the end of the Initial Term, and (ii) remove the obligation for SJCE to register its own SCID and transfer its portfolio to such SCID by a defined date.

Motion: A motion was made by Tikan Singh and seconded by Brian Schinstock recommending Commission approval of Amendment No. 2 to the SJCE Services Agreement, and authorizing the General Manager of NCPA to execute Amendment No. 2 to the SJCE Services Agreement on behalf of NCPA, including any non-substantive modifications to Amendment No. 2 to the SJCE Services Agreement approved by NCPA's General Counsel. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Lompoc, Palo Alto, Roseville, and Santa Clara. ABSTAIN = TID. The motion passed.

- 14. Resolution Commending Tikan Singh** – Adopt a resolution by all Facilities Committee members commending the service of Tikan Singh, acting in the role of Facilities Committee Chair during Calendar Year 2019.

Motion: A motion was made by Jiayo Chiang, and seconded by Brian Schinstock to adopt the resolution commending the service of Tikan Singh, acting in the role of Facilities Committee Chair Calendar Year 2019. All were in favor.

CLOSED SESSION

Non-essential Members and NCPA staff left the meeting for the closed session item #15.

15. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d) (2) – One (1) case. (*Commission Category: Closed Session; Sponsor: CTs*)

RECONVENED TO OPEN SESSION

All meeting attendees rejoined the meeting.

REPORT FROM CLOSED SESSION

Closed Session Disclosure: General Counsel Jane Luckhardt stated no reportable action was taken on the closed session item #15.

INFORMATIONAL ITEMS

- 16. Nexant Cost Allocation Model Billing Determinants** – Staff presented and reviewed preliminary results of the Nexant Cost Allocation Model for Fiscal Year 2021. The Nexant Model is the Commission-approved methodology used to allocate Power Management and certain Administrative Services budget costs to Members and participants. Staff identified and reviewed the source of changes to members' respective costs from the change in underlying calendar year 2019 operating data used as allocators in the model. The final version of the Nexant Cost Allocation Model and associated underlying operational data are scheduled to be finalized by January 17, 2020, and published to NCPA Connect for member review and feedback.

Staff is recommending one modification to the current Nexant Cost Allocation Model, which is to include only contract deals that have a deal status of 'Finalized' or 'Verified' in NCPA's Deal Manager System, thereby excluding any 'Submitted' deals from input into the Nexant model. This proposed change ensures that Submitted deals are not included as inputs into the Nexant model, as they represent inactive deals that do not reflect any incremental work or effort performed by either NCPA staff or system applications.

The initial allocated results for FY 2021 indicate increases to Biggs, Lompoc, and BART by approximately 27.5%, 16.5%, and 12.5% respectively, compared to the current fiscal year. Other members' amounts are either decreasing or slightly increasing. Staff reviewed the underlying operational data and provided analysis regarding the cost drivers that resulted in the relative percentage change in allocations to members.

The final proposed modifications for the FY 2021 Nexant Cost Allocation Model determinants results will be presented at the next Facilities Committee meeting February 5, 2020. Staff will seek a recommendation for Commission approval at that time.

- 17. Meter Maintenance Program Agreement** – The Meter Maintenance Program Agreement with contracting Members expired on December 31, 2019. NCPA, on behalf of contracting Members, manages the Meter Maintenance Program Agreement. This agreement has been made for the purpose of monitoring, maintaining, and repairing Supervisory Control and Data Acquisition (SCADA) systems metering equipment, including the California Independent System Operator (CAISO) revenue quality metering equipment. Staff will develop a new Program agreement, and bring this agreement back to the Facilities Committee for review and approval. All contracting Members will need to sign the new Meter Maintenance Program Agreement. NCPA will still continue monitoring and maintaining the meters on behalf of the Members.

- 18. Update to 2020 Major Insurance Renewal** – Staff provided an update regarding the NCPA major insurance renewals for 2020. All the term limits were under the not to exceed amounts that were presented at the last Facilities Committee meeting, with some wildfire exclusions, due to the high risk. NCPA liability for 2019 included coverage up to \$75 million, however, this year the agency will be covered for up to \$35 million. Insurance is becoming a real challenge in California due to the ongoing high risk of wildfires.

All insurance programs have been secured with the same terms as previously discussed. The property insurance amount is \$2.5 million for the 2020 renewal, which was \$2.0 million in 2019, so an increase of \$500,000 for 2020. The not to exceed amount was \$2.615 million. Currently, \$2.2 million is in the FY20 budget, but staff believe NCPA will have enough capacity in other areas to absorb the overage amount. The liability amount, which is included under casualty insurance, will be \$974,000 for the 2020 renewal, which was \$638,000 in 2019. The FY20 budget includes \$729,000 for this, however, staff believe NCPA will have enough capacity in other areas to absorb this overage amount as well. Staff will research other insurance options going forward and bring these back to the Committee for further discussion.

19. NCPA Hydroelectric Facility – Hydro Wildfire Risk Mitigation Project – Based on SB901 requirements, Hydro staff presented information regarding the proposed Hydro Wildfire Risk Mitigation Project, including background on the budget. Focus areas include minimizing sources of ignition, resiliency of the electric grid, and measuring effectiveness. This plan also identifies risks and priorities, addresses power shutoffs and disabling re-closers, inspections, vegetation management, and performance metrics.

Transmission hardware and line maintenance are very high priorities at the Hydro Project. The Polymer insulators are approximately 30 years old, and need to be replaced, as well as other maintenance to the transmission system. The wildfire risk mitigation recommendations, per Power Engineers, for the NCPA Hydro Project include replacement of Collierville Bellota 230KV line insulators and hardware, hardening of the McKays 17KV line, and ground clearance at the Collierville Powerhouse. The approximate costs for these proposed projects are \$2.7 million, \$250,000, and \$50,000 respectively totaling \$3 million. These would be one time system hardening costs. Other recurring recommendations include additional annual vegetation management, and hardware inspections every five years. Costs for the recurring operations and maintenance are \$250,000, and \$175,000 totaling \$425,000. The total cost for all projects is approximately \$3,425,000.

20. NCPA Geothermal Facility – Geo Wildfire Risk Mitigation Project – Based on SB901 requirements, Geo staff presented information regarding the proposed Geo Wildfire Risk Mitigation Project, including background on budget. Focus areas include minimizing potential sources of ignition, improving resiliency of the electrical system, and measuring effectiveness of the plan.

During Public Safety Power Shut-Off (PSPS) Events the Geothermal facility will shut down the 21KV electrical distribution lines, and suspend all non-critical hot work. Staff plan to develop a Geo-646 Maintenance Procedure to include maintenance details, and inspection of the critical infrastructure. Areas of critical infrastructure include the 230KV transmission lines, 21KV electrical distribution lines, the Southeast Geysers Effluent Pipeline (SEGEF) Pump Stations, and Steam Field controls and instrumentation. Vegetation management is also very critical at the Geo facilities which will require additional outsourcing of services, purchase or rental of equipment, and additional staff or outsourcing of labor. Fire break maintenance will also remain a high priority. Staff recommend updated signage per Cal Fire, transmission tower repairs, an herbicide sprayer, and possibly a water truck. These recommendations cost approximately \$535,000. Annual operations and maintenance costs will see an increase of approximately \$350,000 for equipment leases including a 40/36 drum chipper, tree masticator, and bulldozer, plus additional surveys and contracted services. Surveys will include PSPS drone surveys, lidar surveys, and vegetation management. Total cost increase is approximately \$885,000 for all the staff recommendations.

21. NCPA Generation Services Plant Updates – Plant staff provided the Committee with an informational update on current plant activities and conditions.

Geo – There were no safety incidents to report at Geo for the months of November and December 2019. Vegetation management continues with work being done by Cal Fire. The net generation for Plant #2 was 51.8 MW. Plant #1 is off line due to the Lakeville Transmission line still out of service from the Kincade fire. YTD net generation was 655.8 GWhr, which is 8.5% below forecasted. The 2019 estimated net generation forecast was 716.9 GWhrs. The estimated loss from the Kincade fire is 100 GWhrs. Projects and maintenance originally scheduled for April 2020 are being accelerated for sooner completion.

CTs – The November operations were very busy for both CT 1 and 2, including 16 actual starts, with 10 in real time for CT1. Four starts were forecasted, bringing the FYTD to 176. CT1 also had 9 “Ghost” starts during the month included in that total. CT2 had eight actual starts, with 0 forecasted for a FYTD of 36 total starts. The December operations were not quite as busy for

both CTs. Which included six actual starts, with five in real time, of 20 forecasted for CT1, bringing the FYTD to 182 total. CT2 had 0 actual starts with two forecasted for a FYTD of 36. There were five forced outages, during November. Three outages were at CT2 for work on bellows, excitation, and the HP steam temperature. The Alameda units each had one outage. Alameda Unit 1 outage was for bleed valves and the fire system. Alameda Unit 2 was for the air blower. Three forced outages occurred in December. One for bleed valves in Lodi. Then one for gas compression, and one for the control switch at Alameda Unit 2. There were no planned outages scheduled for either November or December.

Hydro – Both units were out at Collierville October 10-11, 2019 for dual unit trip tests, fire system maintenance, and tunnel intake trash rack cleaning. Annual maintenance was also done in October for Collierville Unit 1, and in November for Collierville Unit 2. Hydro priorities include working through the CMMS backlog, documentation and project management, and routine regulatory reporting. The current precipitation totals are 66% of average for rainfall, and at 83% for the snowpack. Staff at Hydro may start doing a rain dance for more rain and snow.

22. Planning and Operations Update – No report was given at this meeting. Staff will provide an update at the next Committee meeting.

23. Schedule next meeting date – The next regular Facilities Committee meeting is scheduled for February 5, 2020.

ADJOURNMENT

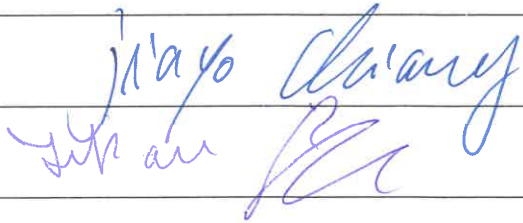

The meeting was adjourned at 12:35 pm.

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

Carrie Pelt	NCPA
Brian Schinestock	Roseville
Joel Ledesma	NCPA
Randy Bonersax	NCPA
ED VOGK	NCPA
Mike DeBortoli	NCPA
John Luckhardt	NCPA
Jeremy M. Lawson	NCPA
Wayo Chiang	
Randy Howard	NCPA
Monty Hawks	NCPA
Tony Zimmer	NCPA
Bob Caracristi	NCPA

**Northern California Power Agency
January 8, 2020 Facilities Committee Meeting
Attendance List**

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

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



Commission Staff Report – *DRAFT*

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: Industrial Door Company – Five Year Multi-Task General Services Agreement for Commercial and Industrial Door Services; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members.

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approval of Resolution 20-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Industrial Door Company for commercial and industrial door maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

It is recommended that this item be placed on the Commission consent calendar.

BACKGROUND:

Commercial and industrial door services are required from time to time for the operation and maintenance of NCPA facilities, and those of our Members and SCPPA. Industrial Door Company is a new vendor for NCPA. NCPA's Geothermal staff contacted Industrial Door Company because they have worked near the Geysers area. After having met with this vendor, staff recommends that NCPA enter into an enabling agreement with Industrial Door Company so established terms and conditions are in place should this vendor be the successful bidder on future projects. Execution of this enabling agreement will also increase the pool of qualified vendors willing to work in the more remote location of NCPA's Geothermal facility, which will result in more competitive bidding when services are needed. NCPA has an enabling agreement in place for similar door services with Barton Overhead Door, Inc.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$500,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seek bids from as many qualified providers as possible. Bids are awarded to the vendor providing the overall best value to NCPA. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement between NCPA and Industrial Door Company

RESOLUTION 20-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH INDUSTRIAL
DOOR COMPANY**

(reference Staff Report #XXX:20)

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

WHEREAS, Industrial Door Company is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Industrial Door company to provide such services as needed at all NCPA facilities, NCPA Members, SCPPA, and SCPPA Member facilities in an amount not to exceed \$500,000 over five years; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Industrial Door Company, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for commercial and industrial door services, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
INDUSTRIAL DOOR COMPANY**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Industrial Door Company, a corporation with its office located at 10235 Systems Parkway, Suite B, Sacramento, CA 95827 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2020 ("Effective Date") in Roseville, California.

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

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

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** FIVE HUNDRED THOUSAND dollars (\$500,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$2,000,000 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 \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Not Applicable

4.4 Pollution Insurance. Not Applicable

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
- 5.3 Transfer of Title.** Not Applicable

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types

of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding

Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall provide a certified copy of its payroll, on forms to be determined by the Agency and consistent with the Labor Code, within ten (10) days of the Contractor's receipt of Agency's written request therefor. Contractor's failure to timely comply with this provision may subject the Contractor to penalties pursuant to state law.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$200.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
- 8.4.4** Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

- 10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

11.2 Deficiencies in Work. In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

11.3 Assignment of Warranties. Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

12.3 Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

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

- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in

whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

13.7 Contract Administrator. This Agreement shall be administered by Joel Ledesma, 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:

Chris Voyvodich
Industrial Door Company
10235 Systems Parkway, Suite B
Sacramento, CA 95827

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

INDUSTRIAL DOOR COMPANY

Date_____

Date_____

RANDY S. HOWARD, General Manager

JERRY S. FIELDS, CEO & President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Industrial Door Company ("Contractor") shall provide commercial and industrial door maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

No project under this Agreement shall include Work that would qualify as a Public Works Project under the California Public Contract Code.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Standard Service Rate:

Scheduled work during normal business hours only

\$259.50 1 Hour Minimum (Includes up to 30 minutes of travel)

\$160.00 Each Additional Hour of Labor

Travel beyond 30 minutes will incur additional charges, which are determined by location

Does Not Include Parts

Emergency Service Rates:

Services required outside normal business hours

One Man Rate: \$250.00 per hour 2 Hour Minimum. (\$500.00) The charges are Port to Port

Two Man Rate: \$350.00 per hour 2 Hour Minimum. (\$700.00) The charges are Port to Port

Does Not Include Parts

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

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

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

**ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND**

**MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT**

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: Farwest Insulation Contracting – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members.

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approval of Resolution 20-XX authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Farwest Insulation Contracting, with any non-substantial changes as recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$500,000 to \$3,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

It is recommended that this item be placed on the Commission consent calendar.

BACKGROUND:

Insulation related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and by SCPPA Members.

NCPA entered into a five year Multi Task General Services Agreement with Farwest Insulation Contracting effective December 6, 2019 for an amount not to exceed \$500,000. The Lodi Energy Center is currently in a forced outage and will need continued insulation support services for the duration of the outage, which will quickly exhaust the amount that is currently remaining on the agreement. This amendment will increase the not to exceed amount from \$500,000 to \$3,500,000. This agreement is still available for use at any facility owned and/or operated by the Agency, its Members, SCPPA, or SCPPA Members. NCPA currently has an agreement in place for similar services with Bayside Insulation & Construction.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not-to-exceed \$3,500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task General Services Agreement between NCPA and Farwest Insulation Contracting
- First Amendment to Multi-Task General Services Agreement between NCPA and Farwest Insulation Contracting

RESOLUTION 20-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A FIRST AMENDMENT TO THE MULTI-TASK GENERAL SERVICES AGREEMENT WITH FARWEST INSULATION CONTRACTING

(reference Staff Report #XXX:20)

WHEREAS, insulation related services are required from time to time for the operation and maintenance of facilities owned and/or operated by the Northern California Power Agency (NCPA), NCPA Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Farwest Insulation Contracting is a provider of these services; and

WHEREAS, NCPA entered into a five-year Multi-Task General Services Agreement with Farwest Insulation Contracting on December 6, 2019 for a not-to-exceed amount of \$500,000; and

WHEREAS, NCPA's Lodi Energy Facility is currently in a forced outage and requires insulation related services for the duration of the outage, which will result in the current agreement running out of funds; and

WHEREAS, NCPA now seeks to increase the not-to-exceed amount to \$3,500,000 to ensure sufficient funds are available for the current needs at LEC as well as the remainder of the contract term; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Farwest Insulation Contracting, with any non-substantial changes as approved by the NCPA General Counsel, increasing the not-to-exceed amount from \$500,000 to \$3,500,000, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
FARWEST INSULATION CONTRACTING**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Farwest Insulation Contracting, a corporation with its office located at 1220 S. Sherman Street, Anaheim, CA 92805 ("Contractor") (together sometimes referred to as the "Parties") as of December 6, 2019 ("Effective Date") in Roseville, California.

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

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

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

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

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

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

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$2,000,000 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 \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 Pollution Insurance. Not Applicable.

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
- 5.3 Transfer of Title.** Not Applicable.

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types

of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding

Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall provide a certified copy of its payroll, on forms to be determined by the Agency and consistent with the Labor Code, within ten (10) days of the Contractor's receipt of Agency's written request therefor. Contractor's failure to timely comply with this provision may subject the Contractor to penalties pursuant to state law.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$200.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

- 10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in

whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

13.7 Contract Administrator. This Agreement shall be administered by Joel Ledesma, 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:

Farwest Insulation Contracting
Attention: Rory McDonnell
672 Enterprise Court
Livermore, CA 94550

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

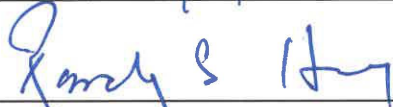
13.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

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

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

NORTHERN CALIFORNIA POWER AGENCY

Date 12/6/19


RANDY S. HOWARD,
General Manager

FARWEST INSULATION CONTRACTING

Date November 12, 2019


ERIC B. SARMENTO,
Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Farwest Insulation Contracting ("Contractor") shall provide insulation related services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Insulation
- Electrical Tracing

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Labor Rates:

Zone 1 includes the following California counties: Alameda, Contra Costa, Marin, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties.

Classification	Straight Time	Overtime	Double Time
General Foreman	\$155.66	\$219.15	\$282.64
Foreman	\$152.37	\$214.21	\$276.06
Mechanic	\$145.79	\$204.34	\$262.89
Apprentice 5th	\$132.16	\$184.85	\$237.54
Apprentice 4th	\$120.46	\$167.30	\$214.14
Apprentice 3rd	\$102.88	\$140.94	\$178.99
Apprentice 2nd	\$80.68	\$111.36	\$142.03
Apprentice 1st	\$57.92	\$81.33	\$104.75

Zone 2 includes the following California counties: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, Placer, Plumas, Sacramento, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties.

Classification	Straight Time	Overtime	Double Time
General Foreman	\$127.85	\$177.43	\$227.02
Foreman	\$124.56	\$172.50	\$220.43
Mechanic	\$117.98	\$162.62	\$207.27
Apprentice 5th	\$107.13	\$147.30	\$187.48
Apprentice 4th	\$98.21	\$133.93	\$169.64

Apprentice 3rd	\$84.81	\$113.83	\$142.85
Apprentice 2nd	\$66.09	\$89.46	\$112.84
Apprentice 1st	\$46.79	\$64.65	\$82.50

Wages Valid through July 31, 2020

Travel Expenses

County	Rate	Zone	County	Rate	Zone
Alameda	\$11.00	1	Placer (west of Highway 49)	\$11.00	2
Alpine	\$85.00	2	Placer (east of Highway 49)	\$31.00	2
Amador	\$21.00	2	Plumas	\$85.00	2
Butte	\$85.00	2	Sacramento	\$11.00	2
Calaveras	\$31.00	2	San Benito	\$85.00	1
Colusa	\$31.00	2	San Francisco	\$16.00	1
Contra Costa	\$11.00	1	San Joaquin	\$21.00	2
Del Norte	\$85.00	2	San Mateo	\$16.00	1
El Dorado (west of 49)	\$11.00	2	Santa Clara	\$21.00	1
El Dorado (east of 49)	\$31.00	2	Santa Cruz	\$36.00	2
Fresno	\$11.00	2	Shasta	\$85.00	2
Glenn	\$85.00	2	Sierra	\$85.00	2
Humboldt	\$85.00	2	Siskiyou	\$85.00	2
Kings	\$41.00	2	Solano	\$11.00	1
Lake	\$85.00	2	Sonoma	\$21.00	1
Lassen	\$85.00	2	Stanislaus	\$16.00	2
Madera	\$21.00	2	Sutter	\$31.00	2
Marin	\$11.00	1	Tehama	\$85.00	2
Mariposa	\$31.00	2	Trinity	\$85.00	2
Mendocino	\$85.00	2	Tulare	\$41.00	2
Merced	\$21.00	2	Tuolumne	\$31.00	2
Modoc	\$85.00	2	Yolo	\$11.00	2
Mono	\$85.00	2	Yuba	\$31.00	2
Monterey	\$85.00	2			
Napa	\$21.00	1			
Nevada	\$21.00	2			

Material Rates:

Actual invoice cost plus 10%

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, ERIC B. SARMENTO

(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

Farwest Insulation Contracting

(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.

EB Sarmento
(Signature of officer or agent)

Dated this 12th day of NOVEMBER, 2019.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

**ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND**

**MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT**

The undersigned hereby certifies and agrees that:

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

DATED: 11-12-19

Name of Employer

FARWEST INSULATION CONTRACTING
EB MR EMB SANCHEZ VP
(Authorized Officer & Title)
1220 S. SHERRMAN ST.
ANAHEIM, CA 92805
(Address)



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND FARWEST INSULATION
CONTRACTING**

This First Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Farwest Insulation Contracting ("Contractor") (collectively referred to as "the Parties") as of _____, 2020.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective December 6, 2019, (the "Agreement") for Contractor to provide insulation related services as requested by the Agency at any facilities owned or operated by the Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$500,000.00 to a 'NOT TO EXCEED' amount of \$3,500,000.00; and

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

WHEREAS, in accordance with Section 8.2, all changes to the Agreement must be in writing and signed by all the Parties; and

NOW, THEREFORE, the Parties agree as follows:

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

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED THREE MILLION FIVE HUNDRED THOUSAND** dollars (\$3,500,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

Date: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

FARWEST INSULATION CONTRACTING

RANDY S. HOWARD, General Manager

ERIC B. SARMENTO, Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report – *DRAFT*

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: Maxim Crane Works, L.P. – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members.

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approval of Resolution 20-XX authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Maxim Crane Works, L.P., with any non-substantial changes as recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$500,000 to \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

It is recommended that this item be placed on the Commission consent calendar.

BACKGROUND:

Crane related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and by SCPPA Members.

NCPA entered into a five year Multi Task General Services Agreement with Maxim Crane Works, L.P. effective April 4, 2016 for an amount not to exceed \$500,000. The Lodi Energy Center is currently in a forced outage and will need continued crane support services for the duration of the outage. Staff estimates that this vendor's work related to the current LEC outage will exceed the amount remaining on the agreement. This amendment will increase the not to exceed amount from \$500,000 to \$1,500,000. This agreement is still available for use at any facility owned and/or operated by the Agency, its Members, SCPPA, or SCPPA Members. NCPA currently has agreements in place for similar services with American Crane Rental, Inc., Hatton Crane & Rigging, OST Trucks & Cranes, Inc., Summit Crane Company of Solano, Inc. and Titan Crane & Rigging, Inc.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not-to-exceed amount to \$1,500,000 over five years. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task General Services Agreement between NCPA and Maxim Crane Works, L.P.
- First Amendment to Multi-Task General Services Agreement between NCPA and Maxim Crane Works, L.P.

RESOLUTION 20-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A FIRST AMENDMENT TO THE MULTI-TASK GENERAL SERVICES AGREEMENT WITH MAXIM CRANE WORKS, L.P.

(reference Staff Report #XXX:20)

WHEREAS, crane related services are required from time to time for the operation and maintenance of facilities owned and/or operated by the Northern California Power Agency (NCPA), NCPA Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Maxim Crane Works, L.P. is a provider of these services; and

WHEREAS, NCPA entered into a five-year Multi-Task General Services Agreement with Maxim Crane Works, L.P. on April 4, 2016 for a not-to-exceed amount of \$500,000; and

WHEREAS, NCPA's Lodi Energy Facility is currently in a forced outage and requires crane related services for the duration of the outage, which will result in the current agreement running out of funds; and

WHEREAS, NCPA now seeks to increase the not-to-exceed amount to \$1,500,000 to ensure sufficient funds are available for the current needs at LEC, as well as the remainder of the contract term; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to Multi-Task General Services Agreement with Maxim Crane Works, L.P., with any non-substantial changes as approved by the NCPA General Counsel, increasing the not-to-exceed amount from \$500,000 to \$1,500,000, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
MAXIM CRANE WORKS, L.P.**

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 Maxim Crane Works, L.P., a limited partnership, with its office located at 7512 Pacific Avenue, Pleasant Grove, CA 95668 ("Contractor") (together sometimes referred to as the "Parties") as of 4/4/, 2016 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Intentionally left blank.

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

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

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

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

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

4.5.4 Additional Certificates and Endorsements. If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

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

subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Section 6. STATUS OF CONTRACTOR.

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

to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

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

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

ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 **Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 **Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project;

and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

9.4 Confidential Information and Disclosure.

- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.
- 9.4.2 Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.
- 9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:
- 9.4.3.1** Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.
- 9.4.3.2** Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and
- 9.4.3.3** Disclosure by Agency in response to a request pursuant to the California Public Records Act.
- 9.4.4 Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in

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

Section 10. PROJECT SITE.

- 10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the

entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

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

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** **Work Provided Pursuant to Section 1.4.** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

Maxim Crane Works, L.P.
Attention: Aaron Carrion
7512 Pacific Avenue
Pleasant Grove, CA 95668

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

13.15 No-Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCLPA or SCLPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member. If requested by Agency, such Member will sign the "Acknowledgement of Agreement", attached hereto as Exhibit F and incorporated herein, prior to the Contractor performing Work under the Purchase Order.

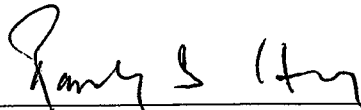
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The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

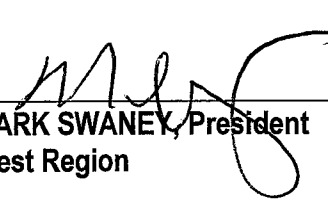
Date 4/4/16



RANDY S. HOWARD
General Manager


MAXIM CRANE WORKS, L.P.

Date 3/8/16



MARK SWANEY, President
West Region

Attest:


Assistant Secretary of the Commission

Approved as to Form:



Assistant General Counsel

EXHIBIT A SCOPE OF WORK

Maxim Crane Works, L.P. ("Contractor") shall provide crane services as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Engineering and Project Management for crane rental projects
- Crane and lift training
- Engineered crane lifts
- Crane rentals and crane rental services
- Rigging services
- Transportation services
- Heavy lifts/Heavy transportation services
- On-site evaluations
- Operated and Maintained Crane Rental
- Base Crane Rental

EXHIBIT B COMPENSATION SCHEDULE AND HOURLY FEES

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

Operated & Maintained Equipment

Hydraulic Truck Cranes

Capacity	Hourly Rate	Overtime	Doubletime
40 Ton	\$ 185.00	\$ 225.00	\$ 265.00
50 Ton	\$ 195.00	\$ 235.00	\$ 275.00
60 Ton	\$ 205.00	\$ 245.00	\$ 285.00
70 Ton	\$ 225.00	\$ 265.00	\$ 305.00
75 Ton	\$ 235.00	\$ 275.00	\$ 315.00
90 Ton	\$ 255.00	\$ 295.00	\$ 335.00
90 Ton*	\$ 345.00	\$ 425.00	\$ 505.00
120 Ton*	\$ 370.00	\$ 450.00	\$ 530.00
175 Ton*	\$ 395.00	\$ 475.00	\$ 555.00
185 Ton*	\$ 405.00	\$ 485.00	\$ 565.00
210 Ton*	\$ 435.00	\$ 515.00	\$ 595.00
235 Ton*	\$ 445.00	\$ 525.00	\$ 605.00
275 Ton*	\$ 465.00	\$ 545.00	\$ 625.00
300 Ton*	\$ 520.00	\$ 600.00	\$ 680.00
500 Ton*	\$ 800.00	\$ 880.00	\$ 960.00

Notes:

1. Fuel surcharge included in rate
2. Bare rental rates are based on monthly = 176 hours
3. 4 Hour minimum port x port (1) man Hyd truck cranes
4. 8 Hour minimum port x port (2) man Hyd truck cranes
5. Operated and Maintained Rough terrains are 8 hour min.
6. Local 3 rules apply
7. Permits are not included in rates *Based on Cwt configuration

Cwt Loads maximum basic lift crane

90 Ton*	1	HTC8690	
120 Ton*	2	LTM1160 5.1	*Reduced cwt.
175 Ton*	3	LTM1160 5.1	
185 Ton*	3	LTM1160 5.1	
210 Ton*	4	GMK5210	
235 Ton*	4	LTM 1200/1	
275 Ton*	4	GMK5275	
300 Ton*	6	GMK6300	
500 Ton*	9	LTM 1400 7.1	

Rough Terrain Cranes *8 hour min

Capacity	Hourly Rate	Overtime	Doubletime
30 Ton RT	\$ 165.00	\$ 205.00	\$ 245.00
50 Ton RT	\$ 180.00	\$ 220.00	\$ 260.00
65 Ton RT	\$ 190.00	\$ 230.00	\$ 270.00
75 Ton RT	\$ 195.00	\$ 235.00	\$ 275.00
80 Ton RT	\$ 205.00	\$ 245.00	\$ 285.00
90 Ton RT	\$ 225.00	\$ 265.00	\$ 305.00
100 Ton RT	\$ 245.00	\$ 285.00	\$ 325.00
130 Ton RT	\$ 285.00	\$ 325.00	\$ 365.00

Rough Terrain Cranes Bare rental

Capacity	Weekly Rate	Monthly rate
30 Ton RT	\$ 1,470.00	\$ 4,400.00
50 Ton RT	\$ 2,300.00	\$ 6,800.00
65 Ton RT	\$ 2,750.00	\$ 8,200.00
75 Ton RT	\$ 3,100.00	\$ 9,200.00
80 Ton RT	\$ 4,000.00	\$ 12,000.00
90 Ton RT	\$ 4,900.00	\$ 14,500.00
100 Ton RT	\$ 5,600.00	\$ 16,800.00
130 Ton RT	\$ 8,000.00	\$ 24,000.00

	Hourly Rate	Overtime	Doubletime
Cwt Trucking	\$ 125.00	\$ 165.00	\$ 205.00
9 Axle Transport	\$ 195.00	\$ 235.00	\$ 275.00
5 Axle Transport	\$ 140.00	\$ 180.00	\$ 220.00

*Added Cwt trucking applies based on required configuration

Excess Crew Time

Operator	\$ 105.00	\$ 145.00	\$ 185.00
Operator/Oiler	\$ 205.00	\$ 285.00	\$ 365.00

*All cranes can be configured for required radius and weight requirement.

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

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

**EXHIBIT C
CERTIFICATION**

Affidavit of Compliance for Contractors

I, MARIO BERMUDEZ, Safety Manager

(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:

MAXIM CRANE WORKS, L.P.

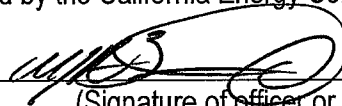
(Company name)

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 8TH day of MARCH, 20 16.

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

EXHIBIT D - NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

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

DATED: 3/8/16

Name of Employer MAXIM CRANE WORKS, LP

[Signature]
(Authorized Officer & Title)
PRES. WEST REB.

(Address)

EXHIBIT F

Acknowledgement of Agreement

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

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

MEMBER

By: _____

Printed: _____

Title: _____

Date: _____

CONTRACTOR

By: _____

Printed: _____

Title: _____

Date: _____



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND MAXIM CRANE WORKS, L.P.**

This First Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Maxim Crane Works, L.P. ("Contractor") (collectively referred to as "the Parties") as of _____, 2020.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective April 4, 2016, (the "Agreement") for Contractor to provide crane related services as requested by the Agency at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA), or SCPPA members; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$500,000.00 to a 'NOT TO EXCEED' amount of \$1,500,000.00; and

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

WHEREAS, in accordance with Section 8.2, all changes to the Agreement must be in writing and signed by all the Parties; and

NOW, THEREFORE, the Parties agree as follows:

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

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND** dollars (\$1,500,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

Date: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

MAXIM CRANE WORKS, L.P.

RANDY S. HOWARD, General Manager

MARK SWANEY, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: Nalco Company, LLC – Five Year Multi-Task General Services Agreement for Specialty Chemicals and Services; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities.

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approval of Resolution 20-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Nalco Company, LLC for specialty chemicals and services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years, for use at all facilities owned and/or operated by NCPA.

BACKGROUND:

Specialty chemicals and related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA had a previous agreement in place with Nalco Company, LLC, which is expiring. NCPA recently requested competitive bids for a project at the CT facilities, and Nalco was one of the prospective bidders. NCPA has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into a multi-task enabling agreement with Nalco Company, LLC so established terms and conditions are in place should this vendor be the successful bidder on future projects. Execution of this enabling agreement will also increase the pool of qualified and proven vendors for these types of services. NCPA has additional agreements in place for similar services with CellMark USA, Inc. (Geo only), Dow Chemical Company (Geo only), SUEZ WTS USA, Inc., and Univar USA, Inc.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$2,500,000 over five years, to be used out of the NCPA approved annual operating budgets. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible, bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Nalco Company, LLC

RESOLUTION 20-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH NALCO COMPANY, LLC

(reference Staff Report #XXX:20)

WHEREAS, specialty chemicals and related services are periodically required at the facilities owned and/or operated by the Northern California Power Agency (NCPA); and

WHEREAS, Nalco Company, LLC is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Nalco Company, LLC to provide such services as needed at all NCPA facilities in an amount not to exceed \$2,500,000 over five years; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Nalco Company, LLC, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years, for specialty chemicals and services, for use at all facilities owned and/or operated by NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NALCO COMPANY LLC**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Nalco Company LLC, a Delaware limited liability company with its office located at 1601 West Diehl Rd., Naperville, Illinois 60563 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2020 ("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. Nonetheless and upon written approval by both the Agency and Contractor, this Agreement may be extended on a year by year basis for an additional five (5) years for a total of no more than ten (10) years from the Effective Date.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor will be provided to the Agency.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits. The terms of any purchase order (other than the stated quantity ordered, requested delivery date and deliver location), release, acknowledgment or other document or communication between the parties will not apply.

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

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

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

Invoices shall be sent to:

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

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

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

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

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

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work. The additional terms and conditions applicable to Contractor-Owned Equipment provided by Contractor to Agency on a rental or use basis are set forth in Exhibit E.

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 \$2,000,000 per occurrence/\$4,000,000 aggregate. Commercial general coverage shall be on "an occurrence" basis covering comprehensive General Liability. No endorsement shall be attached limiting the coverage. Such commercial general liability will cover sudden and accidental pollution liability.

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and mobile

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

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

4.3 Professional Liability Insurance. Intentionally left blank.

4.4 Intentionally Left Blank

4.5 All Policies Requirements.

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

4.5.2 Notice of Reduction in or Cancellation of Coverage. Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction below the limits of this Agreement, cancellation, of the policies referenced in Section 4.

4.5.3 Higher Limits. If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits up to \$5,000,000 maintained by the Contractor.

4.5.4 Additional Certificates and Endorsements. Not applicable.

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

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

contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any negligent acts or omissions, willful misconduct or violation of applicable laws by Contractor, its officers, officials, agents, and employees, except as caused by the active, sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
- 5.3 Transfer of Title.** If Contractor's Work involves its transporting hazardous materials, Contractor shall be deemed to be in exclusive possession and control of such materials and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of such materials, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Contractor or its agents complete transfer of such materials into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Contractor shall be responsible for all such notifications. Should Contractor be required to remedy or remove such materials as a result of a leak, spill, release or discharge of such materials into the environment at Agency's Site or elsewhere, Contractor agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

Section 6. STATUS OF CONTRACTOR.

- 6.1 Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by

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

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

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

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

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency; provided, however, that Agency consents that Contractor may assign all of its rights and obligations to any entity wholly owned, directly or

indirectly by Ecolab, Inc. in 2020 consistent with Contractor's planned restructuring upon written notice to Agency and if necessary, subsequent amendment to this Agreement to include any new entity name. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such Work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

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

7.5 Registration with DIR. To the extent applicable to Contractor's Work, during the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

7.6 Prevailing Wage Rates. To the extent applicable to Contractor's Work, in accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall provide a certified copy of its payroll, on forms to be determined by the Agency and consistent with the Labor Code, within ten (10) days of the Contractor's receipt of Agency's written request therefor. Contractor's failure to timely comply with this provision may subject the Contractor to penalties pursuant to state law.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775 to the extent it applies to Contractor's Work, Contractor shall forfeit as a penalty to Agency \$200.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775 to the extent it applies to Contractor's Work, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion

thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon thirty (30) days prior written notice to Contractor.

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

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

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

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

- 8.4.1** Immediately terminate the Agreement;
- 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
- 8.4.4** Charge Contractor the difference between the direct 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. Except as may otherwise be allowed in Exhibit E, Contractor hereby agrees to deliver those documents to the Agency upon agency's request

at the termination of the Agreement. Except as may otherwise be allowed in Exhibit E, Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

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

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement. Regardless of the forgoing and only to the extent permitted by law, Contractor shall not be required to disclose or make available for auditing its cost information or any confidential information of any other customer of Contractor.

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

10.1 Operations at the Project Site. Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

10.2 Contractor's Equipment, Tools, Supplies and Materials. Contractor shall be solely responsible for the transportation, loading and unloading, and storage of

any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Equipment, tools, supplies left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency 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 equipment owned and property provided by Agency for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** 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. The water treatment program does not cover, and Contractor makes no warranties with respect to, water system biohazards from waterborne pathogens, including but not limited to Legionella bacteria.
- 11.2 Deficiencies in Work.** 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. Contractor's liability under this warranty is limited to replacement of nonconforming product, repair, or replacement of defective items, or, a refund of or invoice credit for the product price. Notwithstanding anything to the contrary contained herein or otherwise, in no event shall either party be liable for any special, consequential or indirect damages. Contractor shall not be liable for any failure caused by Agency's failure to follow Contractor's written instructions.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance,

provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.

- 12.8 Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10 Not applicable.

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 Joel Ledesma, 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:

Nalco Company LLC
1601 West Diehl Rd.
Naperville, Illinois 60563
Attn: General Counsel

Any written notice to Agency shall be sent to:

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

With a copy to:

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

13.9 Professional Seal. Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

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

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

- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. .

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

NORTHERN CALIFORNIA POWER AGENCY

NALCO COMPANY LLC

Date_____

Date_____

RANDY S. HOWARD,
General Manager

[NAME, TITLE]

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Nalco Company LLC ("Contractor") shall provide specialty chemicals and services as requested by the Northern California Power Agency ("Agency") at any of its facilities.

Geo Facility Specific Chemicals:

Water Treatment Chemicals: Biocide, Packaged in a 2000 lb. Tote (265 gal.) #90005.61 and other chemicals as needed. Incidental to the provision of chemicals, Contractor may also provide complimentary analytical work including chemicals analysis of substances and water cooling tower analysis.

CT Facilities Specific Chemicals/Services:

Inspections and Sampling

Contractor will be expected to inspect the Boiler and Water systems during each outage and provide a written report of each inspection. Photographic documentation of the inspections by video or still camera may be required. LEC may also require the use of a fiber optics borescope.

Contractor service representative shall sample all water and steam systems and provide a certified analysis each quarter or as required by LEC for special circumstances. The sample streams listed in Appendix G shall be analyzed for complete anions and cations, pH, and conductivity. Results shall be maintained in an Excel or similar data base. The database shall be updated at least quarterly.

Corrosion and Deposition Monitoring

The proposed treatments must provide protection from corrosion and deposition, which can adversely impact power plant efficiency and equipment life. The acceptable corrosion rates at LEC are as follows:

Carbon Steel/Cast Iron (Tower Circulating Water) corrosion inhibitor is used	< 3.0 Mils per year (MPY) if
Stainless Steel (Tower Circulating Water)	< 0.1 MPY
Titanium (Tower Circulating Water)	< 0.1 MPY
Carbon Steel/Cast Iron (Closed Loop Cooling Water)	< 1.0 MPY
Stainless Steel (Closed Loop Cooling Water)	< 0.1 MPY
Titanium (Closed Loop Cooling Water)	< 0.1 MPY
Copper and Copper Alloys (Closed Loop Cooling Water)	<0.1 MPY

Two (2) corrosion coupon racks are installed, one on the cooling tower circulating water and one on the closed loop cooling water system.

Additional corrosion coupon racks can be installed at other locations if recommended for supplemental monitoring. Comparable metallurgical coupons in each system monitored will be supplied and analyzed by the Contractor on a quarterly basis or more frequently as required by LEC for special circumstances.

LEC may also require the installation of a deposition monitor such as a Monital or similar device to evaluate system fouling from corrosion products, microbiological growth, and/or general water chemistry anomalies. Excessive fouling on any system will require chemical treatment program change. LEC may also require that no additional charges be billed for installation of an upgraded treatment in order to meet previously described goals and to protect the system.

Safety Data Sheets

LEC must be provided with a Safety Data Sheet (SDS) for each product proposed. The SDS will be kept on file at LEC. Chemical providers shall notify LEC of any changes, additions, or deletions on the SDS prior to the shipment of any product following the change. Upon acceptance and approval, the new SDS must precede product delivery by US Mail or accompany the product at the time of delivery. All product actives must be identified by its common chemical name, with the corresponding Chemical Abstract Service (CAS) number, in addition to the vendor's identification on the respective SDS.

Shipment and Storage of Chemicals

Freight charges shall be included in the cost to supply the proposed chemicals. LEC requests that treatment chemicals be supplied in reusable totes or drums where feasible. The base totes can be refilled by bulk truck or portable shuttle totes.

If drums or barrels are proposed, Contractor shall provide for removal and/or disposal of the empty container from the site. Any NCPA name and address stenciled on the container shall be removed prior to the removal of any such container from this site. Failure to comply with this provision may result in the discontinuation of any contract or agreement between LEC and the Contractor.

All totes, drums, or pails must be clearly labeled with the Contractor ID and product name. The labels must be able to withstand the environment for the time the container is on site and in use. Contractor shall perform an annual audit of all labels and placards to ensure that text is legible and current.

Service Plan

The costs for water treatment chemicals are important to a power plant's overall costs. Of equal importance to these costs is the quality of support from the Contractor. The plant considers specialty chemicals and services as an investment. Expert oversight must be provided to provide an acceptable return on the plant's investment. Service must include a plan to provide value-added expertise, insight, and support to ensure that the specified chemicals are used optimally.

Full-day service visits to the site are required at least once per week. More frequent site visits may be required in order to meet the service requirements detailed later in this section. Contractor is responsible for determining site visit frequency based on service and reporting requirements.

Service and Reporting Requirements

The general requirements of the Service Plan shall be documented in periodic Contractor service visits and subsequent reports. A detailed description of the required services and their frequency appears in Table 1-1 on the following pages. The required reports appear in Table 1-2 later in this section.

Table 1-1. Required Services and Frequencies

Description	Service Plan Activity and Frequency
Risk management services focused on worker and environmental safety.	Meet annually with plant contact, review chemicals used and associated personnel and environmental exposure risks. Review SDS.
Safety, Health, and Environmental communications and Safety Data Sheets as required to ensure safe application of the chemicals provided	Provide copies of SDS and Product Bulletins for any chemical proposed or used on site. Verify that all SDS and Product Bulletins are the most recent versions. SDS and Product Bulletins shall be updated at least annually. Provide electronic copies of any other Safety, Health, and Environmental communications. Review and update such communications as necessary.
Product application specifications to ensure safe application of the chemicals provided	For each product, provide electronic copies of a written description of proper product dosage, method to calculate or monitor dosage, any environmental limits on product application, and other information requested by the plant contact to ensure safe application of chemicals provided. Review and update product application data at least annually.
Emergency response during chemical transit, chemical spills, or other events impacting worker and environmental safety.	Provide no less than two Contractor emergency contacts and no less than one 24-hour emergency response phone number to plant contact. Review and update contact information as necessary.
System survey describing chemical application points, water treatment processes and uses, and water flow diagrams	Provide a one-line diagram of the whole-plant water system labeling all major equipment and chemical injection points. The plant's current "chemical one-line" can be updated if desired (requires Microsoft Visio). Provide this information to the plant contact. Review and update system survey at least annually. Update the Chemistry Manual at least annually.

Program administration manual including general chemical information, general process information, information on specific chemicals used or proposed for use, troubleshooting and test procedures, chemical feed system information, and information required to support operation, maintenance, and installation of any Contractor-provided equipment

Provide a written Chemical Program Overview for each treated system including a Chemical Program Description for the system and a Chemical Product Description for each chemical used.

Provide Feed System Data Table for each chemical feed system including the Chemical Name, Storage Tank Volume, Metering Pump Capacity, Chemical Density, and Chemical Injection Point Location.

Provide Chemical Limits and Troubleshooting information for each system. Include a table listing each system's chemical parameters, their control limits, and the action levels associated with each control limit. Also include a brief description of each system's chemical parameters, what causes the parameter to change, and recommendations for corrective action based on the different action levels. For each system, provide a General Troubleshooting Table listing each chemical parameter, the common causes or sources of high or low readings, the corrective actions for high or low readings, and the consequences of high or low readings.

A printed and electronic copy of the Chemical Limits and Troubleshooting information shall be provided to the plant contact. Information shall be reviewed and updated at least annually. Format shall be reviewed with the plant contact at least annually and updated as directed by the plant contact.

Provide written and electronic versions of all Program Administration Manual data to the plant contact. Review and update at least annually.

NOTE: The plant already has this documentation. Contractor shall be responsible for either creating necessary documents or updating existing plant documents. Existing documents can be

Description	Service Plan Activity and Frequency
	provided in the native file format (MS Word or MS Excel).
Service plan describing the frequency of site visits, specific services to be performed during each visit, and the frequency of recurring service items.	The service plan is contained in this document. Any additions, deletions, or changes must be approved by the plant contact. Review this document with the plant contact and obtain plant contact signature at least quarterly (unless Low Service Level is selected, in which case review is performed annually). Both Contractor and the plant contact shall maintain copies of the signed document.
Written service reports for each site visit describing services performed, problems found, action taken, recommendations for plant action, and planned follow-up.	Service reports for all site visits provided in a weekly report.
Provide chemistry data trending software	Provide chemistry trending software. Software must be capable of importing existing plant database (Excel format) to ensure that previous historical data is retained, and also exporting to Excel or a .csv file.

Description	Service Plan Activity and Frequency
<p>Provide monitoring, control, corrective actions, and detailed chemistry evaluation for plant water systems.</p>	<p>Review logsheets and trends for all plant water streams or systems (provided that the data is available to Contractor). Provide an analysis of each system describing chemistry issues and concerns, recommendations for corrective action, recommendations for control improvements, and a discussion of relationships between chemical control parameters. This monitoring program shall include normalized monitoring of demin system reverse osmosis units. Contractor shall perform the normalization calculations and retain them in the same database used to retain other plant chemistry data.</p> <p>Perform a detailed review and analysis of each system's chemical treatment program. Review the treatment program design, purpose, and efficacy. Evaluate and propose alternative chemistries, including cost analysis.</p> <p>Printed and electronic report shall be provided to plant contact weekly. The report shall include trends and an analysis of control capability for each parameter (percent in control, for example) with recommendations for improvement for any parameter with less than 80% of readings within the target range.</p> <p>Review report format with plant contact at least quarterly. Update or change as directed by plant contact.</p>

Description	Service Plan Activity and Frequency
<p>Inspection of water and steam systems during operation or during outages with a written report detailing equipment status and recommendations. In-service inspections of evaporative cooling towers shall be performed at least monthly. Such inspections shall include a visual inspection of cooling tower hardware.</p>	<p>Meet with plant contact at least monthly to determine the need for inspections in the following month.</p> <p>Provide a written report of inspection results within four working weeks of the inspection. Printed and electronic report shall be provided to plant contact.</p> <p>Review report format with plant contact at least annually. Update or change as directed by plant contact.</p>
<p>Monitor and provide a written report of chemical consumption versus budget consumption for any Contractor-provided chemical.</p>	<p>Utilize spreadsheet to report actual chemical consumption (pounds or gallons) and actual chemical cost for each month for each Contractor-provided product. The written report shall compare chemical usage versus consumption for each product. The written report shall describe the reasons for deviation from target usage and corrective actions required (if any) to restore chemical usage to targets. Printed and electronic report shall be provided to plant contact at least monthly.</p> <p>Business review performed at least annually describing the total value of all goods and services consumed, the estimated expenditures for the coming year, projects or project work completed with supporting data for any cost savings achieved as a result of this work, and technical and financial goals for the coming year.</p> <p>Review report format with plant contact at least quarterly. Update or change as directed by plant contact.</p>

Description	Service Plan Activity and Frequency
<p>Water and deposit analyses performed at Contractor off-site laboratories provided that such water and deposit analyses are required to verify the proper operation of Contractor-provided goods and services.</p>	<p>Obtain water samples from Contractor-treated systems quarterly. Obtain deposit samples from Contractor-treated systems, if required, as they're available during outages or upsets. Contractor is responsible for providing sample containers.</p> <p>Provide written analysis and sample results within four working weeks of sample date.</p>
<p>Metallographic analyses performed at vendor off-site laboratories provided that such metallographic analyses are required to verify the proper operation of Contractor-provided goods and services. This service is normally performed on failed equipment, so is not required at a specific frequency.</p>	<p>Obtain samples from Contractor-treated systems, if required, as they're available during outages or upsets. Contractor is responsible for providing packaging and shipping recommendations.</p> <p>Provide written analysis and sample results within four working weeks of sample date.</p>
<p>Provide operator, supervisor, and manager training on basic water chemistry, laboratory procedures, cooling systems, HRSG systems, and pretreatment systems. Topics to be approved by plant management two weeks prior to date of training. Train personnel as directed by plant management. Schedule at least two different training sessions covering the same material to accommodate shift schedules.</p>	<p>Provide training annually. Laboratory procedures training shall consist of a single a pre-scheduled laboratory procedures demonstration in which the Contractor representative shall meet with available plant operators to perform wet chemistry and demonstrate the proper wet test procedure to the operators for each wet test performed.</p> <p>Document persons trained, date, and time. Training length shall be at the discretion of the plant contact, but will normally be designed to last approximately four hours. Provide training records to plant contact in electronic and printed format.</p>

Description	Service Plan Activity and Frequency
<p>Report on condition and operation of chemical storage, feed, and control equipment</p>	<p>Visually inspect each chemical feed system and each chemical feed control system at least annually. Provide recommendations for feed and control system improvements. Identify necessary repairs or safety issues. Verify that SDS are stored at, on, or near each chemical storage tank. Verify that tank labels and placards are legible and in good condition. Correct any deficiencies.</p> <p>Summarize findings in a written report to the plant contact.</p> <p>Review report format with plant contact at least annually. Update or change as directed by plant contact.</p>
<p>Provide corrosion rate monitoring of recirculating and closed loop cooling systems. Corrosion coupon results shall be maintained in a Vendor-provided database. Such database shall be updated and provided to the plant at least quarterly. Both parties shall mutually agree upon corrosion coupon metallurgy.</p>	<p>Report shall include both general and pitting corrosion rates (provided that corrosion monitoring equipment is installed and operable for the monitored system). Coupon exposure time for recirculating shall be approximately one year. Closed loop cooling system coupons shall be exposed for approximately 90 days. Corrosion analysis may be substituted for corrosion coupons if approved by plant contact.</p> <p>Printed and electronic report shall be provided to plant contact at least quarterly.</p> <p>Review report format with plant contact at least annually. Update or change as directed by plant contact.</p>

Description	Service Plan Activity and Frequency
Provide, recirculating and closed loop cooling system biological control monitoring	<p>Provide sample sessile and planktonic bacteria counts, bacteria metabolic residuals and bacteria speciation analysis at least quarterly. Reports shall include recommendations for improvement, cost analysis of biological treatment programs, and evaluation of current program efficacy.</p> <p>Printed and electronic report shall be provided to plant contact at least monthly. The speciation analysis shall be included in the monthly report.</p> <p>Review report format with plant contact at least annually. Update or change as directed by plant contact.</p>

Table 1-2. Required Reports and Frequencies

Description	Service Plan Activity and Frequency
Weekly reports include the following:	<p>The reports listed below will normally be included in the body of one weekly service report. The monthly service report will normally be divided into several sections including:</p> <p>Chemistry Monitoring and Control Cycle Chemistry Cooling Systems Pretreatment Systems BOP Water Systems Inspections (if any) Operational Review</p>
Monthly reports include the following:	<p>The reports listed below will normally be included in the body of one monthly service report.</p> <p>Chemical Usage and Consumption Cooling System In-Service Inspection</p>
Quarterly reports include the following:	<p>The reports listed below will normally be included in the body of one quarterly service report.</p> <p>Corrosion Monitoring</p>

Description	Service Plan Activity and Frequency
Annual reports include the following:	<p>The reports listed below will normally be included in the body of one monthly service report with the exception of the Business Review which will be distributed separately.</p> <p>Business Review Chemistry Evaluation Chemical Safety Audit Chemical Storage, Feed, and Control Equipment Chemistry Manual Updates</p>
Special reports include the following:	<p>Outage inspections of water and steam systems Deposit samples Specially requested water samples Metallographic analysis Training presentations</p>

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Pricing for products not specified below will be quoted by Contractor at the time the product is requested.

Geo Facilities Specific Pricing:

1. Nalco 90005 Algaecide (Biocide), Delivered in 265 gallon IBC Totes, Price = \$6.00/Lb
 2. Nalo H-130 Macro-fouling Biocide, Delivered in 265 gallon IBC Totes, Price = \$4.50/Lb
- Prices above include shipping/freight costs, but does not include Sales Tax.

CT Facilities Specific Costs:

1. Analytical Cost: \$32,332/year

Sample Number	Samples per Year	Location	Code	Cost each	Annual Cost
1	4	01-Cycle Makeup Water (Demin)	STEAM	\$ 208	\$ 832
2	4	02-Condensate Polisher INFLUENT (local)	STEAM	\$ 208	\$ 832
3	4	03-Condensate Polisher Comb Effluent	STEAM	\$ 208	\$ 832
4	4	06-IP Feedwater BOP	STEAM	\$ 208	\$ 832
5	4	07-HP Feedwater HRSG	STEAM	\$ 208	\$ 832
6	4	09-LP Drum Water	STEAM	\$ 208	\$ 832
7	4	10-IP Drum Water	STEAM	\$ 208	\$ 832
8	4	12-HP Separator Water	STEAM	\$ 208	\$ 832
9	4	13-HP Main Steam	STEAM	\$ 208	\$ 832
11	4	15-IP Main Steam (shared w/#10)	STEAM	\$ 208	\$ 832
13	4	18-LP Main Steam (shared w/#12)	STEAM	\$ 208	\$ 832
14	4	16-Hot Reheat Steam	STEAM	\$ 208	\$ 832
15	4	11-IP Rotor Air Cooler Water	STEAM	\$ 208	\$ 832
16	4	08-LP Rotor Air Cooler Water	STEAM	\$ 208	\$ 832
17	4	04-Condensate Polisher EFFLUENT (local)	STEAM	\$ 208	\$ 832
19	4	17-LP Rotor Air Cooler Steam	STEAM	\$ 208	\$ 832
20	4	14-IP Rotor Air Cooler Steam	STEAM	\$ 208	\$ 832
21	4	HP Feedwater BOP	STEAM	\$ 208	\$ 832
22	4	05-Condensate BOP	STEAM	\$ 208	\$ 832
23	4	20-Aux Boiler Steam	STEAM	\$ 208	\$ 832
24	4	19-Aux Boiler Drum Water	BLR	\$ 355	\$ 1,420
26	4	Circ Water	RECIRC	\$ 402	\$ 1,608
27	4	Circ Water DMA	BIO	\$ 116	\$ 464
28	4	LEC CCW DMA	BIO	\$ 116	\$ 464
29	4	Evap Cooler DMA	BIO	\$ 116	\$ 464
30	4	Circ Water Sessile	BIOSWB	\$ 168	\$ 672
31	4	LEC CCW Sessile	BIOSWB	\$ 168	\$ 672
32	4	Evap Cooler Sessile	BIOSWB	\$ 168	\$ 672
33	4	Closed Loop: Mild Steel Coupon (Para 3.2)	Corrosion	\$ 22	\$ 88
34	4	Closed Loop: Copper Coupon	Corrosion	\$ 22	\$ 88
35	1	Closed Loop: Titanium	Corrosion	\$ 22	\$ 22
36	1	Closed Loop: Stainless Steel Coupon	Corrosion	\$ 22	\$ 22
37	4	Circ Water: Mild Steel Coupon	Corrosion	\$ 22	\$ 88
38	1	Circ Water: Stainless Steel Coupon	Corrosion	\$ 22	\$ 22
39	1	Circ Water: Titanium Coupon	Corrosion	\$ 22	\$ 22
40	4	EDI 100	STEAM	\$ 208	\$ 832
41	4	EDI 200	STEAM	\$ 208	\$ 832
42	4	RO E100 Permeate	STEAM	\$ 208	\$ 832
43	4	RO E200 Permeate	STEAM	\$ 208	\$ 832
44	4	RO E300 Permeate	STEAM	\$ 208	\$ 832
45	4	RO E400 Permeate	STEAM	\$ 208	\$ 832
46	4	Service Water	MAKEUP	\$ 288	\$ 1,152
47	4	Raw Water	MAKEUP	\$ 288	\$ 1,152
48	4	LEC CCW	RECIRC	\$ 402	\$ 1,608
Annual Sampling Program Cost (TOTAL)					\$ 32,332
				\$/quarter	\$ 8,083

2. Service Plan Cost: \$34,000/year

3. Specialty Chemical Supply Cost: First year is based on rates in table below and is subject to escalation per the Price Adjustment Formula below.

Lodi Energy Center											
Chemical Type	System	Chemical	Product Name	Product Number	Dosage (mg/L)	Target Residual (mg/L)	Container Size	\$/lb (Firm)	Lb/Year (Based on Base Case)	\$/Year (Based on Base Case)	Container Provided By
Specialty	Raw Water Treatment	Polymer/Flocculant	7763	7763.33	2.0	N/A	200-gallon Junior PORTA-FEED refill	\$2.55	2,339	\$5,964	Vendor
Specialty	Demin Water Treatment	RO Anti-scalant	PC-191T	PC-191T.36	5.0	5.0	55-gal Mini PORTA-FEED refill	\$4.01	341	\$1,367	Vendor
Specialty	Demin Water Treatment	RO Low pH Cleaner	PC-87	PC-87.33	5% by vol	as needed	200-gal refill Junior PORTA-FEED refill	\$2.27	2,112	\$4,794	Vendor
Specialty	Demin Water Treatment	RO High pH Cleaner	PC-97	PC-97.15	1% by vol	as needed	55-gal drum	\$1.80	700	\$1,260	N/A
Specialty	Demin Water Treatment	Biocide	PC-11	PC-11.36	50 ppm	as needed	55-gal Mini refill	\$5.33	175	\$933	Plant
Specialty	Demin Water Treatment	Biocide (Long-term)	PC-56	PC-56.36	25 ppm	as needed	55-gal Mini PORTA-FEED refill	\$2.87	54	\$155	Plant
Specialty	Cooling Tower Circ Water	Anti-foam	7105 PLUS	7105 PLUS.11		as needed	5-gallon pails, as needed	\$7.96	132	\$1,051	N/A
Specialty	Cooling Tower Circ Water	Corrosion Inhibitor	3DT487	3DT487.33	45.0	4.0	200-gal Junior PORTA-FEED	\$2.67	5,208	\$13,905	Vendor
Specialty	Cooling Tower Circ Water	Mineral Dispersant	N/A	N/A	0.0	N/A	Dispersant is in 3DT487	\$0.00	0	\$0	Vendor
Specialty	Cooling Tower Circ Water	Microbial Dispersant	73551	73551.56	5.0	as needed	55-gal drum, as needed, not staged on site	\$2.27	0	\$0	N/A
Specialty	Cooling Tower Circ Water	Non-Oxidizing Biocide	H-550	H-550.61	100.0	as needed	Schutz tote, as needed, not staged on site	\$5.02	0	\$0	N/A
Specialty	Closed Loop	Corrosion Inhibitor	TRAC100	TRAC100.15	2,500	2,500	55-gallon drum	\$5.12	104	\$532	N/A
Specialty	Closed Loop	Non-Oxidizing Biocide	H-550	H-550.11	100.0		5-gal pails for easy shot pot addition	\$11.51	47	\$541	N/A
Specialty	Auxiliary Boiler	Oxygen Scavenger	1720	1720.11	50.0	30.0	5-gal pails for easy day tank filling	\$5.97	211	\$1,260	N/A
Specialty	Auxiliary Boiler	Phosphate (for Drum)	BT-3400	BT-3400.36	128.2	5.0	55-gal Mini refill to 110-gal Mini base tank	\$3.98	491	\$1,954	Vendor
Specialty	Injection Water	Microbial Dispersant	73551	73551.56	5.0	N/A	55-gal returnable drum	\$2.27	579	\$1,314	N/A
Specialty	Injection Water	Biocide	STABREX	ST70.56	10.0	N/A	55-gal returnable drum	\$2.86	1,157	\$3,309	N/A
Specialty	Injection Water	Silica Inhibitor	3DT157	3DT157.15	varies	varies	55-gal drum, as needed to CLNG TWR, not on site	\$2.58	0	\$0	N/A

STIG											
Chemical Type	System	Chemical	Product Name	Product Number	Dosage (mg/L)	Target Residual (mg/L)	Container Size	\$/lb (Firm)	Lb/Year (Based on Base Case)	\$/Year (Based on Base Case)	Container Provided By
CT2 Specialty	Demin Water Treatment	RO Anti-scalant	PC-191T	PC-191T.36	5.0	5.0	55-gal Mini refill to 110-gal Mini base tank	\$4.01			Plant
CT2 Specialty	Demin Water Treatment	RO Low pH Cleaner	PC-87	PC-87.15			55-gal returnable drum	\$1.22			N/A
CT2 Specialty	Demin Water Treatment	RO High pH Cleaner	PC-97	PC-97.15			55-gal returnable drum	\$1.80			N/A
CT2 Specialty	Demin Water Treatment	Biocide	PC-11	PC-11.36			55-gal Mini refill to 110-gal Mini base tank	\$5.33			Plant
CT2 Specialty	Demin Water Treatment	Biocide (Long-term)	PC-56	PC-56.36			55-gal Mini refill to 110-gal Mini base tank	\$2.87			Plant
CT2 Specialty	Closed Loop	Corrosion Inhibitor	TRAC108	TRAC108.11			5-gal pails for easy shot pot addition	\$6.91			N/A
CT2 Specialty	Main Steam Cycle	Caustic (25%)	8735	8735.38			15-gal MICRO refill to 30-gal Micro base tank	\$6.97			Vendor
CT2 Specialty	Main Steam Cycle	Amine	352	352.36			55-gal Mini refill to 110-gal Mini base tank	\$5.28			Vendor
CT2 Specialty	Main Steam Cycle	Oxygen Scavenger	ELIMINOX	ELIMINOX.36			55-gal Mini refill to 75-gal Mini base tank	\$4.20			Vendor
CT2 Specialty	Main Steam Cycle	Phosphate (for Drum)	BT-3400	BT-3400.36			55-gal Mini refill to 110-gal Mini base tank	\$3.98			Vendor

Price Adjustments:

In December 2020, and each December following, the product, analytical, and service prices will be reviewed. Any adjustments will become effective the following January 1st.

The following price adjustment formula will be used for chemicals, with an allowed price adjustment range no higher than 8% and no lower than 2%. Analytical and service prices will be limited to increases of 2% to 8%.

% Price Adjustment = 50% Labor + 50% Chemical, where

Labor = NAICS Employment Cost Index (CIU2010000000000)

Chemical = 55% PCU325 +
20% WPU061 +
15% WPU067905 +
10% WPU061303

In addition to any periodic price adjustment provided for in this Agreement Nalco may increase the prices for the Products or Services if, at any time during the term of this Agreement, an Extraordinary Inflationary Disruption occurs. Extraordinary Inflationary Disruption is defined as an increase in delivered costs beyond the control of Nalco of at least ten (10%) percent and sustained over a three-month period. In case of such an Extraordinary Inflationary Disruption, Nalco may increase the price of the Products up to the full amount of the percent increase in its costs (raw materials, freight, labor or energy) by giving Customer at least thirty (30) days written notice. The baseline for determining such increase shall be on an individual product basis. If Nalco's costs decline back to a baseline level, Nalco is allowed to maintain product prices at the elevated level for the same period of time Nalco previously maintained pricing prior to the hardship price increase. If Nalco's cost declines but to a level above baseline, or increases further, on a Quarterly basis, Nalco will monitor product prices to reduce and increase prices to the same extent of the decline or increase in costs after an Extraordinary Inflationary Disruption occurs to Nalco.

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

Nalco Company LLC

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

Nalco Company LLC

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

Exhibit E

Contractor-Owned Equipment Terms

For equipment (including Porta-Feed units, 3D TRASAR, OMNI, Purate, and Pareto equipment and other proprietary equipment of Contractor and any associated computer hardware or software) furnished to Agency on a rental or use basis (the "Equipment"), the following terms and conditions shall also apply.

1. Equipment shall remain the sole personal property of Contractor even though Agency may attach Equipment to realty. Contractor may cause such Equipment to be marked to indicate its ownership, and Agency agrees to provide reasonable cooperation by executing any financing statements Contractor files with respect to the Equipment. Agency shall take no action which is inconsistent with Contractor's title to the Equipment, and shall not move, encumber or alter the Equipment without Contractor's written authorization. Agency shall be responsible for any personal property or use taxes associated with the Equipment.
2. Agency shall not use the Equipment with any materials or products other than those recommended or approved by Contractor. The proper functioning of the Equipment is conditioned upon Agency operating it in accordance with Contractor's recommendations.
3. Agency shall install and provide the utilities necessary for the Equipment, and will provide a suitable location for the Equipment, including but not limited to shelter, tank pads, spill protection, foundations, etc., as appropriate. Agency shall receive, unload, place and remove Equipment at no cost to Contractor and should be responsible for procuring any necessary permits or licenses for such actions. With respect to Porta-Feed units, Agency agrees to provide access for a standard truck (min. 40 feet end-to-end, 14 feet high) to be driven safely to an area (e.g. loading dock) in the vicinity of the base tank to offload refill units.
4. Agency shall not alter the Equipment without Contractor's written authorization. Agency assumes all risk of loss or liability arising from or pertaining to its possession, operation or use of the Equipment, except to the extent damage is caused by Contractor's negligence or willful misconduct.
5. Agency shall allow Contractor to subcontract portions of work to be performed under this Agreement with respect to data-hosting, transmission of data through internet service providers and related service providers.
6. Contractor shall have the right to inspect and service Equipment during normal business hours.
7. Upon termination of this Agreement by either Contractor or Agency, Agency shall collect and load Equipment on Contractor's truck at Agency's facility in the same condition as received if returned prior to the initial term of this Agreement or five (5) years of use, ordinary wear and tear excepted. In the event any equipment returned prior to five (5) years of use, and such Equipment is lost, damaged or destroyed, Agency shall pay to Contractor the cost of replacement, or of repair at Contractor's standard charges then in effect. During the term of this Agreement, the Equipment will remain the exclusive property of Contractor.
8. Agency shall promptly notify Contractor of any material change in Agency's status, including, but not limited to, change of address, desired Equipment location, close of business.

9. Contractor reserves the right to pay prevailing wage but use non-union labor for specialty work including supervisory, testing and service of Equipment that does not fall under the terms of the Lodi Energy Center Project Maintenance Labor Agreement.
10. Agency agrees to inform Contractor of any special or unusual safety precautions that should be taken because of conditions in Agency's plant or process.
11. Notwithstanding anything in any agreement or otherwise to the contrary, all data generated or collected by the Equipment that is transmitted to Contractor (or to a Contractor third-party provider) is owned by Agency but Agency hereby grants to Contractor a non-exclusive, royalty-free license to use that data for NCPA purposes only and cannot be used by Nalco for other clients or uses unless such data is aggregated with data from other Nalco clients and such aggregated data is shared with NCPA.



Commission Staff Report – *DRAFT*

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: NCPA Hydroelectric Wildfire Mitigation Project; Applicable to the following projects: NCPA Hydroelectric Facility

AGENDA CATEGORY: Discussion/Action

FROM:	Joel Ledesma	METHOD OF SELECTION:
	Assistant General Manager	<i>Competitive Pricing Process</i>
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Hydroelectric	

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

Approval of Resolution 20-XX authorizing the NCPA Hydroelectric Wildfire Mitigation Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$3,000,000, and authorizing Hydroelectric Project FY19/20 Budget Augmentation of \$1,700,000 and use of up to \$1,300,000 in existing Hydroelectric Capital Development Reserve collections to fund the project.

It is recommended that this item be listed as a Discussion/Action Item on the Commission agenda.

BACKGROUND:

Design and construction of the first circuit of the Collierville-Bellota 230 kV line was completed in 1988. The second circuit was added around 1991. Both circuits utilized first-generation EPDM polymer insulators. When the Collierville-Bellota 230 kV was put into service, manufacturers did not typically recommend corona rings on 230 kV lines, as this was a practice normally reserved for extra high voltage (345 kV and above). Since then, operational experience, EPRI testing, and advanced product research laboratory testing has indicated a need for corona rings at the line end of 230 kV polymer insulators.

In September 2019, NCPA contracted with Power Engineers to prepare a Wildfire Risk Mitigation Report and Recommendations. Part of the Collierville-Bellota 230 kV line crosses through CalFire Tier II Fire Hazard Severity Zone. In consideration of the age of the insulators, observed failures, and changing design standards, Power Engineers recommended that the approximately 30 year old EPDM polymer-type insulators be replaced with new silicon polymer insulators with corona rings, along with other hardware modifications such as changing out some suspension clamps, inspecting the conductors for fatigue or damaged stands, upgrading shield wire grounding installations, and adding anchor shackles at the suspension insulator Y-clevis end in specific tangent towers.

In addition, Power Engineers recommended increasing the line-ground clearance in one span and fire hardening the McKays 17 kV overhead line. The NCPA Hydroelectric Wildfire Mitigation Project will implement the Power Engineer recommendations for the Collierville-Bellota 230 kV line and McKays 17 kV line.

FISCAL IMPACT:

The total cost of the NCPA Hydroelectric Wildfire Mitigation Project is anticipated to not exceed \$3,000,000. Funds for this project were not included in the approved FY19-20 Hydroelectric Project Budget. As such, staff recommends authorizing a \$1,700,000 Hydro Project FY19-20 Budget Augmentation, to be collected over the remaining months of the FY19-20 budget. In addition, staff recommends authorizing use of up to \$1,300,000 in existing Hydroelectric Capital Development Reserve collections for the Wildfire Mitigation Project. Additional Capital Development Reserve collections will be proposed starting in the FY21-22 Hydro Project budget to refund the Capital Development Reserve account (as needed) for the upcoming McKays Sediment Removal project.

SELECTION PROCESS:

NCPA is currently preparing to solicit competitive bids from multiple vendors to perform the work required for this project. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required

ENVIRONMENTAL ANALYSIS:

CEQA Guidelines section 15301 states that a project is categorically exempt from CEQA review when the project “consists of the operation, repair, maintenance ... or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” There is no reasonable possibility that maintaining the Collierville-Bellota 230 kV line and McKays 17 kV line will result in a significant impact on the environment. A Notice of Exemption for this type of work was approved by the NCPA Commission and filed with Calaveras County on March 27, 2014.

COMMITTEE REVIEW:

Committee review pending.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (1):

- Resolution

RESOLUTION 20-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE NCPA HYDROELECTRIC WILDFIRE MITIGATION PROJECT**

(reference Staff Report #XX:20)

WHEREAS, the Northern California Power Agency (NCPA) owns and operates the Collierville-Bellota 230 kV line and operates the McKays 17 kV line; and

WHEREAS, the Collierville-Bellota 230 kV line is approximately 30-years old and design standards have changed; and

WHEREAS, the September 2019 Wildfire Risk Mitigation Report recommended replacing the 230 kV insulators and other system hardening; and

WHEREAS, NCPA seeks to authorize and fund the NCPA Hydroelectric Wildfire Mitigation Project; and

WHEREAS, CEQA Guidelines section 15301 states that this project is categorically exempt from CEQA review because the project “consists of the operation, repair, maintenance ... or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.”; and

WHEREAS, a Notice of Exemption for this type of work was approved by the NCPA Commission and filed with Calaveras County on March 27, 2014; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the NCPA Hydroelectric Wildfire Mitigation Project and delegates authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA Purchasing Policies and Procedures, without further approval by the Commission, for a total not to exceed amount of \$3,000,000, and authorizes Hydroelectric Project FY19/20 Budget Augmentation of \$1,700,000 and use of up to \$1,300,000 in existing Hydroelectric Capital Development Reserve collections to fund the project.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

Date: February 5, 2020

COMMISSION MEETING DATE: February 20, 2020

SUBJECT: NCPA Geothermal Facility Wildfire Risk Mitigation Project

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approval of Resolution 20-XX authorizing the NCPA Geothermal Facility Wildfire Risk Mitigation Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA Purchasing Policies and Procedures, without further approval by the Commission, for a total not to exceed amount of \$450,000.

It is recommended that this item be listed as a Discussion/Action Item on the Commission agenda.

BACKGROUND:

There have been three major wildfires over the last five years in areas surrounding the NCPA Geothermal Facility. Fortunately, the facility has incurred minimal damage from these fires. An assessment of NCPA facilities was performed by Power Engineers and recommendations were provided based on best business practices. Therefore, the Wildfire Risk Mitigation Report and Recommendations and lessons learned from the recent fires have resulted in Geothermal Facility specific recommended mitigation measures for the project which consists of repairs and surveys to the 230 KV transmission towers and 21 KV power distribution line, purchase of vehicles for power line inspection and vegetation management, and improved signage to assist local firefighting crews.

FISCAL IMPACT:

The Wildfire Risk Mitigation Project will require a one-time cost \$450,000. While this increase was not included in the FY20 budget, staff recommends using a portion of excess bond Reserve funds that was released when the final maturity of the 2009 Geothermal bonds was paid on 7/1/2019. The Reserve fund release was approximately \$3.5 million which would have been included as part of the FY 2020 annual settlements reconciliation. Therefore, no budget augmentation is required. Purchase orders referencing the terms and conditions of any agreements executed for work related to this project will be issued following NCPA procurement policies and procedures

SELECTION PROCESS:

NCPA is currently preparing to solicit bids from multiple vendors to perform the work required for the project. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

The proposal is exempt from the provisions of the California Environmental Quality Act pursuant to Title 14 CCR Section 15301, Section 15302, Section 15304, Section 15309, Section 15311, and Section 15330 of the CEQA Guidelines Code, which exempts work being done at an existing, publicly owned geothermal facility at the Geysers steam field to operate and maintain electric power generators and associated facilities from the provisions of the California Environmental Quality Act. There is no reasonable possibility that the proposed work on the 230

KV transmission towers and 21 KV power distribution line will result in significant impact to the environment. A Notice of Exemption for this type of work was approved by the NCPA Commission and filed with the County of Sonoma on October 31, 2012.

COMMITTEE REVIEW:

Pending committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (1):

- Resolution

RESOLUTION 20-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE NCPA GEOTHERMAL FACILITY WILDFIRE MITIGATION PROJECT**

(reference Staff Report #XXX:20)

WHEREAS, the Northern California Power Agency (NCPA) operates and maintains on behalf of the project owners a Geothermal Facility near Middletown, CA, consisting of two power plants with containment areas and 78 steam production and injection wells; and

WHEREAS, the occurrence of wildfires in the areas surrounding the NCPA Geothermal Facility has substantially increased over the last several years; and

WHEREAS, the increased fire risk to the NCPA Geothermal Facility warrants additional wildfire mitigation efforts to reduce the risk; and

WHEREAS, an assessment of NCPA facilities was performed by Power Engineers resulting in these recommendations for additional wildfire mitigation efforts to reduce risk, consisting of repairs and surveys to the 230 KV transmission towers and 21 KV power distribution line, purchase of vehicles for power line inspection and vegetation management, and improved signage to assist local firefighting crews; and

WHEREAS, staff recommends using a portion of excess bond Reserve funds that were released when the final maturity of the 2009 Geothermal bonds was paid on July 1, 2019. The Reserve fund release was approximately \$3.5 million, which would have been included as part of the FY 2020 annual settlements reconciliation; and

WHEREAS, this proposal is exempt from the provisions of the California Environmental Quality Act pursuant to Title 14 CCR Section 15301, Section 15302, Section 15304, Section 15309, Section 15311, and Section 15330 of the CEQA Guidelines Code, which exempts work being done at an existing, publicly owned geothermal facility at the Geysers steam field to operate and maintain electric power generators and associated facilities from the provisions of the California Environmental Quality Act; and,

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency approves the NCPA Geothermal Facility Wildfire Mitigation Project, and delegates authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$450,000.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2020 by the following vote on roll call:

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

ROGER FRITH
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY