



651 Commerce Drive
Roseville, CA 95678

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

Facilities Committee Meeting Agenda

Date: March 6, 2024
Subject: NCPA Facilities Committee Meeting
Location: NCPA, 651 Commerce Drive, Roseville, California 95678 // Conference Call
Time: 9:00 am

****In compliance with the Brown Act, you may participate via teleconference at one of the meeting locations listed below or attend at NCPA Headquarters. In either case, please: (1) post this Agenda at a publicly accessible location at the participation location no later than 72-hours before the meeting begins, and (2) have a speaker phone available for any member of the public who may wish to attend at your location.****

NCPA, 651 Commerce Drive, Roseville, CA 95678 (916) 781-3636

ALAMEDA MUNICIPAL PWR 2000 Grand St., Alameda, CA	BAY AREA RAPID TRANSIT 2150 Webster Street, 1 st Floor, Oakland, CA	CITY OF BIGGS 3016 Sixth Street, Biggs, CA
CITY OF GRIDLEY 685 Kentucky Street, Gridley, CA	CITY OF HEALDSBURG 401 Grove Street, Healdsburg, CA	CITY OF LODI 1331 S. Ham Lane, Lodi, CA and 221 W. Pine Street, Lodi, CA
CITY OF LOMPOC 100 Civic Ctr. Plaza, Lompoc, CA	CITY OF PALO ALTO 250 Hamilton Avenue, 3 rd Floor Palo Alto, CA	PLUMAS-SIERRA REC 3524 Mulholland Way, Sacramento CA
PORT OF OAKLAND 530 Water Street, Oakland, CA	CITY OF REDDING 3611 Avtech Pkwy., Redding, CA	CITY OF ROSEVILLE 2090 Hilltop Circle, Roseville, CA
CITY OF SHASTA LAKE 3570 Iron Court, Shasta Lake, CA	SILICON VALLEY POWER 881 Martin Ave., Santa Clara, CA	TURLOCK IRRIGATION DISTRICT 333 E. Canal Drive, Turlock, CA
CITY OF UKIAH 300 Seminary Ave., Ukiah, CA		

The Facilities Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears as a Discussion/Action Item or a Report or an Information Item. When this Agenda is supplemented by Staff Reports, they are available to the public upon request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA Offices, 651 Commerce Drive, Roseville, California, or www.ncpa.com.

Persons requiring accommodations 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 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. Any member of the public who desires to address the Committee on any item within the jurisdiction of the Committee and not listed on the Agenda may do so at this time.

OPEN SESSION

DISCUSSION / ACTION ITEMS

2. **Approval of Minutes** – Approve minutes from the February 7, 2024 Facilities Committee meeting.
3. **All NCPA Facilities, Members, SCPPA – Trimark Associates, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Trimark Associates, Inc. for miscellaneous meter maintenance, operations, data, and related design engineering services, with a not to exceed amount of \$2,000,000, 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: Generation Services Administration*)
4. **All NCPA Facilities, Members, SCPPA – Ulteig Operations, LLC MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Ulteig Operations, LLC for miscellaneous meter maintenance, operations, data, and related design engineering services, with a not to exceed amount of \$2,000,000, 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: Generation Services Administration*)
5. **All NCPA Facilities, Members, SCPPA – GEI Consultants Inc. MTPSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Professional Services Agreement with GEI Consultants, Inc. for dam safety engineering related services, with a not to exceed amount of \$5,000,000, 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: Hydro*)
6. **All NCPA Facilities – PME Babbitt Bearings Second Amendment to MTGSA** – Staff is seeking a recommendation for Commission approval of a Second Amendment to the five-year Multi-Task General Services Agreement with PME Babbitt Bearings for off-site maintenance and labor services, increasing the not exceed amount from \$235,000 to \$750,000, with no change to the contract term, for continued 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: Geo*)
7. **NCPA Geothermal Facility – California Exterminators Alliance First Amendment to MTGSA** – Staff is seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task General Services Agreement with California Exterminator Alliance for pest control and weed abatement services, increasing the not to exceed amount from \$225,000 to \$500,000, with no

change to the contract term, for continued use at NCPA's Geothermal Facility. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Geo*)

8. **NCPA Geothermal Facility – Bureau of Land Management License Renewals** – Staff is seeking a recommendation for Commission approval to execute Site License Agreement CACA 5084 (NCPA 1) and Site License Agreement CACA 13308 (NCPA 2) with the Bureau of Land Management to allow NCPA to continue to operate and maintain the geothermal power plants, with any non-substantial changes recommended and approved by the NCPA General Counsel, for a period of thirty years. (*Commission Category: Consent; Sponsor: Geo*)
9. **Transmission Owner Rate Case Program Agreement** – Staff is seeking a recommendation for Commission approval of the Transmission Owner Rate Case Program Agreement. (*Commission Category: Discussion/Action; Sponsor: Power Management*)
10. **NCPA Geothermal Facility – First Amendment to Resolution 22-93 for the NCPA Geothermal Plant 1 Cooling Tower Refurbishment Project** – Staff is seeking a recommendation for Commission approval of the First Amendment to Resolution 22-93 additional funds of \$1,741,353 for the Geothermal Plant 1 Cooling Tower Refurbishment 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 an updated total not to exceed cost of \$4,600,000, with \$1,800,000 of the project funds contingent upon future approval of the FY25 budget, and approval to spend up to \$150,000 from the planned FY24 Maintenance Reserve fund and to spend up to \$150,000 from the contingent FY25 Maintenance Reserve fund. (*Commission Category: Discussion/ Action; Sponsor: Geo*)
11. **NCPA Preliminary Studies and Investigations Procedure (GS-201)** – Staff is seeking a recommendation for Commission approval of the NCPA Preliminary Studies and Investigations (PS&I) Procedure (GS-201). (*Commission Category: Discussion/Action; Sponsor: Generation Services Administration*)

INFORMATIONAL ITEMS

12. **New Business Opportunities** – Staff will provide an update regarding new business opportunities. (*Sponsor: Power Management*)
13. **Proposed FY2025 Annual Budget Review** – Staff will present and review the draft budget for FY2025, and will be asking for additional Member input for final recommendations for Commission approval in April. (*Sponsor: Administrative Services*)
14. **NextEra Grace Solar Project** – Staff will provide an update regarding negotiations of the PPA and Third Phase Agreement for the NextEra Grace Solar Project. (*Sponsor: Power Management*)
15. **NCPA Generation Services Plant Updates** – Plant Staff will provide the Committee with an informational update on current plant activities and conditions. (*Sponsor: Generation Services*)
16. **Planning and Operations Update** – Staff will provide an update on issues related to planning and operations. (*Sponsor: Power Management*)
17. **Next Meeting** – The next Facilities Committee meeting is scheduled for April 3, 2024.

ADJOURNMENT

SS/cap



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Minutes

To: NCPA Facilities Committee

From: Carrie Pollo

Subject: February 7, 2024 Facilities Committee Meeting Minutes

1. **Call meeting to order & Roll Call** – The meeting was called to order by Committee Chair Shiva Swaminathan (Palo Alto) at 9:05 am. Attending via teleconference and on-line presentation were Midson Hay and Chris Ferrara (Alameda), Yuliya Shmidt (BART), Josh Cook (Biggs), Brad Wilkie (Lompoc), Nick Rossow (Redding), and Monica Nguyen and Basil Wong (Santa Clara). Peter Lorenz (non-voting Representative with TID) also attended via teleconference and on-line presentation. Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from Gridley, Healdsburg, Plumas-Sierra, Port of Oakland, Shasta Lake, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

2. **Approval of Minutes from the December 6, 2023 and the January 3, 2024 Facilities Committee meetings.**

Motion: A motion was made by Brad Wilkie and seconded by Brian Jiayo Chiang recommending approval of the December 6, 2023 and the January 3, 2024 Facilities Committee meetings. A vote was taken by roll call: YES = Alameda, BART, Biggs, Lodi, Lompoc, Palo Alto, Redding, Roseville, and Santa Clara. The motion passed.

- **Catalina Sanchez (Gridley) joined the meeting prior to the presentation of the next item.**

3. **All NCPA Facilities, Members, SPPA – American Power Systems, LLC MTGSA** – Staff presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with American Power Systems, LLC for battery testing related services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SPPA, and SPPA Members.

This is a current NCPA vendor whose agreement is expiring. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has agreements in place for similar

services with Exponential Power, LLC and Nor-Cal Battery Co. A draft Commission Staff Report and agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Brian Schinstock and seconded by Monica Nguyen recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with American Power Systems, LLC for battery testing related 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 any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. A vote was taken by roll call: YES = Alameda, BART, Gridley, Lodi, Lompoc, Palo Alto, Redding, Roseville, and Santa Clara. The motion passed.

4. **All NCPA Facilities, Members, SCPPA – KW Emerson, Inc. MTGSA –** Staff presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with KW Emerson, Inc. for routine asphalt, concrete, dam patching and other related maintenance services, 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 current NCPA vendor whose agreement is expired. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has agreements in place for similar services with Capital Industrial Restoration, Ford Construction, Epidendio Construction, Inc., Granite Construction Co., Gold Electric, Inc. and Syblon Reid. A draft Commission Staff Report and agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Shiva Swaminathan and seconded by Brad Wilkie recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with KW Emerson, Inc for general maintenance related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Redding, Roseville, and Santa Clara. The motion passed.

5. **All NCPA Facilities, Members, SCPPA – Alliance Cooling Products and Construction, Inc. First Amendment to MTGSA –** Staff presented background information and was seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc. for miscellaneous maintenance services, increasing the not to exceed amount from \$1,000,000 to \$6,000,000, with no change to the contract term, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

NCPA entered into a five-year Multi-Task General Services Agreement with Alliance Cooling Products and Construction, Inc., effective March 25, 2022, for an amount not to exceed \$1,000,000, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

NCPA has upcoming work for which Alliance Cooling Products and Construction, Inc. will be a potential bidder. This agreement does not have enough funds remaining for this potential work. NCPA now desires to enter into a First Amendment to the Multi-Task General Services agreement to increase the not-to-exceed amount from \$1,000,000 to \$6,000,000 to ensure sufficient funds are available should this vendor be the successful bidder on this or any future work. Exhibit B – Compensation Schedule and Hourly Fees will also be amended as requested by the vendor to reflect an increase in labor costs. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has agreements in place for similar services with EvapTech, Inc., American Cooling Tower, Inc., and Energy Options, Inc.

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 Alliance Cooling Products and Construction, Inc. for maintenance services, including cooling tower structures and equipment, stretford systems, buildings, structures, fiberglass piping, and other miscellaneous maintenance, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$1,000,000 to \$6,000,000 and amending Exhibit B – Compensation Schedule and Hourly Fees, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Redding, Roseville, and Santa Clara. The motion passed.

6. NCPA Casualty Insurance Renewals – Staff presented background information and was seeking a recommendation for Commission approval to renew the Agency's excess liability, worker's compensation, and automobile insurance programs for March 2024 to March 2025.

Alliant Insurance Services has aggressively marketed the primary liability program to ensure best-in-class pricing, terms, and conditions. Staff diligently answered questions and provided supporting data to keep premium increases to a minimum.

In November 2023, AEGIS shifted its position on wildfire surcharges and rating for the remainder of 2023 and all subsequent 2024 renewals. For 2024, AEGIS anticipated rate increases from 8-10%, as announced at the annual policyholder conference, but then increased anticipated rate increase guidance upwards to 10-13% as the renewal period approached. In addition, AEGIS is shifting from a wildfire "surcharge", which would proactively fund for a loss and not be subject to annual book trend increases, to including wildfire coverage within the overall premium and imposing a rate lift on the combined premium. Due to increased loss frequency and severity driven by wildfires, AEGIS is increasing wildfire rates across the membership by at least 25% and up to 40% for those in wildfire-prone states. There are continued material cost impacts in securing wildfire liability capacity, particularly in California. The City of Lompoc was threatened to not get any wildfire insurance coverage.

Due to the hardening market, inflationary pressures, and increased loss frequency and severity, the remaining lines of the Excess Tower, not including Workers' Compensation Insurance, will see premium increases between 17% and 31%, resulting in a premium of approximately \$2,200,000. Staff, however, recommends establishing a not-to-exceed of \$2,265,000 to provide sufficient headroom for the General Manager to bind coverage should any unexpected changes occur.

Motion: A motion was made by Brad Wilkie and seconded by Shiva Swaminathan recommending Commission approval authorizing the General Manager or his designee to negotiate and bind the Casualty Insurance program for the term starting March 1, 2024, and ending March 1, 2025, at a not-to-exceed premium of \$2,500,000 for the Northern California Power Agency and Lodi Energy

Center. A vote was taken by roll call: YES = Alameda, BART, Gridley, Lodi, Lompoc, Palo Alto, Redding, Roseville, and Santa Clara. ABSTAIN = Biggs. The motion passed.

➤ **Cindy Sauers (Ukiah) joined the meeting prior to the presentation of the next item.**

- 7. Nexant Cost Allocation Model Billing Determinants for FY 2025** – Staff presented background information and was seeking a recommendation for Commission approval of the billing determinants that will be used in the FY 2025 Nexant Cost Allocation Model. This review does not include FY 2025 budget amounts and does not include offsetting Power Management Services revenues.

In preparation for FY 2025, the Nexant model uses the previous year's calendar year data for 2023 as determinants for use as allocators for Members' budget costs. Determinants include resource data such as nameplate and maximum operating capacity values, Day Ahead, Hour Ahead and real time energy and ancillary service schedules used internally within NCPA and those sent to the CAISO in addition to intertie schedules, inter-SC trades, load meter data, contract deals, etc. There are no changes proposed to the Nexant Model for FY 2025.

The indicative, allocated results for FY 2023 indicate the biggest increases to Lompoc, Palo Alto and Alameda, by approximately 18.51%, 6.46%, and 6.42% respectively, with the final updated CY 2023 determinants. Members with the biggest decreases include Port of Oakland, TID, and Gridley at 27.32%, 17.70%, and 15.16% respectively. Other Members allocated amounts remained relatively flat. Staff reviewed the underlying operational data, and provided an analysis regarding the cost drivers that resulted in the relative percentage changes in the allocations to Members. The Nexant gross costs to Participating Members for new resources was also reviewed. It is recommended to place this item on the Commission Consent calendar.

Motion: A motion was made by Brian Schinstock and seconded by Shiva Swaminathan recommending Commission approval of the Nexant Model cost allocations based on updated CY 2023 bill determinants and updated Step 2 allocation parameter values for use as weights to allocate budgeted Power Management, Risk Management, Settlements, and Information Services costs to Members. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and Ukiah. ABSTAIN = Redding. The motion passed.

- 8. Approval of Letter of Agreement 24-SNR-XXXXX** – Staff provided background information and was seeking a recommendation for Commission approval of Letter of Agreement 24-SNR-XXXXX (WAPA 2024 REC Program) between Western Area Power Administration (WAPA) and Northern California Power Agency (NCPA).

Certain resources in the CVP Project are RPS eligible. WAPA utilizes a voluntary REC program to distribute RECs to Base Resource customers. A Letter of Agreement (LOA) sets forth rules and requirements for the program. The LOA is renewed every year. By April 1, 2024, Base Resource customers will have to elect to participate in the CY 2024 WAPA REC Program. NCPA has participated in the program on behalf of the Pool Members in the past. Palo Alto has elected to participate in the program separately. Cost for participation is limited to REC transfer costs, and other administrative costs passed-through by WAPA. Historically the cost is less than \$10,000 per year.

Motion: A motion was made by Jiayo Chiang and seconded by Brad Wilkie recommending Commission approval of the 2024 REC Program Letter of Agreement, and to authorize the General Manager of NCPA to execute the 2024 REC Program Letter of Agreement on behalf of NCPA, including any non-substantive modifications to the 2024 REC Program Letter of Agreement approved by NCPA's General Counsel. A vote was taken by roll call: YES =

Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Santa Clara, and Ukiah. ABSTAIN = Redding and Roseville. The motion passed.

9. Transmission Owner Rate Case Program Agreement – Staff provided background information and was seeking a recommendation for Commission approval of the Transmission Owner Rate Case Program Agreement.

NCPA has been directed by the Commission to establish facilities, staff, and the capability to act on behalf of Members who elect to participate (Participants) to engage in certain activities pertaining to proceedings that effect transmission costs directly, indirectly, and in conjunction with legal counsel and subject matter experts. In response to this direction, NCPA has developed the Transmission Owner Rate Case Program Agreement (Program Agreement) to provide such services to the Participants. The Program Agreement establishes the terms and conditions under which NCPA will supply the Services. The Program Agreement will be deemed a Special Conditions Services Agreement (Services Agreement) under the Power Management and Administrative Services Agreement (PMASA) by the Commission. As such, many of the general Program Agreement terms and conditions will defer to the PMASA, or to the standard provisions contracted in many other NCPA services agreements which are very similar to the PMASA.

The Scope of Services shall include engaging in certain activities, either directly, indirectly, or in conjunction with legal counsel and subject matter experts, pertaining to proceedings that effect the CAISO transmission costs, or other transmission costs as may be applicable, to protect Participating Member interests, representing the interests of the Participants by monitoring, analyzing, and participating in TO rate cases before FERC and any related judicial appeals, engaging in other related filings and industry developments that affect the cost or provision of transmission service under TO rate cases, and engaging in other transmission costs related activities as may be approved by the Participants.

The Commission is responsible for general administration of the Program Agreement, but the Program Agreement specifically delegates the provision of Services and normal day-to-day engagement to the General Manager of NCPA. The General Manager, or their designee, will be responsible for providing Services and all day-to-day activities. Formal actions of the Commission shall occur at a Commission meeting, and actions will require an affirmative vote of eighty percent (80%) or more of the Participants. An annual budget for the program will be approved by the Commission each fiscal year as part of the regular NCPA budget process. Actions for Commission consideration can be referred to the Facilities Committee for review. Authority to update or change the Program Participant Percentages is delegated to the Commission; and would not trigger further Member action.

The general consensus of the Committee is to move forward with this Program Agreement. Members feel this is absolutely the right thing to do. This agreement will be going through the Legal Committee for review. This item will be brought back in March for final approval and a recommendation for Commission approval. Please contact staff with comments regarding this agreement.

10. NCPA Hydroelectric Facility – Lake Alpine Handrails and Walkway Replacement Project –

Staff provided background information and was seeking a recommendation for Commission approval authorizing the Lake Alpine Handrail and Walkway Replacement Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders and change 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 \$1,690,000, and authorizing \$235,000 from the approved FY24 budget and the remaining \$1,455,000 collected in the FY25 Hydroelectric budget. A FEMA

claim has been submitted and if any collections are received, funds will be refunded during the final settlements for the fiscal year they were received.

NCPA operates the Upper Utica Hydroelectric Project (FERC Project No. 11563) on behalf of the project owners. One of the project features is Lake Alpine Dam located at Lake Alpine, approximately two miles Northeast of Bear Valley in Alpine County. The Lake Alpine Dam has an integral handrail and walkway system which was severely damaged in the winter of 2022-2023 due to heavy snow loads. The irreparable handrails require removal and replacement to restore safe access to the dam. The Federal Energy Regulatory Commission (FERC) and California Division of Safety of Dams (DSOD) have determined that the removal and replacement work is routine maintenance and therefore no permits are required. Site work is planned for June through August 2024.

The total cost of the Lake Alpine Handrail and Walkway Replacement Project is estimated to be \$1,690,000 which includes maintenance work, engineering and inspection services during the project, and contingency funds. This Project will be funded using \$235,000 of the available FY24 budget and the remaining \$1,455,000 collected in the FY25 Hydroelectric budget. A breakdown of project costs is included in the table below.

Funding	Amount
Maintenance P.O.	\$1,322,810
Engineering Services During Work (12%)	\$159,000
Contingency (14%)	\$208,190
Total	\$1,690,000

FEMA has indicated that this project is a candidate for reimbursement. NCPA staff provided the FEMA inspection team with an inspection tour of the site on September 18, 2023, and continues to work closely with FEMA providing responses to all of their requests for information. If any FEMA collections are received, they will be refunded during the final settlements for the fiscal year they were received.

Motion: A motion was made by Brad Wilkie and seconded by Basil Wong recommending Commission approval authorizing the Lake Alpine Handrail and Walkway 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 \$1,690,000, and authorizing \$235,000 from the approved FY24 budget and the remaining \$1,455,000 collected in the FY25 Hydroelectric budget. A FEMA claim has been submitted and if any collections are received, funds will be refunded during the final settlements for the fiscal year they were received. Facilities Committee requests NCPA staff add a discussion of the potential benefits and risks of filing a claim with NCPA's insurance company for Commission consideration and potential action. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Roseville, and Santa Clara. ABSTAIN = Redding. The motion passed.

- 11. NCPA Hydroelectric Facility – FERC 2409 Part 12 Independent Consultant Inspection (IC) Project** – Staff provided background information and was seeking a recommendation for Commission approval authorizing the FERC 2409 Part 12 Independent Consultant (IC) Inspection Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders and change 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 \$709,500, and authorizing \$70,950 from the approved FY24 budget and the remaining \$638,550 collected in the FY25 Hydroelectric budget.

NCPA operates the North Fork Stanislaus Hydroelectric Project (FERC Project No. 2409) on behalf of the project owners. New Spicer Meadow Dam and McKays Point Diversion Dam are the two dams in Project 2409 that require Part 12 reviews. Every five years, FERC Projects are required to retain the services of a qualified, and FERC-approved, independent dam safety engineering consultant(s) (IC) to conduct Part 12 inspections. On November 11, 2023, FERC issued a letter requiring McKays Point Periodic Part 12 Inspection (PI) due by April 2025 and the New Spicer Meadows Comprehensive Assessment (CA) due by June 2025. The New Spicer CA will be the first performed by NCPA, whereas the McKays 5-year PI is considered more routine. NCPA staff has already commenced the collection and sorting through 1980's construction files which will be utilized for the deep study effort associated with the new CA.

The total cost of the FERC 2409 Part 12 Independent Consultant (IC) Inspection Project is estimated to be \$709,500 which includes research, dam safety engineering, inspections, workshops, risk analyses, and reporting. In order to meet the FERC deadlines of April and June 2025, this Project will be funded using \$70,950 of available resources in the FY24 budget and the remaining \$638,550 collected in the FY25 Hydroelectric budget. FERC issued new regulations to NCPA on November 11, 2023, and provided clarifying review schedule timelines during a mandatory pre-bid FERC-Licensee conference call on January 11, 2024 which necessitates the issuance of a FERC Part 12 IC inspection contract in early March 2024 in order to maintain FERC regulatory compliance. A breakdown of project costs is included in the table below.

Funding	Amount
Part 12 (IC) Contract Estimate	\$645,000
Contingency (10%)	\$64,500
Total	\$709,500

Motion: A motion was made by Brian Schinstock and seconded by Basil Wong recommending Commission approval authorizing the FERC 2409 Part 12 Independent Consultant (IC) Inspection 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 \$709,500, and authorizing \$70,950 from the approved FY24 budget and the remaining \$638,550 collected in the FY25 Hydroelectric budget. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Roseville, and Santa Clara. ABSTAIN = Redding. The motion passed.

- 12. NCPA Geothermal Facility – Fourth Amendment to Resolution 21-109 for the NCPA Geothermal Plant 2, Unit 4 Overhaul Project** – Staff provided background information and was seeking a recommendation for Commission approval of the Fourth Amendment to Resolution 21-109 for the NCPA Geothermal Plant 2, Unit 4 Overhaul Project, increasing the total not to exceed amount of this project from \$7,400,000 to \$7,591,623 for settlement of the final invoice to close out the project.

Throughout this project, numerous issues arose, resulting in extra delays and financial impacts. Among the items that NCPA was tracking and estimating were the extended oil flush duration and delay impacts due to the crane breaking. RTS did not indicate a change order was needed for these items, and NCPA estimated these costs would be within budget, as there was still a small

amount remaining. Most of this outstanding work was billed on a Time and Materials basis, the final costs of which were not yet calculated. RTS continued to proceed with work, and exceeded the authorized purchase order amount without authorization from NCPA.

When RTS calculated the final costs, the billing exceeded authorization by 2.6%, or \$191,623. NCPA conducted a detailed review of these costs with RTS and is satisfied that the charges are all valid. That RTS worked at risk over the authorized budget amount was a benefit to the NCPA Geo project members. Had RTS informed NCPA of this issue in advance, NCPA would have had to stop work and request additional funding through special meetings. A stop work would have had one of two detrimental impacts: 1) a demobilization and then a subsequent remobilization, or 2) payment of standby charges. In addition, at this time, the Geo margin was running approximately \$130k per day, and this would have been lost for each day of delay added.

The work is now complete and the unit was returned to service on December 19, 2023. NCPA staff is now requesting to increase the project not to exceed amount from \$7,400,000 to \$7,591,623 to account for the 2.6% of valid charges for the work performed in excess of the authorized amount.

These charges were double checked by staff and validated. Basil Wong (Santa Clara) thanked the staff for the additional information, and their time and effort into this matter.

Motion: A motion was made by Basil Wong and seconded by Brian Schinstock recommending Commission approval of the Fourth Amendment to Resolution 21-109 for the NCPA Geothermal Plant 2 Unit 4 Overhaul Project increasing the total not-to-exceed amount of this project from \$7,400,000 to \$7,591,623 for settlement of the final invoice to close out the project. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Roseville, and Santa Clara. ABSTAIN = Redding. The motion passed.

- 13. Resolution Commending Alan Harbottle –** Adopt a resolution by all Facilities Committee Members commending the service of Alan Harbottle, acting in the role of Facilities Committee Chair during Calendar Year 2023.

Motion: A motion was made by Midson Hay and seconded by Basil Wong recommending approval of the Resolution commending Alan Harbottle as the 2023 Facilities Committee Chair. A vote was taken by roll call: YES = Alameda, BART, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Redding, and Roseville. The motion passed.

INFORMATIONAL ITEMS

- 14. New Business Opportunities –** Staff provided an update regarding new business opportunities.

City of Pasadena RFP – Staff was approached by the City of Pasadena regarding this RFP for Power Management services including same day and day ahead scheduling and resource management, daily and intraday gas scheduling and trading, joint resource scheduling, credit services, risk management, and reporting services. This would be a benefit to Members as well as additional revenue and is interconnected in the CAISO BAA. The RFP is due February 29, 2024. The City of Pasadena data provided includes 320 MW historic peak load with 1.1 million MWh annual energy consumption. The portfolio includes gas-fired, large and small hydro, coal, nuclear, solar, wind geothermal and landfill gas. Ownership of the project is Glenarm Power Plant, a share of Magnolia Power Plant.

Grace Solar Update – Staff is currently in negotiations with NextEra. A draft PPA is being considered by both parties. Member interest includes Biggs, Gridley, Healdsburg, Lodi, Lompoc, Port of Oakland, Plumas-Sierra, Shasta Lake, Ukiah, and Santa Clara.

Sunrise Energy – McCloud Solar Project – This is a 140 MW Solar PV Project with BESS option located in NP15 at Corning, CA. Solar is energy only, with the BESS deliverability pending. Solar PV is a 25-year term with the BESS a 15-year term. Estimated COD is 2029. This project is part of Cluster 14. Phase 1 has been completed. Interconnection is through CAISO BAA with a possible BANC interconnection.

RAI Energy – Wildcat Energy Farm – This is a 100 MW Solar PV Project with a BESS option. It's located in IID and delivered to SP15. Estimated COD is 9/1/2026 with a 20year term. Dynamic/Pseudo scheduled into CAISO BAA at SP15.

- 15. NCPA Preliminary Studies and Investigations Procedure** – Staff presented an updated copy of the proposed NCPA Preliminary Studies and Investigations (PS&I) Procedure (GS-201) to the Committee for review and comment.

In March 2023 the NCPA Commission directed NCPA to establish a Preliminary Studies and Investigations (PS&I) budget account and procedure to fund such activities towards new projects that might be of interest to members. On January 3, 2024, NCPA proposed both a PSI procedure and two potential transmission projects to the Facilities Committee. Neither moved forward, the Facilities Committee requested clarification on the PS&I process and intent. This item was brought to the NCPA Commission meeting on January 18, 2024 for further clarification and discussion. Clear control points are now in place for the funding of potential project investigations.

Conceptual projects will be brought to the Facilities Committee and Utility Director's for review and to seek a recommendation for Commission approval to move forward with studies for a new project. This is Phase 0. If the project does not move forward into Phase II after the studies, the PS&I budget account pays for the studies, and all members pay for the studies. If the project moves into Phase II then the interested members are allocated accordingly to pay for the project. This item will be brought back in March to seek a recommendation for Commission approval of the PS&I procedure.

- 16. NCPA Facilities – Plant Decommissioning Studies** – Staff shared a presentation regarding CT and Geo Plant Decommissioning studies.

Information related to the CT1 Lodi, the CT1 Alameda, the CT2 STIG, and Geo decommissioning studies were shared with the Committee. Initial studies were done in 2016 with escalation costs, and refreshed in 2023 with no escalation costs provided. A detailed decommissioning and demolition plan is needed for all site-specific activities. Direct costs include physical labor and time to teardown the equipment. Indirect costs include engineering plans, temporary construction, equipment rentals, and construction management. Scrap value was also estimated with no resale of equipment. The approximate cost for decommissioning CT1 Lodi is \$9,117,000, CT1 Alameda is \$21,876,000, the CT2 STIG is \$20,395,000, and Geo is \$89,248,000. A conservative rate is assumed due to contract-specific nature. These costs will be rolled into future budgets starting in FY 2026 over a 10-year forecast. Staff will update the Committee as necessary.

- 17. NCPA Generation Services Plant Updates** – Plant Staff provided the Committee an update on current plant activities and conditions.

CTs – CT1 had 5 starts of 0 forecasted. FYTD total is 62 starts. CT2 had 0 starts of 0 forecasted. FYTD total is 27 starts.

- **Outages**

- **CT1 Lodi** – Annual maintenance outage from January 1 – 30, 2024

- **CT1 Alameda U1/U2** – AT&T telemetry outage January 2 – 3, 2024 due to a section of AT&T cables that were cut. Both units were force out January 27 – 28, 2024 due to an initial spike followed by low gas pipeline pressure indication. Everline found their gas pipeline monitoring pressure transducer malfunctioning. The meter was rebuilt and placed back into service.
- **CT2 STIG** – AT&T telemetry outage January 3, 2024 due to a section of AT&T cables that were cut.
- **CT1 Lodi Run Hours**
 - YTD hours 5.43 of 200 Allowed (based on calendar year)
- **CT1 Alameda Diesel Hours**
 - U1= 4.98 hrs. of 42 (during any consecutive 12-month period)
 - U2= 3.54 hrs. of 42 (during any consecutive 12-month period)
- **Safety and Environmental**
 - No safety issues to report
 - No environmental issues to report – Alameda U1 & U2 Bi-annual emissions testing Feb 13 & 14
- **2024 Planned Outages**
 - CT2 STIG- 4/1/24 thru 4/30/24
 - CT1 Alameda U1/U2- 5/1/24 thru 5/31/24

Staff reviewed the CAISO Commitment Runs for January 2024 and shared outage photos with the Committee.

Geo – There were no safety incidents for the month of January. A tour of the Geo project was provided to University of Seoul, South Korea students on January 30, 2024. The average net generation for the month of January was 50.2 MW. The total net generation was 27.3 GWh. CY 2024 net generation goal = 743.8 GWh. CY forecast net generation goal was 434.3 GWh. The CY actual net generation was 298.9 GWh at 31.2% below the forecast due to the recent unit outages at Geo. RTS was back on-site January 9, 2024 for the Unit 1 and 2 overhauls. Photos were shared with the Committee of the progress on both overhauls. The turbine rotor and diaphragms were pulled and shipped to the RTS shop for repairs for Unit 2. Unit 2 is also undergoing transformer repairs. The Unit 1 diaphragms and seals have been returned to the plant. Still waiting on the turbine rotor. The A-site condensate tank was replaced during the month. Cooler tower fill replacement is also on site at Geo.

Hydro – Collierville (CV) Power House and New Spicer Meadows (NMS) Power House were at 100% availability during the month of January. The monthly generation profiles for CV and NMS were shared with the Committee. Precipitation for January was over half of average. February has started very well during the first week. Average precipitation is at 69%, with the snow water content at 75% now. NMS just received 48” of new snow.

New Spicer Meadows Reservoir Storage

- 1,544-acre feet decrease (2%) month-over-month
- 92,649-acre feet to 91,105-acre feet
- Optimizing stored water – Spicer drafts at minimums

18. Planning and Operations Update

- Resource Integrations
 - Lodi Strategic Reserve Resource – Feb 2024
 - Scarlet Solar / BESS – Mid-2024
 - Proxima Solar / BESS – Mid-2024
- SCPA SC Transition Activities – April 1, 2024
- Resource Development
 - ZWEDC – negotiations complete
 - Grace Solar Project – active negotiation

- Wildcat Solar Project – active proposal
- Sunrise Energy – active proposal
- NCPA working to refresh Renewable RFP – Q1 2024
 - Influenced by IARP presented to the Commission in January 2024
- Ongoing daily operational activities

NCPA Program Agreements Update

- NCPA supplies Power Management and Administrative Services to Members using a number of Service Agreements
- In the recent past, the NCPA Commission adopted a resolution approving a revised methodology for calculating certain Member Security posting requirements
- Certain Service Agreements that contain this Security posting requirement will now need to be amended to reflect this adopted methodology
- The following Services Agreements are in this scope:
 - SCPA, MPP, GPP, SMSA
- Next Steps – Staff will work to distribute draft documents for review during the next few months

19. Next Meeting – A Special Joint Facilities and Finance Committee meeting is scheduled for February 14, 2024 to review the FY 2025 Budget. The next regular Facilities Committee meeting is scheduled for March 6, 2024.

ADJOURNMENT

The meeting was adjourned at 2:00 pm by the Committee Chair.

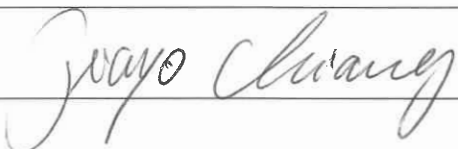

**Northern California Power Agency
February 7, 2024 Facilities Committee Meeting
Attendance List**

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

[illegible]

**Northern California Power Agency
February 7, 2024 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	
SHASTA LAKE	
TID	
UKIAH	



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: Trimark Associates Inc. – Five Year Multi-Task General Services Agreement for Miscellaneous Meter Maintenance, Operations, Data, and Related Design Engineering Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

Approve Resolution 24-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Trimark Associates, Inc. miscellaneous meter maintenance, operations, data, and related design engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

BACKGROUND:

Miscellaneous meter maintenance, operations, data, and related design engineering 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 SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Ulteig Operations, LLC.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$2,000,000 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 needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from qualified providers as required. Bids are awarded to the vendor providing the best overall 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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On March 11, 2024 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 24-XX
- Multi-Task General Services Agreement with Trimark Associates, Inc.

RESOLUTION 24-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH TRIMARK ASSOCIATES, INC.

(reference Staff Report XXX:24)

WHEREAS, miscellaneous meter maintenance, operations, data, and related design engineering 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, by the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Trimark Associates, Inc. is a provider of these services; and

WHEREAS, the NCPA Commission has reviewed the Multi-Task General Services Agreement with Trimark Associates, Inc. to provide such services as needed at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members; and

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

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

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY



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

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Trimark Associates, Inc., a California corporation with its office located at 2365 Iron Point Rd #100, Folsom, CA 95630 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2024 ("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 equipment, materials, and supplies ("Goods") described in the Scope of Work attached hereto as Exhibit A and incorporated herein (both services and Goods collectively referred to as "Work" herein). Contractor shall be responsible at its sole expense for delivering the Goods, as further specified herein, to the specified Project Site, DDP, and title shall not pass until the Agency accepts delivery at the Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 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** TWO MILLION dollars (\$2,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices.

For Services: 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.

For Goods: Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for Goods delivered prior to the invoice date. Contractor shall include the number of the Purchase Order which authorized the Goods for which Contractor is seeking payment.

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

4.4 Cyber Risk Liability. Contractor shall maintain cyber risk liability insurance with an aggregate limit of not less than \$1,000,000, with a self-insured retention or deductible of no more than \$100,000. Such insurance shall cover any and all errors, omissions or negligent acts arising in or connected with the performance of the Scope of Work under this Agreement. Such cyber risk liability insurance shall include, but not be limited to, coverage of claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, spread of virus, denial of service, etc.), failure to supply, and intellectual property infringement (such as copyrights, trademarks, service marks and trade dress). No exclusions shall be listed within the policy for unencrypted, media or portable devices. Notwithstanding any other provision of this Agreement, if coverage is provided on a claims-made form, Contractor shall purchase and maintain a two-year extended reporting period coverage following termination of this Agreement only in the event that the policy is canceled or non-renewed.

4.5 Pollution Insurance. Not Applicable.

4.6 All Policies Requirements.

4.6.1 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.

4.6.2 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.

4.6.3 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.

4.6.4 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 and 4.5.5, 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.

4.7 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 for General Services.** 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 (together, "Damages") to the proportionate extent such Damages arise out of or are in connection with any acts or omissions 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.
- 5.2 Scope for Professional Services.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.
- 5.3 Transfer of Title.** Not Applicable.
- 5.4 Limitation of Liability.** Contractor's total aggregate liability under this Agreement shall not exceed one million dollars for all work not covered by the insurance provided in Section 4 of this Agreement. Provided that the foregoing limitations shall not apply with respect to Contractor's Professional Services indemnity obligations or Agency's indemnity obligations hereunder
- 5.5 Consequential Damages.** Other than third party personal injury and property damages where NCPA employees are considered third parties, neither party shall be liable to the other party for any consequential, exemplary, special, indirect, incidental or punitive damages (including any damages on account of lost profits or opportunities or business interruption and the like), whether by statute, in contract, in tort, strict liability, or otherwise, and Agency hereby expressly releases Contractor therefrom.

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. Notwithstanding anything to the contrary, no prior consent shall be required in connection with the assignment or transfer by either Party of this Agreement as a whole, and all of its rights and obligations hereunder, in connection with the sale of all or substantially all of a Party's assets, whether by way of merger, acquisition of stock or assets, consolidation, operation of the law, or the like. Notwithstanding the above, Agency retains the right to terminate this contract with notice as specified in Section 8.1.

- 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 and, following notification of breach from Agency, fails to commence to cure within three (3) business days and continue to diligently cure such breach thereafter, including those set forth in Section 4, Agency's remedies shall be 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. RECORDS, CONFIDENTIALITY, SECURITY AND NOTIFICATION.

- 9.1 Keeping and Status of Records.**

9.1.1 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 ("Agency Records") 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. Furthermore, Contractor shall not use Agency Records for any purpose other than to facilitate this Agreement.

9.1.2 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.

9.1.3 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.

9.2 Confidential Information and Disclosure.

9.2.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, dam safety, Critical Energy/Electrical Infrastructure Information (CEII)¹, proprietary,

¹ CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

Critical energy/electric infrastructure means a system or asset of the bulk-power system, (physical or virtual) the incapacity or destruction of which would negatively affect:

- national security,
- economic security,
- public health or safety, or
- any combination of such matters.

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.

9.2.2 Restricted Use of Confidential Information. A party shall not use Confidential Information for any purpose other than to facilitate this Agreement

9.2.3 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 with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care; (b) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement;; and (c) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.2.4 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 9.2.4.2 or 9.2.4.3. 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:

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

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

([Critical Energy/Electric Infrastructure Information \(CEII\) | Federal Energy Regulatory Commission \(ferc.gov\)](#)),

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

9.2.5 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). Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement in files of Receiving Party's representatives where such copies are necessary to comply with applicable law.

9.2.6 Unauthorized Disclosure.

9.2.6.1 Security Breach. Security Breach means (a) any actual or reasonably suspected unauthorized use of, loss of, access to or disclosure of Agency Records or Agency Confidential Information or (b) security breach (or substantially similar term) as defined with applicable law.

9.2.6.2 Action Upon Unauthorized Disclosure. If either party believes there has been a Security Breach, such party must notify the other party upon the earlier of forty-eight (48) hours after discovery or any timeframe required by applicable law unless legally prohibited from doing so. Each party shall reasonably assist the other party in mitigating or remediating any potential damage where appropriate. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it or if such party is the recipient of the Security Breach. As soon as reasonably practicable after any such Security Breach, Agency and Contractor will consult in good faith regarding the root cause analysis and any remediation efforts.

9.3 Cyber Security. Contractor agrees to abide by Agency's CIP-013² policies, processes, and procedures as outlined below for completing the Work. In addition, Contractor takes all responsibility and liability to ensure all Work is free from malicious code. Malicious code means viruses, worms, timebombs, trojan horses and other malicious code, files, scripts, agents or programs. In addition, Contractor shall take all of the following actions.

9.3.1 Notification. Contractor shall notify Agency of Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency.

²See North American Transmission Forum, NATF CIP 013 Implementation Guidance; Supply Chain Risk Management Plans (available at [natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf](https://www.natf.org/wp-content/uploads/2018/05/natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf)) .

Contractor is required to notify Agency of all identified, threatened, attempted, or successful breaches or vulnerabilities of Contractor's products, software, systems, components, or services. Contractor's notification will also provide Agency with all known mitigations, controls, patches, components Agency can implement to prevent and/or correct the identified breach, issue, or incident.

Contractor shall provide all notifications to:

NCPA Security
Email: support@ncpa.com
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:
Michael DeBortoli, Assistant General Manager
Email: michael.debortoli@ncpa.com

9.3.2 Coordination. Contractor shall coordinate responses to Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency.

As stated in Section 9.3.1, Contractor is required to notify Agency of any breaches or vulnerabilities related to Contractor's products or services. In the event Contractor's products or services pose a cyber security risk to Agency or otherwise cause a cyber security incident for Agency, Contractor is required to collaborate with Agency to mitigate and correct the cyber security risk, breach or vulnerability.

Contractor shall provide Agency with:

- List of Contractor's specific products or services at risk
- Precautions, mitigations, or controls to minimize risks
- Action plan to correct the risk
- Status reports (if risk is ongoing)
- Final resolution of issue

9.3.3 Remote or Onsite Access. Contractor shall notify Agency when remote or onsite access should no longer be granted to Contractor representatives.

Contractor will notify Agency within 24 hours:

- Contractor's employees, or Contractor's authorized subcontractors no longer require access.
- Contractor's employees, or Contractor's authorized subcontractors are no longer qualified to maintain access.
- Contractor's employees', or Contractor's authorized subcontractors' employment has ended or been terminated.

9.3.4. Disclosure of Vulnerabilities. Contractor shall promptly disclose known vulnerabilities related to the Work provided to Agency.

Contractor will provide Agency with summary documentation describing security breaches in Contractor's products or Contractor's supply chain impacting Agency's BES Cyber System. Contractor will also provide Agency with summary documentation describing any uncorrected security vulnerabilities.

Contractor's disclosure should be made to Agency within 48 hours of identifying the breach or vulnerability. The disclosure should include:

- Summary description of the breach or vulnerability
- Potential impact of the breach or vulnerability
- Root cause
- Corrective actions, compensating controls, mitigations, or other steps Agency should take as a result of the breach or vulnerability

9.3.5 Integrity and Authenticity. Contractor shall verify the integrity and authenticity of all software and patches provided by Contractor for use by Agency.

Contractor agrees to provide Agency with all software and firmware updates to remediate vulnerabilities or weaknesses. Upon execution of this Contract, Contractor will provide Agency with Contractor's patch management and update process and software delivery documentation. The documentation should include a description of how Agency will verify the authenticity of software and validate the integrity of all patches provided by Contractor.

Contractor will also provide Agency with Contractor's schedule for releasing software and patch updates. Contractor will provide Agency with instructions for applying, validating, and testing the updates and patches.

- 9.3.6 Access Controls.** Contractor shall coordinate controls with Agency for (a) Contractor-initiated interactive remote access, and (b) system to system remote access.

If Contractor uses remote access, Contractor will provide Agency with the IP addresses, ports, and minimum privileges required to perform remote access services. Contractor agrees to use individual user accounts to limit access and permissions. Contractor also agrees to maintain Contractor's IT assets connecting to Agency's network with current updates to remediate vulnerabilities or weaknesses. Contractor and Contractor's employees agree to not disclose or share account credentials, passwords, or established connections.

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.** 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.

Without limiting the generality of the foregoing, Contractor warrants that all Goods are free from defects in design and workmanship; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and free from defects; are suitably safe and sufficient for the purpose for which they are normally used; and are not subject to any liens or encumbrances. Contractor shall provide all Goods in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature.

Except for the express limited warranties set forth in in this Section, to the maximum extent permitted by applicable law, Contractor (a) provides the Work without any warranty of any kind, express, implied or statutory, and (b) on behalf of itself and its third party suppliers expressly excludes and disclaims any implied warranty of merchantability, fitness for any particular purpose, or non-infringement and any warranty arising by statute, operation of law, course of dealing or performance, or usage of trade.

- 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 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. In the event of a defect, Agency shall provide clear access to the Work at the installation site; provided, however, that Contractor shall be responsible for any cost related to uncovering, disassembly or reassembly of parts or hardware required for Contractor to perform its warranty obligations.

- 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 Assistant General Manager, Generation Services or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

13.8 Notices. Any written notice to Contractor shall be sent to:

Tom Short
Vice President of Consulting & Client Relations
Trimark Associates, Inc.
2365 Iron Point Rd #100
Folsom, CA 95630

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

TRIMARK ASSOCIATES, INC.

Date _____

Date _____

RANDY S. HOWARD, General Manager

MARK MOROSKY, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Trimark Associates, Inc. ("Contractor") shall provide miscellaneous meter maintenance, operations, data, and related design engineering services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

The services shall include, but not be limited, to the following:

Meter Services

- Maintenance, installation, replacement, emergency support, and calibration of meters, PTs, CTs, software, interface devices, and other meter-related equipment
- Engineering, design, commissioning, and certification of meters
- Meter reading, validation, presentation of customers meter data and transmittal of data to the CAISO
- Meter related Network Communication Troubleshooting services, including remote network or on-site support to troubleshoot equipment

Miscellaneous Services

- NERC CIP compliance consulting
- New Resource Implementation (NRI) Support
- Project management
- Database management and commercial hosting services
- WREGIS and CAISO SQMD monthly submittals
- Meteorological Weather Station sales, installation, service, and support
- Micro Grid Management
- Material/Hardware Only Purchases

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:



Trimark Labor Rate Sheet (2023)

Trimark Labor Rates – 2023			
Billing Class	Hourly Rate (USD)		Emergency Rate (USD)
3rd Party Programmer/Installer	\$225.00		\$450.00
Accountant	\$125.00		\$250.00
Admin Assistant	\$95.00		\$190.00
Business Development	\$175.00		\$350.00
Data Analyst	\$145.00		\$290.00
Design Engineer	\$165.00		\$330.00
Director	\$310.00		\$620.00
Executive	\$350.00		\$700.00
Field Technician	\$140.00		\$280.00
Financial Analyst	\$195.00		\$390.00
Information Technology	\$190.00		\$380.00
Manager	\$200.00		\$400.00
Meter CAISO	\$300.00		\$600.00
Meter Engineer	\$325.00		\$650.00
Meter Non-CAISO	\$250.00		\$500.00
Network Security Engineer	\$195.00		\$390.00
Power Engineer	\$195.00		\$390.00
Production Specialist	\$105.00		\$210.00
Project Manager	\$190.00		\$380.00
Scada Engineer	\$190.00		\$380.00
Senior Manager	\$225.00		\$450.00
Software Developer	\$195.00		\$390.00
TOC Administration	\$95.00		\$190.00
TOC Technical Staff	\$145.00		\$290.00
Expenses	Out-of-Pocket Expenses	Cost + 12%	
	Travel (mileage) per IRS rate	\$ 0.585 / mile	
	Travel labor time (75% of hourly rate)		

Upon 30 days advance notice and no more than once each year, Trimark Associates, Inc. may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

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

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

Trimark Associates, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E – NOT APPLICABLE

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

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

The undersigned hereby certifies and agrees that:

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

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: Ulteig Operations, LLC – Five Year Multi-Task General Services Agreement for Miscellaneous Meter Maintenance, Operations, Data, and Related Design Engineering Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 24-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Ulteig Operations, LLC miscellaneous meter maintenance, operations, data, and related design engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

BACKGROUND:

Miscellaneous meter maintenance, operations, data, and related design engineering 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 SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with Trimark Associates, LLC.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$2,000,000 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 needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from qualified providers as required. Bids are awarded to the vendor providing the best overall 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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On March 11, 2024 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 24-XX
- Multi-Task General Services Agreement with Ulteig Operations, LLC

RESOLUTION 24-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH ULTEIG
OPERATIONS, LLC**

(reference Staff Report XXX:24)

WHEREAS, miscellaneous meter maintenance, operations, data, and related design engineering 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, by the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Ulteig Operations, LLC is a provider of these services; and

WHEREAS, the NCPA Commission has reviewed the Multi-Task General Services Agreement with Ulteig Operations, LLC to provide such services as needed at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members; and

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

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

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ULTEIG OPERATIONS, 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 Ulteig Operations, LLC, on behalf of its licensed subsidiaries and affiliates a North Dakota Limited Liability Company, with its office located at 3350 38th Ave S • Fargo, ND 58104 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2024 ("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 equipment, materials, and supplies ("Goods") described in the Scope of Work attached hereto as Exhibit A and incorporated herein (both services and Goods collectively referred to as "Work" herein). Contractor shall be responsible at its sole expense for delivering the Goods, as further specified herein, to the specified Project Site, DDP, and title shall not pass until the Agency accepts delivery at the Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 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, or to Agency 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** TWO MILLION dollars (\$2,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices.

For Services: 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.

For Goods: Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for Goods delivered prior to the invoice date. Contractor shall include the number of the Purchase Order which authorized the Goods for which Contractor is seeking payment.

All 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 payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred, or for delivery of the Goods, per the delivery terms of this Agreement. 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. 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. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

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

4.4 Cyber Risk Liability. Contractor shall maintain cyber risk liability insurance with an aggregate limit of not less than \$5,000,000. Such insurance shall cover any and all errors, omissions or negligent acts arising in or connected with the performance of the Scope of Work under this Agreement. Such cyber risk liability insurance shall include, but not be limited to, coverage of claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, spread of virus, denial of service, etc.), failure to supply, and intellectual property infringement (such as copyrights, trademarks, service marks and trade dress). No exclusions shall be listed within the policy for unencrypted, media or portable devices. Notwithstanding any other provision of this Agreement, if coverage is provided on a claims-made form, Contractor shall purchase and maintain a two-year extended reporting period coverage following termination of this Agreement only in the event that the policy is canceled or non-renewed.

4.5 Pollution Insurance. Not Applicable.

4.6 All Policies Requirements.

- 4.6.1 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 4.45, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.6.2 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.
- 4.6.3 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.
- 4.6.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.6.1 and 4.6.5, naming the specific Agency member for which the Work is to be performed.
- 4.6.5 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 affect 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.
- 4.7 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; LIMITATION OF LIABILITY; 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 for General Services. Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all third party claims, for avoidance of doubt Agency employees are third parties for purposes of these indemnity obligations, to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.

5.3 Scope for Professional Services. For services including those provided by licensed architects, licensed engineers, licensed landscape architects, and/or licensed land surveyors, Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any third party, for avoidance of doubt Agency employees are third parties for purposes of these indemnity obligations, claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.

5.4 Transfer of Title. Not Applicable.

5. Limitation of Liability. To the extent permitted by law, in no event will either party be liable for any indirect, incidental, special, consequential, exemplary or punitive damages. To the extent permitted by applicable law, and notwithstanding anything to the contrary in this agreement, each party's total aggregate liability arising out of or in connection with this Agreement for all claims of any kind will not exceed the amounts specified as minimum insurance levels in Section 4 of this agreement.

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. Not applicable.

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. If there are no outstanding Purchase Orders and/or on going Work, Contractor may cancel this Agreement at any time and without cause upon thirty (30) days prior written notice.

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 Agency Records or documents (as defined 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** If Agency had paid Contractor for the incomplete Work, Contractor will refund only that amount to the Agency.

Section 9. RECORDS, CONFIDENTIALITY, SECURITY AND NOTIFICATION.

9.1 Keeping and Status of Records.

- 9.1.1 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 ("Agency Records") 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. Furthermore, Contractor shall not use Agency Records for any purpose other than to facilitate this Agreement.
- 9.1.2 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.

9.1.3 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.

9.2 Confidential Information and Disclosure.

9.2.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, dam safety, Critical Energy/Electrical Infrastructure Information (CEII)¹, proprietary, 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.

9.2.2 Restricted Use of Confidential Information. A party shall not use Confidential Information for any purpose other than to facilitate this Agreement

¹ CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

Critical energy/electric infrastructure means a system or asset of the bulk-power system, (physical or virtual) the incapacity or destruction of which would negatively affect:

- national security,
- economic security,
- public health or safety, or
- any combination of such matters.

([Critical Energy/Electric Infrastructure Information \(CEII\) | Federal Energy Regulatory Commission \(ferc.gov\)](https://www.ferc.gov/critical-energy-electric-infrastructure-information-ceii)),

9.2.3 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 with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care; (b) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement;; and (c) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.2.4 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 9.2.4.2 or 9.2.4.3. 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:

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

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

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

9.2.5 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). Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement in files of Receiving Party's representatives where such copies are necessary to comply with applicable law.

9.2.6 Unauthorized Disclosure.

9.2.6.1 Security Breach. Security Breach means (a) any actual or reasonably suspected unauthorized use of, loss of, access to or disclosure of Agency Records or Agency Confidential Information

or (b) security breach (or substantially similar term) as defined with applicable law.

9.2.6.2 Action Upon Unauthorized Disclosure. If either party believes there has been a Security Breach, such party must notify the other party upon the earlier of forty-eight (48) hours after discovery or any timeframe required by applicable law unless legally prohibited from doing so. Each party shall reasonably assist the other party in mitigating or remediating any potential damage where appropriate. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it or if such party is the recipient of the Security Breach. As soon as reasonably practicable after any such Security Breach, Agency and Contractor will consult in good faith regarding the root cause analysis and any remediation efforts.

9.3 Cyber Security. Contractor agrees to abide by Agency's CIP-013² policies, processes, and procedures as outlined below for completing the Work. In addition, Contractor takes all responsibility and liability to ensure all Work is free from malicious code. Malicious code means viruses, worms, timebombs, trojan horses and other malicious code, files, scripts, agents or programs. In addition, Contractor shall take all of the following actions.

9.3.1 Notification. Contractor shall notify Agency of Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency.

Contractor is required to notify Agency of all identified, threatened, attempted, or successful breaches or vulnerabilities of Contractor's products, software, systems, components, or services. Contractor's notification will also provide Agency with all known mitigations, controls, patches, components Agency can implement to prevent and/or correct the identified breach, issue, or incident.

Contractor shall provide all notifications to:

NCPA Security
Email: support@ncpa.com
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

²See North American Transmission Forum, NATF CIP 013 Implementation Guidance; Supply Chain Risk Management Plans (available at [natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf](https://www.natf.org/wp-content/uploads/2018/07/natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf)).

Assistant General Manager Michael DeBortoli
Email: michael.debortoli@ncpa.com

9.3.2 Coordination. Contractor shall coordinate responses to Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency.

As stated in Section 9.3.1, Contractor is required to notify Agency of any breaches or vulnerabilities related to Contractor's products or services. In the event Contractor's products or services pose a cyber security risk to Agency or otherwise cause a cyber security incident for Agency, Contractor is required to collaborate with Agency to mitigate and correct the cyber security risk, breach or vulnerability.

Contractor shall provide Agency with:

- List of Contractor's specific products or services at risk
- Precautions, mitigations, or controls to minimize risks
- Action plan to correct the risk
- Status reports (if risk is ongoing)
- Final resolution of issue

9.3.3 Remote or Onsite Access. Contractor shall notify Agency when remote or onsite access should no longer be granted to Contractor representatives.

Contractor will notify Agency within 24 hours:

- Contractor's employees, or Contractor's authorized subcontractors no longer require access.
- Contractor's employees, or Contractor's authorized subcontractors are no longer qualified to maintain access.
- Contractor's employees', or Contractor's authorized subcontractors' employment has ended or been terminated.

9.3.4. Disclosure of Vulnerabilities. Contractor shall promptly disclose known vulnerabilities related to the Work provided to Agency.

Contractor will provide Agency with summary documentation describing security breaches in Contractor's products or Contractor's supply chain impacting Agency's BES Cyber System. Contractor will also provide

Agency with summary documentation describing any uncorrected security vulnerabilities.

Contractor's disclosure should be made to Agency within 48 hours of identifying the breach or vulnerability. The disclosure should include:

- Summary description of the breach or vulnerability
- Potential impact of the breach or vulnerability
- Root cause
- Corrective actions, compensating controls, mitigations, or other steps Agency should take as a result of the breach or vulnerability

9.3.5 Integrity and Authenticity. Contractor shall verify the integrity and authenticity of all software and patches provided by Contractor for use by Agency.

Contractor agrees to provide Agency with all software and firmware updates to remediate vulnerabilities or weaknesses. Upon execution of this Contract, Contractor will provide Agency with Contractor's patch management and update process and software delivery documentation. The documentation should include a description of how Agency will verify the authenticity of software and validate the integrity of all patches provided by Contractor.

Contractor will also provide Agency with Contractor's schedule for releasing software and patch updates. Contractor will provide Agency with instructions for applying, validating, and testing the updates and patches.

9.3.6 Access Controls. Contractor shall coordinate controls with Agency for (a) Contractor-initiated interactive remote access, and (b) system to system remote access.

If Contractor uses remote access, Contractor will provide Agency with the IP addresses, ports, and minimum privileges required to perform remote access services. Contractor agrees to use individual user accounts to limit access and permissions. Contractor also agrees to maintain Contractor's IT assets connecting to Agency's network with current updates to remediate vulnerabilities or weaknesses. Contractor and Contractor's employees agree to not disclose or share account credentials, passwords, or established connections.

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.

- 11.1.1 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.
- 11.1.2 Contractor Warranties for Material or Hardware Purchases.** Contractor warrants or will provide warranties from the manufacturer that all Goods are new,

of good quality and workmanship, are free from defects, are suitably safe and sufficient for the purposes for which they are normally used, and are not subject to any liens and encumbrances. Contractor shall provide all Goods in accordance with prudent electrical utility standards and in accordance with all applicable engineering, construction and other codes and standards, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature.

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, except to the extent such defects or inaccuracies are attributable to deficiencies in Agency-furnished information.

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 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 Assistant General Manager, Generation Services or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:

Ulteig Operations, LLC
3350 38th Ave South
Fargo, ND 58104
Attention: Legal Department

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, 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

ULTEIG OPERATIONS, LLC

Date_____

Date_____

RANDY S. HOWARD,
General Manager

JOE BUTTERFIELD,
Associate Director

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Ulteig Operations, LLC ("Contractor") shall provide meter maintenance, operations, and data services and miscellaneous design engineering services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, or its Members.

The services include, but are not limited to, the following:

Meter Services

- Maintenance, installation, replacement, emergency support, and calibration of meters, PTs, CTs, software, interface devices, and other meter-related equipment
- Engineering, design, commissioning, and certification of meters
- Meter reading, validation, presentation of customers meter data and transmittal of data to the CAISO
- Meter related Network Communication Troubleshooting services, including remote network or on-site support to troubleshoot equipment

Substation, Transmission, and Distribution Engineering & Design Services

- Substation Physical Security Design
- Protective Relay Settings Development
- Ground Grid Studies
- Electrical Controls
- Structural Analysis
- Undergrounding Design
- Interconnection
- NERC Studies
- Transmission Planning
- Protection/Basic Sectionalizing Design
- Sizing Transformers and Conductors
- Material Coordination
- Underground Line Design and Subdivision Layout
- Overhead/Pole-Line Structure Design and Layout
- System Hardening

Environmental Services

- Desktop & Field Analysis
- NEPA
- Permitting
- GIS

Asset Management Services

- Technology Evaluation
- Data Sharing & Integration
- Asset Optimization Services

- Analysis, Reporting & Planning

Planning & Studies

- NERC / ISO Compliance
- Grid Modernization
- Power System Studies
- System Reliability
- DER (Distributed Energy Resource) Impact Analysis
- Renewables
- Balance of Plant
- Energy Storage

Miscellaneous Services

- New Resource Implementation (NRI) Support
- Supervisory Control and Data Acquisition systems (SCADA) services (not to include remote control of utility field equipment)
- Project management
- Network architecture and security support services
- Database management and commercial hosting services
- WREGIS and CAISO SQMD monthly submittals
- Meteorological Weather Station sales, installation, service, and support
- Telemetry Support
- Micro Grid Management
- Material/Hardware Only Purchases

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:



We listen. We solve.™

2024 Hourly Rate Schedule for Ulteig Engineers, Inc.* Effective January 1, 2024

Engineer		Survey	
Engineering Intern	\$132.00	Survey Technician Intern	\$95.00
Graduate Engineer	\$160.00	Survey Technician	\$115.00
Design Engineer	\$190.00	Lead Survey Technician	\$136.00
Engineer	\$216.00	Senior Survey Technician	\$153.00
Lead Engineer	\$229.00	Survey Crew Chief	\$145.00
Senior Engineer	\$250.00	Land Surveyor-in-Training	\$160.00
Principal Engineer	\$260.00	Land Surveyor	\$172.00
Drafter & Technician		Lead Land Surveyor	
CADD/BIM Technician Intern	\$105.00	Senior Land Surveyor	\$221.00
CADD/BIM Technician I	\$126.00	Principal Land Surveyor	\$259.00
CADD/BIM Technician II	\$137.00	Distribution Field Design	
BIM/CADD Lead	\$156.00	Distribution Designer I	\$108.00
Senior BIM/CADD Lead	\$167.00	Distribution Designer II	\$126.00
(BIM) Engineering Technician	\$156.00	Distribution Designer III	\$136.00
(BIM) Designer	\$167.00	Distribution Designer IV	\$162.00
Lead (BIM) Designer	\$189.00	Distribution Design Manager	\$194.00
Senior (BIM) Designer	\$225.00	Construction Management	
Metering		Construction Inspector I	\$140.00
Meter Technician I	\$168.00	Construction Inspector II	\$150.00
Meter Technician II	\$212.00	Construction Inspector III	\$160.00
Meter Inspector	\$240.00	Construction Manager	\$186.00
Lead Meter Inspector	\$254.00	Senior Construction Manager	\$213.00
Senior Meter Inspector	\$269.00	Planning & Environmental	
Meter Engineer	\$240.00	Environmental Intern	\$100.00
Lead Meter Engineer	\$253.00	Environmental Technician	\$111.00
Senior Meter Engineer	\$276.00	Environmental Specialist	\$150.00
Principal Meter Engineer	\$288.00	Lead Environmental Specialist	\$180.00
Meter Project Manager	\$218.00	Senior Environmental Specialist	\$214.00
Senior Meter Project Manager	\$239.00	Principal Environmental Specialist	\$256.00
Metering Program Manager	\$280.00	Data Scientist	\$136.00
OT Network & Systems Administration		Lead Data Scientist	\$186.00
OT Network & Systems Administrator I	\$115.00	Senior Data Scientist	\$204.00
OT Network & Systems Administrator II	\$137.00	Planner	\$142.00

OT Network & Systems Administrator III	\$155.00	Lead Planner	\$166.00
Lead OT Network & Systems Administrator	\$164.00	Senior Planner	\$229.00
Senior OT Network & Systems Administrator	\$188.00	Archeologist Intern	\$80.00
OT Network Architect	\$198.00	Archeologist Technician	\$95.00
System Protection		Archeologist	\$120.00
System Protection Engineer	\$226.00	Lead Archeologist	\$145.00
Lead System Protection Engineer	\$240.00	Senior Archeologist	\$190.00
Senior System Protection Engineer	\$260.00	Principal Archeologist	\$215.00
Principal System Protection Engineer	\$270.00	GIS	
Systems Integrators		GIS Technician	\$125.00
Systems Integration Intern	\$110.00	GIS Analyst	\$153.00
Systems Integrator I	\$126.00	Lead GIS Analyst	\$176.00
Systems Integrator II	\$143.00	Senior GIS Analyst	\$186.00
Systems Integrator III	\$162.00	Right-of-Way	
Lead Systems Integrator	\$172.00	Right-of-Way Document Specialist	\$105.00
Senior Systems Integrator	\$196.00	Right-of-Way Specialist I	\$122.00
Project Management		Right-of-Way Specialist II	\$139.00
Project Coordinator	\$139.00	Lead Right-of-Way Specialist	\$155.00
Senior Project Coordinator	\$150.00	Senior Right-of-Way Specialist	\$177.00
Project Analyst	\$163.00	Right-of-Way Manager	\$248.00
Senior Project Analyst	\$180.00	Specialized Solutions	
Project Controls Specialist	\$190.00	Studies Engineer	\$235.00
Senior Project Controls Specialist	\$216.00	Lead Studies Engineer	\$250.00
Associate Project Manager	\$162.00	Senior Studies Engineer	\$270.00
Project Manager	\$200.00	Financial Analyst	\$168.00
Senior Project Manager	\$236.00	Senior Consultant	\$300.00
Program Manager	\$246.00	Other Classifications	
Senior Program Manager	\$259.00	Clerical	\$64.00
		Staff Support	\$92.00
		Principal	\$260.00

Reimbursable Expenses			
Subcontractors/Subconsultants	Cost plus 15%	Pipeline Locator	\$20.00/hour
Survey Vehicle	\$0.75/mile	GPS Rover (1 unit & controller)	\$28.00/hour
Car/Pickup	IRS Rate/mile	GPS Rover (2 units & controller)	\$49.00/hour
Utility Vehicle	\$205.00/day	Robotic Total Station	\$39.00/hour
Drone, Scanning, Remote Sensing	\$80.00/hour	Staking:	
Relay Testing Equipment	\$120.00/day	Hubs	\$0.95/each
Grounding Testing Equipment	\$250.00/day	Lath	\$1.40/each
Power Quality Meter (Daily)	\$60.00/day	Posts	\$5.00/each
Power Quality Meter (Monthly)	\$1200.00/month	Rebar	\$1.50/each
Meals (Per Diem)	\$65.00/day	Rebar with Caps	\$2.00/each
Travel and Other Misc. Out-of-Pocket	Cost	Section Corner Monuments	\$6.00/each
Miscellaneous Project Hardware	Cost plus 10%		
Ulteig Owned CT Analyzer	\$1,000/week (5 days) or \$250/day plus shipping costs		
Ulteig Owned Test Set	\$1,000/week (5 days) or \$250/day plus shipping costs		

Meter Labor Rate Adjustments	
Expedited Services	1.4 times above rates for less than one-week notices
Holiday Services	2.0 times above rates for services on Holidays
On-site time	Above rate for 50 hours M-F
On-site Overtime	1.4 times above rates for Sat/Sun or >50 hours M-F

* Includes its licensed subsidiaries and affiliates

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

Upon 30 days advance notice and no more than once each year, Ulteig Operations, LLC may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

Ulteig Operations 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 – NOT APPLICABLE

EXHIBIT E – NOT APPLICABLE



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: GEI Consultants, Inc. – Five Year Multi-Task Professional Services Agreement for Dam Safety and Structural Related Engineering Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 24-XX authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with GEI Consultants, Inc. for dam safety and structural engineering related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$5,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

BACKGROUND:

Dam safety and structural engineering 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 SCPPA Members. NCPA has utilized this vendor in the past and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future services. NCPA has agreements in place for similar services with AECOM Technical Services, Condor Earth, HDR Engineering, and Mead & Hunt, Inc.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$5,000,000 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 needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from qualified providers as required. Bids are awarded to the vendor providing the best overall 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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024, the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On March 11, 2024, the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 24-XX
- Multi-Task Professional Services Agreement with GEI Consultants, Inc.

RESOLUTION 24-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH GEI
CONSULTANTS, INC**

(reference Staff Report XXX:24)

WHEREAS, dam safety and structural engineering 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, by the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, GEI Consultants, Inc. is a provider of these services; and

WHEREAS, the NCPA Commission has reviewed the Multi-Task Professional Services Agreement with GEI Consultants, Inc. to provide such services as needed at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into said Multi-Task Professional Services Agreement, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$5,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND GEI CONSULTANTS, INC.

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and GEI Consultants, Inc., CA, a corporation with its office located at 180 Grand Avenue, Suite 950, Oakland, CA 94612 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2024 ("Effective Date") in Roseville, California.

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

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

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

Section 2. **COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED FIVE MILLION** dollars (\$5,000,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$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.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$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. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

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

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

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

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

Agency member, SCPPA or Agency member for which the Services are to be performed.

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

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

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

Section 6. STATUS OF CONSULTANT.

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

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

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

Section 10. MISCELLANEOUS PROVISIONS.

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

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

10.7 Contract Administrator. This Agreement shall be administered by the Assistant General Manager, Generation Services, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

10.8 Notices. Any written notice to Consultant shall be sent to:

Alberto Pujol, Sr. Vice President
GEI Consultants, Inc.
180 Grand Avenue, Suite 950
Oakland, CA 94612

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

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

NORTHERN CALIFORNIA POWER AGENCY

GEI CONSULTANTS, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

ALBERTO PUJOL,
Senior Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

GEI Consultants, Inc. ("Consultant") shall provide dam safety and structural engineering related services as requested by 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:

- Dam Safety engineering in accordance with 18 CFR12D;
- Geology, hydrology, hydraulics, geotechnical and structural engineering; and
- Preparation of signed stamped construction documents.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

FEE SCHEDULE AND PAYMENT TERMS



FEE SCHEDULE

<u>Personnel Category</u>	<u>Hourly Billing Rate</u> <u>\$ per hour</u>
Staff Professional – Grade 1	\$ 147
Staff Professional – Grade 2	\$ 162
Project Professional – Grade 3	\$ 177
Project Professional – Grade 4	\$ 199
Senior Professional – Grade 5	\$ 235
Senior Professional – Grade 6	\$ 267
Senior Professional – Grade 7	\$ 318
Senior Consultant – Grade 8	\$ 356
Senior Consultant – Grade 9	\$ 434
Senior Principal – Grade 10	\$ 434

Senior Drafter and Designer	\$ 177
Drafter / Designer and Senior Technician	\$ 162
Field Professional	\$ 133
Technician, Word Processor, Administrative Staff	\$ 132
<u>Office Aide</u>	<u>\$ 103</u>

These rates are billed for both regular and overtime hours in all categories.

Rates will increase up to 5% annually, at GEI's option, for all contracts that extend into the next calendar year. Rates for Deposition and Testimony are increased 1.5 times.

OTHER PROJECT COSTS

Subconsultants, Subcontractors and Other Project Expenses - All costs for subconsultants, subcontractors and other project expenses will be billed at cost plus a 15% service charge. Examples of such expenses ordinarily charged to projects are subcontractors; subconsultants; chemical laboratory charges; rented or leased field and laboratory equipment; outside printing and reproduction; communications and mailing charges; reproduction expenses; shipping costs for samples and equipment; disposal of samples; rental vehicles; fares for travel on public carriers; special fees for insurance certificates, permits, licenses, etc.; fees for restoration of paving or land due to field exploration, etc.; state and local sales and use taxes and state taxes on GEI fees. The 15% service charge will not apply to GEI-owned equipment and vehicles or in-house reproduction expenses.

Field and Laboratory Equipment Billing Rates - GEI-owned field and laboratory equipment such as pumps, sampling equipment, monitoring instrumentation, field density equipment, portable gas chromatographs, etc. will be billed at a daily, weekly, or monthly rate, as needed for the project. Expendable supplies are billed at a unit rate.

Transportation and Subsistence - Automobile expenses for GEI or employee owned cars will be charged at the rate per mile set by the Internal Revenue Service for tax purposes plus tolls and parking charges or at a day rate negotiated for each project. When required for a project, four-wheel drive vehicles owned by GEI or the employees will be billed at a daily rate appropriate for those vehicles. Per diem living costs for personnel on assignment away from their home office will be negotiated for each project.

PAYMENT TERMS

Invoices will be submitted monthly or upon completion of a specified scope of service, as described in the accompanying contract (proposal, project, or agreement document that is signed and dated by GEI and CLIENT).

Payment is due upon receipt of the invoice. Interest will accrue at the rate of 1% of the invoice amount per month, for amounts that remain unpaid more than 30 days after the invoice date. All payments will be made by either check or electronic transfer to the address specified by GEI and will include reference to GEI's invoice number.

2024 Fee Schedule

Upon 30 days advance notice and no more than once each calendar year, GEI may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, _____

(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

GEI Consultants, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: PME Babbitt Bearings – Second Amendment to Five Year Multi-Task General Services Agreement for Off-Site Maintenance Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities.

AGENDA CATEGORY: Consent

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

RECOMMENDATION:

Approve Resolution 24-XX authorizing the General Manager or his designee to enter into a Second Amendment to the Multi-Task General Services Agreement with PME Babbitt Bearings for off-site maintenance and labor services at its facility located in Minden, Nevada, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$235,000 to \$750,000, with no change to the contract term, for continued use at any facilities owned and/or operated by NCPA.

BACKGROUND:

Off-site maintenance and labor services at its facility located in Minden, Nevada are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five-year Multi-Task General Services Agreement with PME Babbitt Bearings effective June 24, 2020 for an amount not to exceed \$95,000, for use at any facilities owned and/or operated by NCPA.

This agreement has been used extensively by the Geothermal facility to provide casting and machining babbitt and re-babbitt of bearings, and this agreement is now running low on funds. To ensure sufficient funds are available for the remainder of the contract term, this amendment will increase the not to exceed amount from \$235,000 to \$750,000 for continued use at any facilities owned and/or operated by NCPA.

NCPA has agreements in place for similar services with TCB Industrial, Inc.

FISCAL IMPACT:

Upon execution, the total not to exceed amount of the agreement will increase from \$235,000 to \$750,000 over the remainder of the contract term. 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 needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from qualified providers as required. Bids are awarded to the vendor providing the best overall 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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2023 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On March 11, 2023 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (4):

- Resolution 24-XX
- Multi-Task General Services Agreement with PME Babbitt Bearings
- First Amendment to Multi-Task General Services Agreement with PME Babbitt Bearings
- Second Amendment to Multi-Task General Services Agreement with PME Babbitt Bearings

RESOLUTION 24-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A SECOND AMENDMENT TO THE MULTI-TASK GENERAL SERVICES
AGREEMENT WITH PME BABBITT BEARINGS**

(reference Staff Report #XXX:24)

WHEREAS, off-site maintenance and labor services at its facility located in Minden, Nevada, are required from time to time for the operation and maintenance at any facilities owned and/or operated by NCPA; and

WHEREAS, Northern California Power Agency (NCPA) and PME Babbitt Bearings entered into a Multi-Task General Services Agreement effective June 24, 2020, for PME Babbitt Bearings to provide such services; and

WHEREAS, this agreement has been used extensively by the Geothermal facility to provide casting and machining babbitt and re-babbitt of bearings, and this agreement is now running low on funds; and

WHEREAS, NCPA now desires to increase the not to exceed amount from \$235,000 to \$750,000 to ensure sufficient funds are available for 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 of 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 Second Amendment to the Multi-Task General Services Agreement, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$235,000 to \$750,000, with no change to the contract term, for continued use at any facilities owned and/or operated by NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024 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	_____	_____	_____

JERRY SERVENTI
CHAIR

CARRIE POLLO
ASSISTANT SECRETARY



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND PME BABBITT BEARINGS**

This First Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and PME Babbitt Bearings ("Contractor") (collectively referred to as "the Parties") as of October 3, 2023.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective June 24, 2020, (the "Agreement") for PME Babbitt Bearings to provide off-site maintenance and labor services at its facility located in Minden, Nevada, as requested by Northern California Power Agency ("Agency"). Contractor does not have any facility located in California; and

WHEREAS, the Parties now desire to amend Section 13.7 entitled "Contract Administrator" of the Agreement to reflect the change of the administrator's name; 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 \$95,000 to a "NOT TO EXCEED" amount of \$235,000; 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 TWO HUNDRED THIRTY-FIVE THOUSAND** dollars (\$235,000) 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.

The remainder of Section 2 of the Agreement is unchanged.

2. Section 13.7 Contract Administrator is replaced in its entirety as follows:

13.7 Contract Administrator. This Agreement shall be administered by the Assistant General Manager, Generation Services, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative

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

Date: Oct 3, 2023

NORTHERN CALIFORNIA POWER AGENCY

Randy S Howard
Randy S Howard (Oct 3, 2023 08:11 PDT)

RANDY S. HOWARD, General Manager

Date: Oct 2, 2023

PME BABBITT BEARINGS

Christopher Walter
christopher walter (Oct 2, 2023 18:59 EDT)

CHRISTOPHER WALTER, President

Attest:

Trisha Zimmer
Trisha Zimmer (Oct 3, 2023 08:26 PDT)

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt
Jane E. Luckhardt, General Counsel

PME_Babbitt_Bearings_First_Amendment_to_MTGSA_2023

Final Audit Report


2023-10-02


Created:	2023-10-02
By:	Michelle Schellentrager (Michelle.Schellentrager@ncpa.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhe8FihvLxYQNgXrqQ2HzS_ox7nXqK9gE

"PME_Babbitt_Bearings_First_Amendment_to_MTGSA_2023" History

 Document created by Michelle Schellentrager (Michelle.Schellentrager@ncpa.com)
2023-10-02 - 7:53:44 PM GMT - IP address: 66.60.185.199

 Document emailed to christopher walter (chris@pmebearings.com) for signature
2023-10-02 - 7:54:37 PM GMT

 Email viewed by christopher walter (chris@pmebearings.com)
2023-10-02 - 10:59:16 PM GMT - IP address: 35.131.18.178

 Document e-signed by christopher walter (chris@pmebearings.com)
Signature Date: 2023-10-02 - 10:59:54 PM GMT - Time Source: server- IP address: 35.131.18.178

 Agreement completed.
2023-10-02 - 10:59:54 PM GMT

PME_Babbitt_Bearings_First_Amendment_to_MTGSA_2023


Final Audit Report

2023-10-03

Created:	2023-10-03
By:	Michelle Schellentrager (Michelle.Schellentrager@ncpa.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_RaDmc9zQwJOnI9YHkpaQG3EzeUKeQwf


"PME_Babbitt_Bearings_First_Amendment_to_MTGSA_2023" History


 Document created by Michelle Schellentrager (Michelle.Schellentrager@ncpa.com)
2023-10-03 - 2:40:16 PM GMT- IP address: 66.60.185.199

 Document emailed to randy.howard@ncpa.com for signature
2023-10-03 - 2:41:02 PM GMT

 Email viewed by randy.howard@ncpa.com
2023-10-03 - 3:10:56 PM GMT- IP address: 104.220.93.66


 Signer randy.howard@ncpa.com entered name at signing as Randy S Howard
2023-10-03 - 3:11:30 PM GMT- IP address: 104.220.93.66

 Document e-signed by Randy S Howard (randy.howard@ncpa.com)
Signature Date: 2023-10-03 - 3:11:32 PM GMT - Time Source: server- IP address: 104.220.93.66

 Document emailed to Trisha Zimmer (trisha.zimmer@ncpa.com) for signature
2023-10-03 - 3:11:33 PM GMT

 Email viewed by Trisha Zimmer (trisha.zimmer@ncpa.com)
2023-10-03 - 3:25:39 PM GMT- IP address: 73.12.140.192

 Document e-signed by Trisha Zimmer (trisha.zimmer@ncpa.com)
Signature Date: 2023-10-03 - 3:26:20 PM GMT - Time Source: server- IP address: 73.12.140.192

 Agreement completed.
2023-10-03 - 3:26:20 PM GMT



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PME BABBITT BEARINGS**

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 PME Babbitt Bearings, a corporation with its office located at 2551 Nowlin Road, Minden, NV 89423 ("Contractor") (together sometimes referred to as the "Parties") as of June 24, 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 reasonable discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, within 5 days of 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.
- 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** ninety five thousand dollars (\$95,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Intentionally omitted.

4.4 Pollution Insurance. Intentionally omitted.

4.5 All Policies Requirements.

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

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

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

4.5.4 Additional Certificates and Endorsements. Not applicable.

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.

5.3 Limitation of Liability. Contractor's total aggregate liability for damages arising from any cause or action whatsoever shall be limited to the applicable policy limit amounts detailed in Section 4 above, as long as Contractor maintains in effect and applicability the required insurance, including but not limited to the amounts, deductibles, and scope referenced herein.

Section 6. STATUS OF CONTRACTOR.

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

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

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to

Contractor's failure to secure workers' compensation insurance for its employees, agents, or subcontractors.

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

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

Section 7. LEGAL REQUIREMENTS.

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

permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

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 for a period of 18 months.

- 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; provided that Contractor first be given 10 days opportunity to cure;

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 if Contractor does not cure the deficiency within 10 days of receipt of written notice; and/or

8.4.4 Charge Contractor the difference between the reasonable costs to complete the Work that is unfinished at the time of failure to cure the 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. Notwithstanding any provision of this Agreement to the contrary, any routines, libraries, tools, methodologies, processes or technologies created, adapted or used by Contractor in its business generally, including all associated intellectual property rights (collectively, the "Contractor Development Tools") shall be and remain the sole property of Contractor, and Agency shall have no interest in or claim to such Contractor Development Tools except as necessary to exercise its rights in the goods or services provided hereunder.

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 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. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. 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 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.** 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.** , 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 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. Section 11.2 is Agency's sole and exclusive remedy for deficiencies in Work.
- 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.

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:

Christopher Walter, President

PME Babbitt Bearings
2551 Nowlin Road
Minden, NV 89423

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.

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

NORTHERN CALIFORNIA POWER AGENCY

Date 6/24/2020

Joel Ledesma
JOEL LEDESMA, Asst. General Mgr

PME BABBITT BEARINGS

Date 06/18/20

Christopher Walter
CHRISTOPHER WALTER, President

Attest:

[Signature]
Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt
Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

PME Babbitt Bearings ("Contractor") shall provide off-site maintenance and labor services at its facility located in Minden, Nevada, as requested by the Northern California Power Agency ("Agency"). Contractor does not have any facility located in California.

Those services may include:

- Diagnose and refurbish Babbitt bearings;
- Centrifugal casting;
- Static pouring;
- TIG welding repairs; and
- Other bearing maintenance services as needed.

The Scope of Work under this Agreement does not include work that would qualify as a Public Project under the California Public Contract Code or subject to prevailing wage under the California Labor Code and guidelines established by the State of California. Furthermore and consistent with the Commerce Clause, California cannot dictate wages to be paid in another state, "[T]he Court struck down on Commerce Clause grounds a state law where the 'practical effect of such regulation is to control [conduct] beyond the boundaries of the state . . .'" *Edgar v. Mite Corp.* 457 U.S. 624, 643 (1982) citing *Southern Pacific v. Arizona*, 1325 U.S. 761, 775 (1945). (Also see Public Works Case No. 2007-008 at 11-12, Russ Will Mechanical, Inc. – Off-site Fabrication of HVAC Components, Department of Industrial Relations did not address Commerce Clause objection because it was in that case a "hypothetical attempt to apply the CPWL extraterritorially. . ."

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:

- Work is only quoted in lump sum by project; no time and materials billing.

Pricing for services 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.



SECOND AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND PME BABBITT BEARINGS

This Second Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and PME Babbitt Bearings ("Contractor") (collectively referred to as "the Parties") as of _____, 2024.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective June 24, 2020, (the "Agreement") for PME Babbitt Bearings to provide off-site maintenance and labor services at its facility located in Minden, Nevada, as requested by Northern California Power Agency ("Agency"). Contractor does not have any facility located in California; and

WHEREAS, the Parties entered into a First Amendment to the Multi-Task General Services Agreement on October 3, 2023 to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$95,000 to a NOT TO EXCEED amount of \$235,000; 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 \$235,000 to a 'NOT TO EXCEED amount of \$750,000; 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 SEVEN HUNDRED FIFTY THOUSAND** dollars (\$750,000) 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.

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: _____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD, General Manager

Date: _____

PME BABBITT BEARINGS

CHRISTOPHER WALTER, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: Konocti Ridge Corporate dba California Exterminators Alliance - First Amendment to Five Year Multi-Task General Services Agreement for Pest Control and Weed Spraying Services; Applicable to the following: Geothermal Facility.

AGENDA CATEGORY: Consent

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

RECOMMENDATION:

Approve Resolution 24-XX authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Konocti Ridge Corporate dba California Exterminators Alliance for Pest Control and Weed Spraying Services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$225,000 to \$500,000 and amending Exhibit B – Compensation Schedule and Hourly Fees, for continued use at the Geothermal Facility.

BACKGROUND:

Pest control and weed spraying services are required from time to time for the operation and maintenance of NCPA's Geothermal Facility. NCPA entered into a five-year Multi-Task General Services Agreement with Konocti Ridge Corporate dba California Exterminators Alliance, effective July 28, 2020, for an amount not to exceed \$225,000, for use at NCPA's Geothermal Facility.

This agreement has been used by the Geothermal Facility extensively during the previous years, and the agreement is running low on funds. NCPA now desires to enter into a First Amendment to the current Multi-Task General Services Agreement, increasing the not to exceed amount from \$225,000 to \$500,000 to ensure there are sufficient funds available for the remainder of the contract term, and amend Exhibit B – Compensation Schedule and Hourly Fees to reflect an increase in costs for existing and additional services, as requested by the vendor. This agreement will continue to be available for use at the Geothermal Plant Facility.

NCPA has agreements in place for similar services with Clark Pest Control.

FISCAL IMPACT:

Upon execution, the total not to exceed amount of the agreement will increase from \$225,000 to \$500,000 over the remainder of the contract term. 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 needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from qualified providers as required. Bids are awarded to the vendor providing the best overall 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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

AFTER FACILITIES APPROVAL: On March 6, 2023 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution 24-XX
- Multi-Task General Services Agreement with Konocti Ridge Corporate dba California Exterminators Alliance
- First Amendment to Multi-Task General Services Agreement with Konocti Ridge Corporate dba California Exterminators Alliance

RESOLUTION 24-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A FIRST AMENDMENT TO THE MULTI-TASK GENERAL SERVICES WITH KONOCTI RIDGE CORPORATE DBA CALIFORNIA EXTERMINATORS ALLIANCE

(reference Staff Report #XXX:24)

WHEREAS, pest control and weed spraying services are required from time to time for the operation and maintenance of NPCA's Geothermal Facility; and

WHEREAS, Northern California Power Agency (NCPA) and Konocti Ridge Corporate dba California Exterminators Alliance entered into a Multi-Task General Services Agreement effective July 28, 2020 to provide such services; and

WHEREAS, this agreement has been used extensively during the previous years, and the agreement is running low on funds; and

WHEREAS, NCPA now desires to increase the not to exceed amount from \$225,000 to \$500,000 to ensure sufficient funds are available for the remainder of the contract term, and amend Exhibit B – Compensation Schedule and Hourly Fees to reflect an increase in costs for existing and additional services, as requested by the vendor; 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 of 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 any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$225,000 to \$500,000 and amending Exhibit B – Compensation Schedule and Hourly Fees, for continued use at the Geothermal Facility.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024 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	_____	_____	_____

JERRY SERVENTI
CHAIR

CARRIE POLLO
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KONOCTI RIDGE CORPORATE DBA CALIFORNIA EXTERMINATORS ALLIANCE**

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 Konocti Ridge Corporation dba California Exterminators Alliance, a corporation with its office located at 3990 Clark Drive, Kelseyville, CA 95451 ("Contractor") (together sometimes referred to as the "Parties") as of July 28, 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.
- 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 TWO HUNDRED TWENTY FIVE THOUSAND** dollars (\$225,000) 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. Not Applicable

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.** Not Applicable
- 7.5 Registration with DIR.** Not Applicable
- 7.6 Prevailing Wage Rates.** Not Applicable

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 Amendments.** 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.

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:

Tom Dodd
President
Konocti Ridge Corp. dba California Exterminators Alliance
P.O. Box 449
Kelseyville, CA 95451
cs@caext.com

Any written notice to Agency shall be sent to:

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

With a copy to:

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

KONOCTI RIDGE CORP. DBA
CALIFORNIA EXTERMINATORS
ALLIANCE

Date 7/28/20

Date 7-15-2020


RANDY S. HOWARD, General Manager


TOM DODD, President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Konocti Ridge Corporate dba California Exterminators Alliance ("Contractor") shall provide pest control and weed spraying services as requested by the Northern California Power Agency ("Agency") Geothermal Plant Facility.

Services include, but not limited to the following:

- Maintain the NCPA Geothermal Facilities by performing Pest Extermination and Bug Spraying on a monthly basis and Annual Spring Weed Spraying at the Geothermal Facility Lease, Pump Stations and SE Waste Treatment Plant as directed by the operator of the NCPA Geothermal Facilities.
- Contractor shall have and maintain all required state certifications and licensing for Weed and Pest Spraying & Extermination.

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:

Service Area/Type	Acct#	#Services July2020 to June2021	Price
Plants 1 & 2 Pest Control	550	6@\$1,450/each	\$ 8,700
Plants 1 & 2 Weeds	44629	1	\$20,000
Middletown Solar Array Weeds	44628	1	\$ 2,600
Clearlake Solar Array Weeds	49386	1	\$ 2,600
Clearlake Buffer Lot Weeds	45655	1	\$ 1,650
2 Switch Yards Weeds	47609	1	\$ 700
9 Sites Under Transmission Towers	49375	1	\$ 1,620
Power Poles from Plant 2 to M-Site	49376	1	\$ 2,100
Roadside Brush Spraying		\$375 per acre	TBD

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.

NOT APPLICABLE

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)

**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KONOCTI RIDGE CORPORATE DBA CALIFORNIA EXTERMINATORS ALLIANCE**

This First Amendment (“Amendment”) to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Konocti Ridge Corporation dba California Exterminators Alliance (“Contractor”) (collectively referred to as “the Parties”) as of _____, 2024.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective July 28, 2020, (the “Agreement”) for Konocti Ridge Corporate dba California Exterminators Alliance to provide pest control and weed spraying services at Geothermal Plant Facility; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a NOT TO EXCEED amount of \$225,000 to a NOT TO EXCEED amount of \$500,000; and

WHEREAS, the Agency now desires to amend Exhibit B entitled “Compensation Schedule and Hourly Fees” to reflect revised services and updated rates for the year 2024; 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

WHEREAS, the Parties now desire to amend Section 13.7 entitled “Contract Administrator” of the Agreement to reflect the change of the administrator’s name; and

NOW, THEREFORE, the Parties agree as follows:

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

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED FIVE HUNDRED THOUSAND** dollars (\$500,000) 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. Section 13.7 Contract Administrator is replaced in its entirety as follows:

13.7 Contract Administrator This Agreement shall be administered by the Generation Services, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed or through the representative

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

Date:_____

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

KONOCTI RIDGE CORP. DBA CALIFORNIA
EXTERMINATORS ALLIANCE

RANDY S. HOWARD, General Manager

TOM DODD, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all 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:

Type	NCPA locations	Account	2024
Pest	NCPA. PLANT #1 & 2 - Pest - Rodents and Spiders. Outside only unless inside is requested prior to service, includes: guard shack at main gate, steam field office & adjoining shop, welding shop, 13 well sites (C, H, N, F, D, A, Y, Q, J, B, E, P, M). 3 pump stations (BCPS 1, 2, 3), and Plant #1 (including admin office, warehouse, machine shop, chemical lab, auto shop (don't spray i/S fenced area), turbine building, and all fire hydrants) and Plant 2 (main building and warehouse),	9009	\$1,760
Weed	Site Roads H, F, A, spraying roadside 5feet in each direction	17828	\$3,650
Weed	Well sites D, Y, Q, B and Plant 1 and field office	17829	\$6,010
Weed	Site Road Q, spraying roadside 5feet in each direction	17830	\$900
Weed	Well sites E, P, M, J and Pump Stations BCPS1, 2, & 3, and Plant 2.	17831	\$4,980
Weed	Site Roads P, J, spraying roadside 5feet in each direction	17832	\$2,840
Weed	Plant 1 Switch Yard	6313	\$990
Weed	Plant 2 Switch Yard	6313	\$990
Weed	Plant 1 300-foot buffer outside fence	17912	\$6,300
Weed	Plant 2 300-foot buffer outside fence	17913	\$8,400
Weed	Ridge (Bear Ridge) Road Main Gate to Plant 2 , spraying roadside 5feet in each direction	17833	\$1,070
Weed	Middletown Solar	3352	\$5,480
Weed	Clearlake Solar	8169	\$6,930
Weed	Clearlake Buffer Lot	4336	\$2,900
Weed	Power Poles from Plant 2 to Lower Gate on Bear Ridge Rd	8158	\$2,520
Weed	Well sites C, H, N, F, A	17827	\$6,420
Weed	NCPA Site Road Y Conduit & Firebreak - spraying 25 ft wide band for 200 ft long evacuation area below Y site	18212	\$350
Weed	Tower 9 to Tower 5 Fire Breaks - spraying 100 feet wide fire break	new B	\$8,000
Weed	Site A 2 miles out Fire Breaks - spraying 100 feet wide fire break	new C	\$7,000
Weed	Road Site A to Tower 9 -spraying roadside 10 feet in each direction	new A	\$5,000
Weed	Pipeline from P Site Rd to 2 Rupture Disk, spraying 25-foot-wide band under pipeline	new D	\$2,390
	Intentionally blank		

Type	NCPA locations	Account	2024
Brush	NCPA Site Road Y Conduit & Firebreak - spraying 25 ft wide band for 200 ft long evacuation area below Y site	18212	\$350
Brush	Ridge (Bear Ridge) Road Main Gate to Plant 2 , spraying roadside 20 feet in each direction	17833	\$9,090
Brush	Bear Ridge Rd Plant 2 to P Site Rd , spraying roadside 20 feet in each direction	18008	\$9,020
Brush	Bear Ridge Rd P Site Rd to Lower Gate on Bear Ridge Rd	18009	\$8,660
Brush	Transmission Towers 9 sites	8157	\$2,370
Brush	Pipeline from P Site Rd to 2 Rupture Disk, spraying 25-foot-wide band under pipeline	new D	\$2,390
Brush	Tower 9 to Tower 5 Fire Breaks - spraying 100 feet wide fire break	new B	\$8,000
Brush	Site A 2 miles out Fire Breaks - spraying 100 feet wide fire break	new C	\$7,000
Brush	Roadside Brush Spraying – currently \$0.05 per square foot		TBD

Upon 30 days advance notice and no more than once each calendar year, Konocti Ridge Corporate dba California Exterminators Alliance may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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.



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: Bureau of Land Management – Geothermal Facility Site Licenses; Applicable to the following projects: NCPA Geothermal Facility.

AGENDA CATEGORY: Consent

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

RECOMMENDATION:

Approve Resolution 24-XX authorizing the General Manager or his designee to execute Site License Agreement CACA 5084 (NCPA 1) and Site License Agreement CACA 13308 (NCPA 2) with the Bureau of Land Management to allow NCPA to continue to operate and maintain the geothermal power plants, with any non-substantial changes recommended and approved by the NCPA General Counsel, for a period of thirty years.

BACKGROUND:

The Northern California Power Agency (NCPA) operates and maintains on behalf of the project owners a Geothermal Facility near Middletown, CA, consisting of two geothermal power plants: NCPA Geothermal Plant 1 and NCPA Geothermal Plant 2. NCPA's ability to operate and maintain these geothermal power plants was established through two Site License Agreements between NCPA and the Bureau of Land Management (BLM). The Site License Agreement for NCPA Geothermal Plant 1 went into effect on April 8, 1980, while the Site License Agreement for NCPA Geothermal Plant 2 went into effect on March 11, 1983. These original Site License Agreements carried a term of thirty years, and have now expired. NCPA is seeking approval to renew these Site License Agreements, which will allow NCPA to continue to operate and maintain the geothermal power plants for another thirty-year term.

While the majority of the terms and conditions remain unchanged, there were a few minor changes to the agreements which should be noted. The previous license agreements called for an annual rental fee of \$5,300 per plant, however, that requirement has been removed by the BLM. NCPA's General Counsel reviewed the proposed Site License Agreements and requested minor changes to the supplemental Stipulations, which are shown in red, below. All of these changes have been reviewed and approved by the Bureau of Land Management.

- **Stipulation 13.** The Holder shall comply with all applicable local, State, and Federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. The Holder shall immediately report to applicable regulatory agencies any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by Federal, State, or local laws and regulations. A copy of any report required or requested by any Federal, State or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal, State or local government agency.
- **Stipulation 22.** The collection of native plants or wildlife, or harassing wildlife on site is prohibited. Any wildlife encountered during the course of an activity, including construction, operation, and decommissioning will be allowed to leave the area of its own accord unharmed. It is recognized that Animal Damage Control measures may be necessary for the protection of human health and safety. In such cases, efforts will be made to safely remove wildlife from the area before destroying any individual wildlife threats.

FISCAL IMPACT:

NCPA incurs negligible costs associated with this agreement, therefore, there is no fiscal impact to NCPA.

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 of the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024, the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution 24-XX
- Site License Agreement CACA 5084 (NCPA 1) with Bureau of Land Management
- Site License Agreement CACA 13308 (NCPA 2) with Bureau of Land Management

RESOLUTION 24-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING SITE LICENSE AGREEMENTS WITH THE BUREAU OF LAND MANAGEMENT (BLM)

(reference Staff Report #XXX:24)

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 geothermal power plants: NCPA Geothermal Plant 1 and NCPA Geothermal Plant 2; and

WHEREAS, the Bureau of Land Management (BLM) and NCPA signed two Site License Agreements, CACA 5084 (NCPA 1) and CACA 13308 (NCPA 2), respectively dated April 8, 1980 and March 11, 1983, to allow NCPA to operate and maintain the geothermal power plants; and

WHEREAS, the original Site License Agreements carried a term of thirty years, and have now expired; and

WHEREAS, both parties desire to enter into new Site License Agreements, with similar terms and conditions as the original agreement, for a term of thirty years; and

WHEREAS, NCPA incurs negligible costs associated with this agreement, therefore, there is no fiscal impact to NCPA; 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 NCPA General Manager or his designee to execute Site License Agreement CACA 5084 (NCPA 1) and Site License Agreement CACA 13308 (NCPA 2) with the Bureau of Land Management to allow NCPA to continue to operate and maintain the geothermal power plants, with any non-substantial changes recommended and approved by the NCPA General Counsel, for a period of thirty years.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024, 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY

**LICENSE FOR AN ELECTRICAL POWER PLANT SITE
UTILIZING GEOTHERMAL RESOURCES**

Serial number: CACA 5084 (NCPA 1)

Located: T10 N., R08 W., Section 2, SWNW, MDMB, Sonoma County, California.

This site license entered into on 01 November 2023, between the United States of America, the Licensor, through the Bureau of Land Management (BLM), and the Northern California Power Agency (NCPA), the Licensee, is hereby issued, to operate a geothermal generation plant under the Geothermal Steam Act of 1970, as amended by the Energy Policy Act of 2005 (30 U.S.C. 1001-1025), and is subject to all applicable Federal, State, and Local laws and regulations including 43 CFR section 3200.

Section 1: Rights Under License

This license confers the right to operate and maintain up to a 150 MW electric generating plant and related facilities or appurtenant structures as part of the NCPA 1 Power Plant in accordance with the terms and conditions of this license, the approved utilization plan, and the applicable regulations, on those certain lands situated in the County of Sonoma, State of California, described above.

This license is for an additional term of 30 years, with a preferential right of renewal of this license under such terms and conditions as the licensor may deem appropriate and, provided that this license may be terminated as described in Section 6 hereof.

Section 2: Operations

- A. Licensee shall comply with the regulations of the Secretary of the Interior as set forth in 43 CFR 3273.
- B. Licensee shall comply with the provisions of geothermal utilization regulations in 43 CFR 3270 and all orders issued pursuant to thereto. Copies of the geothermal utilization regulations may be obtained from the Authorized Officer.
- C. Licensee shall comply with the attached Stipulations as conditions for renewal.
- D. Licensee shall allow inspection of the premises and operations by duly authorized representatives of the Department of the Interior and shall provide for the ingress or egress of government, authorized agents, and for users of the land under authority of the United States.
- E. Licensee hereby agrees to hold harmless and indemnify the United States, its officers, agents, employees, successors, or assigns from and against all claims, demands, costs, losses, causes of actions, damages, or liability of whatsoever kind or nature arising out of

or resulting from the utilization of the property by the licensee hereunder. The United States shall not be liable for any damages or injuries to persons or property in, or about, said premises from any cause other than negligent acts or omissions of its officers, agents, or employees.

Section 3: Bond

The licensee shall file with the Authorized Officer and shall maintain at all times the bond required under the regulations to be furnished as a condition to the issuance of this license in the amount established by the licensor and to furnish such additional bond or security as may be required by the licensor.

Section 4: Equal Opportunity Clause

This license is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the nondiscrimination clauses. A copy of this Order may be obtained from the Authorized Officer.

Section 5: Assignments and Transfers

- A. This license shall be binding upon and inure to the benefit of the successors and assigns of the licensee hereunto. Any proposed transfer in whole or in part of any right, title, or interests in the licensed plant or facility of this license must be filed with the Authorized Officer. The application for transfer must be accompanied by the same showing that the qualification of the transferee is required of the applicant and must be supported by a stipulation that the assignee will comply with and must be bound by all of the terms and conditions of this license. No transfer will be valid unless and until it is approved in writing by the Authorized Officer. Any such application for approval to transfer shall be expeditiously reviewed (in no event longer than 60 calendar days) by the Authorized Officer and such approval shall not be unreasonably withheld.
- B. An application for approval of an assignment or transfer shall be accompanied by a non-refundable fee as specified by the regulations at 43 CFR 3273.26.

Section 6: Termination and Relinquishment

- A. The licensee may surrender this license by filing a written relinquishment with the Authorized Officer. The relinquishment shall include a statement as to whether the land covered by the license has been disturbed and, if so, whether it has been restored as prescribed by the terms, conditions, and stipulations of the license. The relinquishment will not be accepted until the requirements for reclamation of the land have been met.
- B. The license may be cancelled upon written order of the Authorized Officer for violation of the terms, conditions, or stipulations hereof, or of any of the regulations or orders applicable hereto, subject to notice and right of appeal as provided in the regulations.
- C. Following relinquishment, expiration, or cancellation, the licensee shall within two years following the termination of the license remove all structures, machinery, and other

equipment from the above-described lands, and restore the land in accordance with Section 6(D) of this license. Additional time may be granted by the Authorized Officer upon a showing of good cause by the licensee. The bond required by this license shall not be released until the reclamation process has been completed to the satisfaction of the Authorized officer.

- D. Prior to the termination of the bond liability and to the extent deemed necessary by the licensor, the licensee shall reclaim all surface disturbances as required, remove all debris or solid waste, and, as far as possible, repair the offsite and onsite damage caused by its activity or activities incidental thereto, and return access roads and trails and the licensed lands to an acceptable condition, including the removal of structures, if required. The Authorized Officer shall prescribe the steps to be taken by the licensee to protect the surface and the environment and for the restoration of the licensed lands and other lands affected by the operations on the licensed lands and improvements thereon, whether or not the improvements are owned by the United States.

Section 7: Unlawful Interest

No member of, or delegate to, Congress or Resident Commissioner, after their election or appointment, or either before or after they have qualified and during their continuance in office, and no officer, or agent or employee of the Department of the Interior, except as provided in 43 CFR 7.3(a)(1), shall be admitted to any share or part in this license or derive any benefit that may arise there from; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C. Sec. 22) and Sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this license so far as the same may be applicable.

Robert Sovil November 6, 2023

Robert E. Sovil
Acting, Deputy State Director
Division of Energy & Minerals

1-Attachment:
Stipulations – (4pp)

NORTHERN CALIFORNIA POWER AGENCY

Date _____

RANDY S. HOWARD, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

**STIPULATIONS for SITE LICENSES CACA 5084 (NCPA Power Plant 1)
and CACA 13308 (NCPA Power Plant 2)**

1. The Holder shall comply with all stipulations contained herein unless otherwise approved in writing by the Authorized Officer. Non-compliance with the stipulations by the Holder, its agents or contractors may, at the option of the Authorized Officer, result in suspension or termination of the site license or adverse action against the Holder.
2. The Holder shall indemnify the United States against claims for injury to persons or damages to property due to operation and use under the herein site license.
3. The Holder shall comply with applicable Federal and State laws and regulations issued there under, existing or hereafter enacted or promulgated, affecting in any manner operation, maintenance or termination of the site license.
4. The Holder agrees that in the event of a violation or failure to comply with the stipulations imposed herein, the United States may seek judicial enforcement of all legal requirements, including termination of the site license.
5. The Authorized Officer or designated representative shall have the right to inspect the site jointly with the Holder or its agents at any reasonable time to ensure compliance with the stipulations of the site license.
6. The Holder shall confine all activities, equipment storage, etc. within the area specifically defined in the site license. No new construction is authorized.
7. The Holder shall promptly clear any and all waste, litter, trash and debris from the area for the term of the site license and dispose of the material promptly at an appropriate waste disposal site.
8. The Holder, its agents or contractors' area liable for damages related to its activities and are responsible for incidents on its sites, including but not limited to hazmat, vandalism, and accidents with recreational visitors. The Holder will take measures to ensure visitor safety such as signing, flagging, lighting, etc.
9. Prior to abandonment or relinquishment, the Holder shall contact the Authorized Officer to arrange a pre-termination conference. This conference will be held to review the stipulations associated with termination.

10. Should the site be abandoned or relinquished, all disturbed areas will be reclaimed (i.e., re-contoured and rehabilitated), to the satisfaction and with prior approval of the BLM Authorized Officer. In addition, the Licensee shall submit a Plan of Reclamation to the BLM Authorized Officer. The Plan must include a description of the procedures to be used to restore the lands disturbed by the project. The plan must be approved by the appropriate Federal, State and County agencies and by BLM. Such reclamation activities would begin within ten (10) working days after agency(s) approval.
11. The Licensee shall cooperate with BLM in monitoring conditions relating to the operations of this power plant, in addition to complying with applicable permit requirements. Licensee shall provide copies of the facility annual monitoring reports that comply with outstanding conditions in Appendix D of USGS-CEC joint compliance monitoring report of 80-AFC-I. The reports shall include values for the concentrations of monitored chemical constituents in relation to the maximum allowable concentrations or limits for each constituent. Other pertinent reports, such as water quality monitoring data (Appendix D of USGS-CEC WQ71), may be requested by BLM.
12. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et. seq.) on the site license area unless the release or threatened release is wholly related to the Holder's activities. This applies without regard to whether a release is caused by the Holder, its agent or unrelated third party.
13. The Holder shall comply with all applicable local, State, and Federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. The Holder shall immediately report to applicable regulatory agencies any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by Federal, State, or local laws and regulations. A copy of any report required or requested by any Federal, State or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal, State or local government agency.
14. The Holder shall immediately notify the Authorized Officer of any release of a reportable quantity of hazardous substances, toxic substances, or hazardous waste on or near the site license area potentially affecting the site license area of which the Holder is aware.
15. As required by law, the Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the release of hazardous substances(s) on or emanating from the public lands caused by the Holder. A report describing activities

conducted to remediate and address a hazardous substance(s) release will be furnished to the BLM Authorized Officer within three (3) days after the work has been completed.

16. Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a Pesticide Use Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer. Pesticide Use Plans are valid for 3 years. Emergency use of pesticides shall be approved in writing by the Authorized Officer prior to such use.
17. The Licensee shall prevent birds from entering vents at the power plant facility.
18. The Holder shall comply with all applicable local, State, and Federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by State law (as State law exists on the effective date of the ROW /site license), the United States against any liability arising from the Holder's use or occupancy regardless of whether the Holder has actually developed or caused development to occur, from the time of the issuance of this ROW grant/site license to the Holder, and throughout its term. This agreement to indemnify and hold harmless the United States against liability shall apply to liability caused by the Holder, its agents, or contractors. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were a fee owner.
19. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable Federal, State, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the ROW grant/site license and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy.
20. Notwithstanding, whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.
21. Prior to relinquishment, abandonment or termination, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The

abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

22. The collection of native plants or wildlife, or harassing wildlife on site is prohibited. Any wildlife encountered during the course of an activity, including construction, operation, and decommissioning will be allowed to leave the area of its own accord unharmed. It is recognized that Animal Damage Control measures may be necessary for the protection of human health and safety. In such cases, efforts will be made to safely remove wildlife from the area before any lethal measures are considered or employed against individual wildlife threats.
23. Activities that require or result in new surface disturbance will require BLM review under Section 106 of the National Historic Preservation Act.
24. If the Holder, its agents, or contractors observe prehistoric (Native American) or historic era (post-contact) during operation, maintenance, or termination, they will halt work immediately in the vicinity (minimum of 100 ft. buffer) of the find(s) and notify the project archaeologist and the BLM, Ukiah Field Office, so that the resource value may be documented and assessed as soon as possible. In coordination with the BLM, the find(s) shall be formally recorded and evaluated by an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards. The proponent must protect the cultural resource discovery from further disturbance pending evaluation.
25. If human remains and/or cultural items defined by the Native American Graves Protection and Repatriation Act are inadvertently discovered during construction, operation, maintenance, or termination, all work in the vicinity of the find(s) shall cease the appropriate County Coroner and the BLM Ukiah Field Office Authorized Officer and Archaeologist shall be contacted immediately pursuant to Section (3)(d)(I) of the Act, and provide a copy of the Discovery of Potential Human Remains incident form within 24 hours. BLM Law Enforcement may be reached at 707-468-4000 or other phone number provided by BLM, if unable to contact the BLM dispatch at the number above call Emergency Services at 911. Further, pursuant to 43 CFR I 0.4 the Holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the Field Office. Protective and/or mitigation measures specified by the Field Office may be required.
26. The project permittee/Licensee is responsible for informing all persons associated with this project that they would be subject to prosecution for knowingly disturbing Native American Indian shrines, prehistoric and historic-era archaeological sites, or for collecting artifacts of any kind, including historic-era bottles and cans and projectile points (arrowheads) from Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59- 209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resource Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470ee as amended), and/or other federal laws and regulations.

27. The operator/permittee agrees to keep the specific location of sensitive resources confidential. Sensitive resources include threatened species, endangered species, and rare species, archaeological sites, caves, fossil sites, minerals, commercially valuable resources, and sacred ceremonial sites.
28. All cultural resources/archaeological work including monitoring will be conducted by professional cultural resource specialists meeting the Secretary of the Interior's Professional Qualification Standards for Historic Preservation. Additionally, in some instances it may be necessary that Tribal monitors work alongside cultural resource specialists.

LICENSE FOR AN ELECTRICAL POWER PLANT SITE UTILIZING GEOTHERMAL RESOURCES

Serial number: CACA 13308 (NCPA 2)

Located: T10 N., R08 W., Section 2, SENW, MDMB, Sonoma County, California.

This site license entered into on 01 November 2023, between the United States of America, the Licensor, through the Bureau of Land Management (BLM), and the Northern California Power Agency (NCPA), the Licensee, is hereby issued, to operate a geothermal generation plant under the Geothermal Steam Act of 1970, as amended by the Energy Policy Act of 2005 (30 U.S.C. 1001-1025), and is subject to all applicable Federal, State, and Local laws and regulations including 43 CFR section 3200.

Section 1: Rights Under License

This license confers the right to operate and maintain up to a 110 MW electric generating plant and related facilities or appurtenant structures as part of the NCPA 2 Power Plant in accordance with the terms and conditions of this license, the approved utilization plan, and the applicable regulations, on those certain lands situated in the County of Sonoma, State of California, described above.

This license is for an additional term of 30 years, with a preferential right of renewal of this license under such terms and conditions as the licensor may deem appropriate and, provided that this license may be terminated as described in Section 6 hereof.

Section 2: Operations

- A. Licensee shall comply with the regulations of the Secretary of the Interior as set forth in 43 CFR 3273.
- B. Licensee shall comply with the provisions of geothermal utilization regulations in 43 CFR 3270 and all orders issued pursuant to thereto. Copies of the geothermal utilization regulations may be obtained from the Authorized Officer.
- C. Licensee shall comply with the attached Stipulations as conditions for renewal.
- D. Licensee shall allow inspection of the premises and operations by duly authorized representatives of the Department of the Interior and shall provide for the ingress or egress of government, authorized agents, and for users of the land under authority of the United States.
- E. Licensee hereby agrees to hold harmless and indemnify the United States, its officers, agents, employees, successors, or assigns from and against all claims, demands, costs, losses, causes of actions, damages, or liability of whatsoever kind or nature arising out of or resulting from the utilization of the property by the licensee hereunder. The United

States shall not be liable for any damages or injuries to persons or property in, or about, said premises from any cause other than negligent acts or omissions of its officers, agents, or employees.

Section 3: Bond

The licensee shall file with the Authorized Officer and shall maintain at all times the bond required under the regulations to be furnished as a condition to the issuance of this license in the amount established by the licensor and to furnish such additional bond or security as may be required by the licensor.

Section 4: Equal Opportunity Clause

This license is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the nondiscrimination clauses. A copy of this Order may be obtained from the Authorized Officer.

Section 5: Assignments and Transfers

- A. This license shall be binding upon and inure to the benefit of the successors and assigns of the licensee hereunto. Any proposed transfer in whole or in part of any right, title, or interests in the licensed plant or facility of this license must be filed with the Authorized Officer. The application for transfer must be accompanied by the same showing that the qualification of the transferee is required of the applicant and must be supported by a stipulation that the assignee will comply with and must be bound by all of the terms and conditions of this license. No transfer will be valid unless and until it is approved in writing by the Authorized Officer. Any such application for approval to transfer shall be expeditiously reviewed (in no event longer than 60 calendar days) by the Authorized Officer and such approval shall not be unreasonably withheld.
- B. An application for approval of an assignment or transfer shall be accompanied by a non-refundable fee as specified by the regulations at 43 CFR 3273.26.

Section 6: Termination and Relinquishment

- A. The licensee may surrender this license by filing a written relinquishment with the Authorized Officer. The relinquishment shall include a statement as to whether the land covered by the license has been disturbed and, if so, whether it has been restored as prescribed by the terms, conditions, and stipulations of the license. The relinquishment will not be accepted until the requirements for reclamation of the land have been met.
- B. The license may be cancelled upon written order of the Authorized Officer for violation of the terms, conditions, or stipulations hereof, or of any of the regulations or orders applicable hereto, subject to notice and right of appeal as provided in the regulations.
- C. Following relinquishment, expiration, or cancellation, the licensee shall within two years following the termination of the license remove all structures, machinery, and other equipment from the above-described lands, and restore the land in accordance with Section 6(D) of this license. Additional time may be granted by the Authorized Officer

upon a showing of good cause by the licensee. The bond required by this license shall not be released until the reclamation process has been completed to the satisfaction of the Authorized officer.

- D. Prior to the termination of the bond liability and to the extent deemed necessary by the licensor, the licensee shall reclaim all surface disturbances as required, remove all debris or solid waste, and, as far as possible, repair the offsite and onsite damage caused by its activity or activities incidental thereto, and return access roads and trails and the licensed lands to an acceptable condition, including the removal of structures, if required. The Authorized Officer shall prescribe the steps to be taken by the licensee to protect the surface and the environment and for the restoration of the licensed lands and other lands affected by the operations on the licensed lands and improvements thereon, whether or not the improvements are owned by the United States.

Section 7: Unlawful Interest

No member of, or delegate to, Congress or Resident Commissioner, after their election or appointment, or either before or after they have qualified and during their continuance in office, and no officer, or agent or employee of the Department of the Interior, except as provided in 43 CFR 7.3(a)(1), shall be admitted to any share or part in this license or derive any benefit that may arise there from; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C. Sec. 22) and Sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this license so far as the same may be applicable.

Robert Sovil November 6, 2023

Robert E. Sovil
Acting, Deputy State Director
Division of Energy & Minerals

1-Attachment:
Stipulations – (4pp)

NORTHERN CALIFORNIA POWER AGENCY

Date _____

RANDY S. HOWARD, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

**STIPULATIONS for SITE LICENSES CACA 5084 (NCPA Power Plant 1)
and CACA 13308 (NCPA Power Plant 2)**

1. The Holder shall comply with all stipulations contained herein unless otherwise approved in writing by the Authorized Officer. Non-compliance with the stipulations by the Holder, its agents or contractors may, at the option of the Authorized Officer, result in suspension or termination of the site license or adverse action against the Holder.
2. The Holder shall indemnify the United States against claims for injury to persons or damages to property due to operation and use under the herein site license.
3. The Holder shall comply with applicable Federal and State laws and regulations issued there under, existing or hereafter enacted or promulgated, affecting in any manner operation, maintenance or termination of the site license.
4. The Holder agrees that in the event of a violation or failure to comply with the stipulations imposed herein, the United States may seek judicial enforcement of all legal requirements, including termination of the site license.
5. The Authorized Officer or designated representative shall have the right to inspect the site jointly with the Holder or its agents at any reasonable time to ensure compliance with the stipulations of the site license.
6. The Holder shall confine all activities, equipment storage, etc. within the area specifically defined in the site license. No new construction is authorized.
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19. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable Federal, State, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the ROW grant/site license and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy.
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24. If the Holder, its agents, or contractors observe prehistoric (Native American) or historic era (post-contact) during operation, maintenance, or termination, they will halt work immediately in the vicinity (minimum of 100 ft. buffer) of the find(s) and notify the project archaeologist and the BLM, Ukiah Field Office, so that the resource value may be documented and assessed as soon as possible. In coordination with the BLM, the find(s) shall be formally recorded and evaluated by an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards. The proponent must protect the cultural resource discovery from further disturbance pending evaluation.
25. If human remains and/or cultural items defined by the Native American Graves Protection and Repatriation Act are inadvertently discovered during construction, operation, maintenance, or termination, all work in the vicinity of the find(s) shall cease the appropriate County Coroner and the BLM Ukiah Field Office Authorized Officer and Archaeologist shall be contacted immediately pursuant to Section (3)(d)(I) of the Act, and provide a copy of the Discovery of Potential Human Remains incident form within 24 hours. BLM Law Enforcement may be reached at 707-468-4000 or other phone number provided by BLM, if unable to contact the BLM dispatch at the number above call Emergency Services at 911. Further, pursuant to 43 CFR I 0.4 the Holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the Field Office. Protective and/or mitigation measures specified by the Field Office may be required.
26. The project permittee/Licensee is responsible for informing all persons associated with this project that they would be subject to prosecution for knowingly disturbing Native American Indian shrines, prehistoric and historic-era archaeological sites, or for collecting artifacts of any kind, including historic-era bottles and cans and projectile points (arrowheads) from Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59- 209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resource Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470ee as amended), and/or other federal laws and regulations.

27. The operator/permittee agrees to keep the specific location of sensitive resources confidential. Sensitive resources include threatened species, endangered species, and rare species, archaeological sites, caves, fossil sites, minerals, commercially valuable resources, and sacred ceremonial sites.
28. All cultural resources/archaeological work including monitoring will be conducted by professional cultural resource specialists meeting the Secretary of the Interior's Professional Qualification Standards for Historic Preservation. Additionally, in some instances it may be necessary that Tribal monitors work alongside cultural resource specialists.

**TRANSMISSION OWNER RATE CASE
PROGRAM AGREEMENT**

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This TRANSMISSION RATE CASE PROGRAM AGREEMENT ("the Agreement") is made effective as of _____ by and among the Northern California Power Agency, a joint powers agency of the State of California ("NCPA") and those of its Members who execute this Agreement ("Participants"). NCPA and the Participants are referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

A. NCPA has heretofore been duly established as a public agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric capacity and energy for resale.

B. Each of the Participants is a signatory to the Joint Powers Agreement which created NCPA and therefore is a Member.

C. Each of the Participants to this Agreement have executed the Power Management and Administrative Services Agreement, dated October 1, 2014, which establishes the framework under which Members who are signatory to the Power Management and Administrative Services Agreement may enter into one or more Service Agreements with NCPA.

D. Pursuant to the Power Management and Administrative Services Agreement, from time to time special conditions or requirements for services may be requested from NCPA by Members under which no existing Services Agreement is available to satisfy such needs, and at the sole discretion of the Commission, certain "one-off" agreements maybe developed between NCPA and a Member, or group of Members, to enable NCPA to provide such special services.

E. The Participants have requested NCPA to establish facilities, staff and the capability to act on behalf of the Participants to engage in certain activities, either directly, indirectly, or in conjunction with legal counsel and subject matter experts, pertaining to proceedings that effect the CAISO transmission costs, or other transmission costs as may be applicable, to protect the Participants' transmission assets and to strive to limit the Participants' exposure to increasing transmission costs when transacting in the CAISO markets, other markets, or as otherwise may be applicable.

F. In response to the Participants' desire for NCPA to engage in the activities further described in this Agreement, NCPA has established the facilities, staff and the capability for the provision of Services to the Participants in accordance with this Agreement.

G. Each Participant agrees to pay its equitable share of costs associated with NCPA's provision of Services, in accordance with the Power Management and Administrative Services Agreement and this Agreement.

H. The Participants further desire, insofar as possible, to insulate other Members, whether or not such Members are also Participants, from risks inherent in the services and transactions undertaken on behalf of any given Member or group of Members.

I. Upon full execution of this Agreement, this Agreement shall be deemed a Special Conditions Services Agreement under the Power Management and Administrative Services Agreement by the Commission.

J. Each of the Parties intends to observe the provisions of this Agreement in good faith and shall cooperate with all other Parties in order to achieve the full benefits of joint action.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions.

1.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms shall have the following respective meanings, provided, capitalized terms used in this Agreement (including the Recitals hereto) that are not defined in Section 1 of this Agreement shall have the meaning indicated in Section 1 of the Power Management and Administrative Services Agreement:

1.1.1 “Administrative Services Costs” means that portion of the NCPA administrative, general and occupancy costs and expenses, including those costs and expenses associated with the operations, direction and supervision of the general affairs and activities of NCPA, general management, treasury operations, accounting, budgeting, payroll, human resources, information technology, facilities management, salaries and wages (including retirement benefits) of employees, facility operation and maintenance costs, taxes and payments in lieu of taxes (if any), insurance premiums, fees for legal, engineering, financial and other services, power management services, general settlement and billing and general risk management costs, that are charged directly or apportioned to the provision of Services pursuant to this Agreement. Administrative Services Costs as separately defined herein and used in the context of this Agreement is different and distinct from the term Administrative Services Costs as defined in Section 1 of the Power Management and Administrative Services Agreement.

1.1.2 “Agreement” means this Transmission Rate Case Program Agreement, including all Exhibits attached hereto.

1.1.3 “All Resources Bill” means the single, combined monthly bill from NCPA to a Participant with respect to all NCPA services, programs and NCPA Projects.

1.1.4 “Defaulting Participant” has the meaning set forth in Section 9.2 of this Agreement.

1.1.5 “Effective Date” has the meaning set forth in Section 4.1 of this Agreement.

1.1.6 “Event of Default” has the meaning set forth in Section 9.2 of this Agreement.

1.1.7 “NCPA” has the meaning set forth in the recitals hereto.

1.1.8 “Participant” has the meaning set forth in the recitals of this Agreement. Participants to this Agreement are listed in Exhibit A of this Agreement.

1.1.9 “Party” or “Parties” has the meaning set forth in the recitals hereto; provided that “Third Parties” are entities that are not part to this Agreement.

1.1.10 “Power Management and Administrative Services Agreement” means the NCPA Power Management and Administrative Services Agreement, dated as of October 1, 2014 between NCPA and the Members who are signatories to that agreement by which NCPA provides Power Management and Administrative Services.

1.1.11 “Program Participation Percentage” means the Participant Program Participation Percentages set forth in Exhibit A of this Agreement.

1.1.12 “Services” has the meaning set forth in Section 2.1 of this Agreement.

1.1.13 “Term” has the meaning set forth in Section 4.1 of this Agreement.

1.1.14 “Transmission Owner” or “TO” has the meaning set forth in the CAISO Tariff.

1.2 Rules of Interpretation. All words and references as used in this Agreement (including the Recitals hereto), unless in any such case the context requires

otherwise, shall be interpreted pursuant to Section 1.2 of the Power Management and Administrative Services Agreement.

Section 2. Services to be Provided, Duties and Standards of Performance.

2.1 Services. The purpose of this Agreement is to set forth the terms and conditions under which NCPA, acting on behalf of the Participants, may engage in certain activities, either directly, indirectly, or in conjunction with legal counsel and subject matter experts, pertaining to proceedings that effect CAISO transmission costs, or other transmission costs as may be applicable, to protect the Participants' transmission assets and to strive to limit the Participants' exposure to increasing transmission costs when transacting in the CAISO markets, other markets, or as otherwise may be applicable (the "Services"). Participants shall only be responsible to pay for Services performed and costs incurred subsequent to the effective date of this Agreement. Services provided in accordance with this Agreement generally include the following:

2.1.1 Representing the interests of the Participants by monitoring, analyzing, and participating in TO rate cases before FERC and any related judicial appeals, where this applies to TO rate cases and new related transmission activity matters that are filed;

2.1.2 Engaging in other related filings and industry developments that affect the cost or provision of transmission service under TO rate cases; and

2.1.3 Engaging in other transmission cost related activities as may be approved by the Participants.

2.2 Qualified Subject Matter Experts. NCPA's provision of Services under this Agreement may be supported by legal services and other specialized services relevant to NCPA's participation in proceedings that are performed by qualified subject matter experts and/or witnesses. All costs incurred by NCPA associated with the

acquisition of legal services support, or qualified subject matter experts support, associated with the Services Agreement shall be considered a Services cost pursuant to this Agreement.

2.3 Coordination with Third Parties. As part of NCPA's duties under this Agreement, NCPA shall strive to work collaboratively with other Third Party intervenors and relevant parties, and where practicable, build alliances and find common interest in promoting the Participants' interest consistent with the goals and objectives established pursuant to Section 2.8 of this Agreement. Such efforts include building coalitions, where strategically and economically viable, to support the alignment with other intervenors or to form "joint intervenor" perspectives for engaging in activities related to the Services provided hereunder. This joint effort may include coordinating and sharing responsibilities on areas of common interest to ensure the most efficient advancement of the Participants' interest, and to reduce redundancy in the Services provided by NCPA.

2.4 Participant Duties. The duties of the Participants under this Agreement are to:

2.4.1 Timely provide information to NCPA that is required for NCPA to perform Services.

2.4.2 Make timely payments to NCPA for Services invoiced by NCPA to Participants in accordance with Section 7 of this Agreement.

2.4.3 Provide staff and other assistance, as may be required from time to time, to the extent necessary for NCPA to fulfill its duties under this Agreement.

2.5 NCPA Duties. NCPA's General Manager, or his or her designee, shall establish and maintain the facilities, staff and the capability to act on behalf of the

Participants and provide Services to the Participants in accordance with this Agreement.

2.6 Standard of Performance. NCPA will perform Services using the level of skill and attention reasonably required to complete the Services in a competent and timely manner.

2.7 Assignment of Personnel. NCPA shall assign only competent personnel to perform Services pursuant to this Agreement.

2.8 Time. NCPA shall devote such time to the performance of Services pursuant to this Agreement as may be reasonably necessary to meet the standards of performance provided in Section 2.6, and to satisfy NCPA's obligations hereunder.

2.9 Consultation with Participants. The General Manager shall consult with the Participants from time to time, as needed, to advise him or her on a particular matter relevant to this Agreement. Each year, the General Manager shall propose to the Participants, as part of the Annual Budget process, specific goals and objectives for NCPA staff as such relate to this Agreement. NCPA shall provide periodic reports to the Participants regarding progress toward meeting the proposed goals and objectives. The periodic reports may include the following information:

- (a) Overview of relevant proceedings and known schedules;
- (b) Assessment of the financial impact to the Participants, to the extent practicable;
- (c) Scope of NCPA's potential engagement in each TO rate case;
- (d) Identification of potential legal actions that the Participants should consider and the likelihood of success (by argument if practicable);
- (e) Estimates of potential benefits and costs associated with engagement, to the extent practicable; and

- (f) Summary of NCPA and Third Party issues and levels of participation.

Section 3. Administration of Agreement.

3.1 Commission. The Commission is responsible for the administration of this Agreement. Each Member shall be represented by its Commissioner or their designated alternate Commissioner (“Alternate”) pursuant to the Joint Powers Agreement. Each Commissioner shall have authority to act for the Participant under this Section 3 with respect to matters pertaining to this Agreement.

3.2 Duties and Authorities. In addition to the administration of this Agreement, the duties and authorities of the Commission are as specified in the Joint Powers Agreement and the NCPA Commission Bylaws.

3.3 Forum. Whenever any action anticipated by this Agreement is required to be jointly taken by the Participants, such action shall be taken at regular or special meetings of the NCPA Commission; provided, however, activities associated with NCPA’s provision of Services and normal day-to-day engagement as described in Section 2.1 of this Agreement, are hereby delegated to the General Manager of NCPA, or his or her designee, and are not considered to be matters related to the Commission’s general administration of this Agreement, and therefore are not subject to the administrative procedures set forth in this Section 3.

3.4 Quorum. For purposes of acting upon matters that relate to the administration of this Agreement, a quorum of the Commission shall consist of those Commissioners, or their designated Alternates, representing a numerical majority of the Participants.

3.5 Voting. For acting upon matters that relate to the general administration of this Agreement, each Participant shall have the right to cast one (1) vote. Actions of

the Commission shall be effective only upon an affirmative vote of eighty percent (80%) or more of the Participants.

3.6 Adoption and Amendment of Annual Budget. Annually, the Commission shall adopt an Annual Budget, which includes, but is not limited to, all costs attributed to Services, for at least the next succeeding Fiscal Year in accordance with the NCPA Joint Powers Agreement and this Agreement. Provided, however, that the Commission may in its discretion adopt a two-year budget if permitted to do so by the NCPA Commission Bylaws or the Joint Powers Agreement.

3.7 Facilities Committee. The Facilities Committee has been established pursuant to the Amended and Restated Facilities Agreement to act as an advisory committee to the Commission. The Commission or General Manager may refer matters pertaining to the administration of this Agreement to the Facilities Committee for review and recommendation, including, but not limited to, proposed amendments to this Agreement. If the Commission or General Manager refers matters pertaining to the administration of this Agreement to the Facilities Committee, NCPA will provide a copy of the public notice of the Facilities Committee meeting at which the matter will be discussed to the Participants. The Facilities Committee may act upon such matters referred to it by the Commission in accordance with the procedures, including the general administration quorum and voting procedures, set forth in the Amended and Restated Facilities Agreement. Any recommendation of the Facilities Committee shall be made to the Commission and others, as appropriate, in coordination with the General Manager.

Section 4. Term and Termination.

4.1 Effective Date. This Agreement shall become effective on the first day of the month after which it has been duly executed by all Participants, and delivered to

and executed by NCPA (the “Effective Date”). NCPA shall notify all Participants in writing of the Effective Date.

4.2 Term and Termination. The term (“Term”) Agreement shall continue in full effect until terminated by consent of all Parties.

Section 5. Admission and Withdrawal of Participants.

5.1 Admission of a New Participant. Subsequent to the initial Effective Date, a Member may become a Participant by executing this Agreement. Such Member will become a Participant effective on the date of its delivery to NCPA of an executed counterpart of this Agreement.

5.2 Withdrawal of Participants. Any Participant may withdraw from this Agreement (“**Withdrawing Participant**”) by submitting notice, in writing to all Parties at least two (2) years in advance of the effective date of such withdrawal, provided that such withdrawal shall only be effective on the last day of a Fiscal Year and that the Withdrawing Participant has fully satisfied all obligations it has incurred under this Agreement. The two (2) year duration of the notice requirement may be waived or reduced by the Commission in its sole discretion. Withdrawal by any Participant shall not terminate this Agreement as to the remaining Participants.

5.3 No Effect on Prior Liabilities. Withdrawal by any Participant will not terminate any ongoing or un-discharged liabilities, credits or obligations, including any contingent liabilities, credits or obligations, resulting from this Agreement until they are satisfied in full, or such Withdrawing Participant has provided a mechanism acceptable to NCPA, for the satisfaction in full thereof.

5.4 A Withdrawing Participant shall not be obligated to compensate the remaining Participants for loss of any benefits that would have accrued to the remaining Participants if the Withdrawing Participant had continued its participation. Nor shall the remaining Participants be obligated to compensate the Withdrawing

Participant for any benefits that accrue to the remaining Participants because of the withdrawal. Reallocation of the costs and benefits of continuing under this Agreement after a Participant has withdrawn shall not give rise to any claim against a Withdrawing Participant by the remaining Parties. Nor shall any of the remaining Parties be obligated to compensate the Withdrawing Participant for any benefits that accrue to the remaining Parties because of such a reallocation of costs and benefits.

5.5 Associated Costs. A Withdrawing Participant shall reimburse NCPA for any and all costs resulting from the withdrawal, including but not limited to the legal, accounting, and administrative costs of winding up and assuring the complete satisfaction and discharge of the Withdrawing Participant's liabilities, credits or obligations, including any contingent liabilities, credits or obligations.

Section 6. Cost of Services.

6.1 Cost Allocation. All costs associated with NCPA's provision of Services to the Participants, including, but not limited to, Administrative Services Costs and costs associated with NCPA's acquisition of legal services and qualified subject matter experts services, shall be allocated among the Participants in accordance with this Agreement and the Power Management and Administrative Services Agreement. Costs allocated among the Participants in accordance with this Agreement shall be allocated to each Participant in proportion to such Participant's Program Participation Percentage as set forth in Exhibit A of this Agreement.

6.2 Program Participation Percentages. The Program Participation Percentages as set forth in Exhibit A of this Agreement may be amended from time to time, including to account for the addition or withdrawal of a Participant as set forth in Section 5 of this Agreement, by the Commission in accordance with the voting procedures set for in Section 3 of this Agreement.

Section 7. Billing and Payments.

7.1 Invoices. NCPA will issue an invoice to each Participant for its share of costs associated with Services, and all other costs for services provided in accordance with this Agreement. Such invoice may be either the All Resources Bill or separate special invoice, as determined by NCPA. Such invoices will be made pursuant to the requirements and procedures provided for in this Agreement and all other applicable agreements. At NCPA's discretion, invoices may be issued to Participants using electronic media or physical distribution.

7.2 Payment of Invoices. All invoices delivered by NCPA (including the All Resources Bill) are due and payable thirty (30) Calendar Days after the date thereof; provided, however, that any amount due on a day other than a Business Day may be paid on the following Business Day.

7.3 Late Payments. Any amount due and not paid by a Participant in accordance with Section 9.2 shall be considered late and bear interest computed on a daily basis until paid at the lesser of (i) the per annum prime rate (or reference rate) of the Bank of America NT&SA then in effect, plus two percent (2%) or (ii) the maximum rate permitted by law.

7.4 Billing Disputes. A Participant may dispute the accuracy of any invoice issued by NCPA under this Agreement by submitting a written dispute to NCPA, within thirty (30) Calendar Days of the date of such invoice; nonetheless the Participant shall pay the full amount billed when due. If a Participant does not timely question or dispute the accuracy of any invoice in writing the invoice shall be deemed to be correct. Upon review of a submitted dispute, if an invoice is determined by NCPA to be incorrect, NCPA shall issue a corrected invoice and refund any amounts that may be due to the Participant. If NCPA and the Participant fail to agree on the accuracy of an invoice within thirty (30) Calendar Days after the Participant has disputed it, the General Manager shall promptly submit the dispute to the Commission for resolution.

If the Commission and the Participant fail to agree on the accuracy of a disputed invoice within sixty (60) Calendar Days of its submission to the Commission, the dispute may then be resolved under the mediation and arbitration procedures set forth in Section 10 of this Agreement. Provided, however, that prior to resort to either mediation or arbitration proceedings, the full amount of the disputed invoice must have been paid.

7.5 Billing/Settlement Data and Examination of Books and Records.

7.5.1 Settlement Data. NCPA shall make billing and settlement data available to the Participants in the All Resources Bill, or other invoice, or upon request. NCPA may also, at its sole discretion, make billing and settlement support information available to Participants using electronic media (e.g. electronic data portal). Procedures and formats for the provision of such electronic data submission may be as established by the NCPA Commission from time to time. Without limiting the generality of the foregoing, NCPA may, in its reasonable discretion, require the Participants to execute a non-disclosure agreement prior to providing access to the NCPA electronic data portal.

7.5.2 Examination of Books and Records. Any Participant to this Agreement shall have the right to examine the books and records created and maintained by NCPA pursuant to this Agreement at any reasonable, mutually agreed upon time.

Section 8. Cooperation and Further Assurances.

8.1 Each of the Parties agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by any other Party which are consistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

Section 9. Participant Covenants and Defaults.

9.1 Each Participant covenants and agrees: (i) to make payments to NCPA, from its Electric System Revenues, of its obligations under this Agreement as an operating expense of its Electric System; (ii) to fix the rates and charges for services provided by its Electric System, so that it will at all times have sufficient Revenues to meet the obligations of this Agreement, including the payment obligations; (iii) to make all such payments due NCPA under this Agreement whether or not there is an interruption in, interference with, or reduction or suspension of services provided under this Agreement, such payments not being subject to any reduction, whether by offset or otherwise, and regardless of whether any dispute exists; and (iv) to operate its Electric System, and the business in connection therewith, in accordance with Good Utility Practice.

9.2 Events of Default. An Event of Default under this Agreement shall exist upon the occurrence of any one or more of the following by a Participant (the “Defaulting Participant”):

(i) the failure of any Participant to make any payment in full to NCPA when due, where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from NCPA demanding cure;

(ii) the failure of a Participant to perform any covenant or obligation of this Agreement where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from NCPA demanding cure. Provided, that this subsection shall not apply to any failure to make payments specified by subsection 9.2 (i));

(iii) if any representation or warranty of a Participant material to the services provided hereunder shall prove to have been incorrect in any material respect when made and the Participant does not cure the facts underlying such incorrect

representation or warranty so that the representation or warranty becomes true and correct within thirty (30) Calendar Days of the date of receipt of notice from NCPA demanding cure; or

(iv) if a Participant is in default or in breach of any of its covenants under any other agreement with NCPA and such default or breach is not cured within the time periods specified in such agreement.

9.3 Uncontrollable Forces. A Party shall not be considered to be in default in respect of any obligation hereunder if prevented from fulfilling such obligation by reason of Uncontrollable Forces. Provided, that in order to be relieved of an Event of Default due to Uncontrollable Forces, a Party affected by an Uncontrollable Force shall:

(i) first provide initial notice to the General Manager using telephone communication within two (2) Business Days of the onset of the Uncontrollable Force, and second provide further written notice to the General Manager and all other Parties within ten (10) Business Days of the onset of the Uncontrollable Force, describing its nature and extent, the obligations which the Party is unable to fulfill, the anticipated duration of the Uncontrollable Force, and the actions which the Party will undertake so as to remove such disability and be able to fulfill its obligations hereunder; and

(ii) use due diligence to place itself in a position to fulfill its obligations hereunder and if unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such disability with reasonable dispatch. Provided, that nothing in this subsection shall require a Party to settle or compromise a labor dispute.

9.4 Cure of an Event of Default. An Event of Default shall be deemed cured only if such default shall be remedied or cured within the time periods specified in Section 9.2 above, as may be applicable, provided, however, upon request of the

Defaulting Participant the Commission may waive the default at its sole discretion, where such waiver shall not be unreasonably withheld.

9.5 Remedies in the Event of Uncured Default. Upon the occurrence of an Event of Default which is not cured within the time limits specified in Section 9.2, without limiting other rights or remedies available under this Agreement, at law or in equity, and without constituting or resulting in a waiver, release or estoppel of any right, action or cause of action NCPA may have against the Defaulting Participant, NCPA may, for so long as such Event of Default continues uncured, take any or all of the following actions:

- (i) suspend the provision of services under this Agreement to such Defaulting Participant;

- (ii) demand that the Defaulting Participant provide further assurances to guarantee the correction of the default, including the collection of a surcharge or increase in electric rates, or such other actions as may be necessary to produce necessary Revenues to correct the default;

- (iii) terminate this Agreement as to the Defaulting Participant, on ten (10) Calendar Days prior written notice to the Defaulting Participant; or

- (iv) enforce all other rights or remedies available to it under any other agreement in which the Defaulting Participant is a signatory.

9.6 Effect of Termination or Suspension.

9.6.1 Generally. The termination or suspension of this Agreement will not terminate, waive, or otherwise discharge any ongoing or undischarged liabilities, credits or obligations arising from this Agreement until such liabilities, credits or obligations are satisfied in full.

9.6.2 Suspension. If performance of all or any portion of this Agreement is suspended by NCPA with respect to a Participant in accordance with

subsection 9.5 (i), such Participant shall pay any and all costs incurred by NCPA as a result of such suspension including reasonable attorney fees, the fees and expenses of other experts, including auditors and accountants, or other reasonable and necessary costs associated with such suspension and any portion of the costs associated with NCPA's provision of Services, including Administrative Services Costs, that were not recovered from such Participant as a result of such suspension.

9.7 Termination. If this Agreement is terminated by NCPA with respect to a Participant in accordance with Section 9.5 (iii), such Participant shall pay any and all costs incurred by NCPA as a result of such termination, including reasonable attorney fees, the fees and expenses of other experts, including auditors and accountants, other reasonable and necessary costs associated with such termination and any portion of costs associated with NCPA's provision of Services that were not, or will not be, recovered from such Participant as a result of such termination; provided, however, if NCPA terminates this Agreement with respect to the last remaining Participant, then this Agreement shall terminate.

Section 10. Settlement of Disputes and Arbitration.

10.1 The Parties agree to make best efforts to settle all disputes among themselves connected with this Agreement as a matter of normal business under this Agreement. The procedures set forth in Section 10 of the Power Management and Administrative Services Agreement shall apply to all disputes that cannot be settled by the Participants themselves; provided, that the provisions of Section 7.4 shall first apply to all disputes involving invoices prepared by NCPA.

Section 11. Miscellaneous.

11.1 Confidentiality. The Parties will keep confidential all confidential or trade secret information made available to them in connection with this Agreement, to the extent possible, consistent with applicable laws, including the California Public Records

Act. Confidential or trade secret information shall be marked or expressly identified as such.

If a Party ("Receiving Party") receives a request from a Third Party for access to, or inspection, disclosure or copying of, any of the other Party's (the "Supplying Party") confidential data or information ("Disclosure Request"), then the Receiving Party shall provide notice and a copy of the Disclosure Request to the Supplying Party within three (3) Business Days of receipt of the Disclosure Request. Within three (3) Business Days of receipt of such notice, the Supplying Party shall provide notice to the Receiving Party either:

(i) that the Supplying Party believes there are reasonable legal grounds for denying or objecting to the Disclosure Request, and the Supplying Party requests the Receiving Party to deny or object to the Disclosure Request with respect to identified confidential information. In such case, the Receiving Party shall deny the Disclosure Request and the Supplying Party shall defend the denial of the Disclosure Request at its sole cost, and it shall indemnify the Receiving Party for all costs associated with denying or objecting to the Disclosure Request. Such indemnification by the Supplying Party of the Receiving Party shall include all of the Receiving Party's costs reasonably incurred with respect to denial of or objection to the Disclosure Request, including but not limited to costs, penalties, and the Receiving Party's attorney's fees; or

(ii) the Receiving Party may grant the Disclosure Request without any liability by the Receiving Party to the Supplying Party.

11.2 Indemnification and Hold Harmless. Subject to the provisions of Section 11.4, each Participant agrees to indemnify, defend and hold harmless NCPA and its Members, including their respective governing boards, officials, officers, agents, and employees, from and against any and all claims, suits, losses, costs, damages, expenses and liability of any kind or nature, including reasonable attorneys' fees and the costs of

litigation, including experts, to the extent caused by any acts, omissions, breach of contract, negligence (active or passive), gross negligence, recklessness, or willful misconduct of that Participant, its governing officials, officers, employees, subcontractors or agents, to the maximum extent permitted by law.

11.3 Several Liabilities. Except as otherwise provided herein, no Participant shall be liable under this Agreement for the obligations of any other Participant, each Participant shall be solely responsible and liable for performance of its obligations under this Agreement and the obligation of each Participant under this Agreement is a several obligation and not a joint obligation with those of the other Participants.

11.4 No Consequential Damages. FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL NCPA OR ANY PARTICIPANT OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NCPA AND EACH PARTICIPANT EACH HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.

11.5 The Parties acknowledge that California Civil Code section 1542 provides that: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.” The Parties waive the provisions of section 1542, or other similar provisions of law, and intend that the waiver and release provided by this Section of this Agreement shall be fully enforceable despite its reference to future or unknown claims.

11.6 Waiver. No waiver of the performance by a Party of any obligation under this Agreement with respect to any default or any other matter arising in connection with this Agreement shall be effective unless given by the Commission. Any such waiver by the Commission in any particular instance shall not be deemed a waiver with respect to any subsequent performance, default or matter.

11.7 Amendments. Amendments to the Program Participation Percentages as set forth in Exhibit A of this Agreement shall take effect after being approved by the Commission in a manner consistent with the voting procedures set forth in Section 3 of this Agreement, without the requirement of an approval of the individual Participants’ governing bodies. Except where this Agreement specifically provides otherwise, this Agreement may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

11.8 Assignment of Agreement.

11.8.1 Binding Upon Successors. This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assignees of the Parties to this Agreement.

11.8.2 No Assignment. This Agreement, nor any interest herein, shall be transferred or assigned by a Party hereto except with the consent in writing of the other Parties hereto, where such consent shall not be unreasonably withheld.

Without limiting the foregoing, this Agreement shall not be assigned by Plumas-Sierra Rural Electric Cooperative without the approval in writing of the Administrator of the Rural Electrification Administration Utilities Service.

11.9 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless the court holds that such provisions are not severable from all other provisions of this Agreement.

11.10 Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

11.11 Headings. All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.

11.12 Notices. Any notice, demand or request required or authorized by this Agreement to be given to any Party shall be in writing, and shall either be personally delivered to a Participant's Commissioner or Alternate, and to the General Manager, or shall be transmitted to the Participant and the General Manager at the addresses shown on the signature pages hereof. The designation of such addresses may be changed at any time by written notice given to the General Manager who shall thereupon give written notice of such change to each Participant. All such notices shall be deemed delivered when personally delivered, two (2) Business Days after deposit in the United States mail first class postage prepaid, or on the first Business Day following delivery through electronic communication.

11.13 Warranty of Authority. Each Party represents and warrants that it has been duly authorized by all requisite approval and action to execute and deliver this

Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms.

11.14 Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all the signatories to all of the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

11.15 Venue. In the event that a Party brings any action 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.

11.16 Attorneys' Fees. If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, each Party shall bear its own fees and costs, including attorneys' fees, associated with the action.

11.17 Counsel Representation. Pursuant to the provisions of California Civil Code Section 1717 (a), each of the Parties were represented by counsel in the negotiation and execution of this Agreement and no one Party is the author of this Agreement or any of its subparts. Those terms of this Agreement which dictate the responsibility for bearing any attorney's fees incurred in arbitration, litigation or settlement in a manner inconsistent with the provisions of Section 11.2 were intentionally so drafted by the Parties, and any ambiguities in this Agreement shall not be interpreted for or against a Party by reason of that Party being the author of the provision.

11.18 No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties, by any third person or any Third Parties, to be for the benefit of any Third Party, nor shall any Third Party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by the Parties of any of the provisions of this Agreement.

IN WITNESS WHEREOF, NCPA and each Participant have, by the signature of its duly authorized representative shown below, executed and delivered a counterpart of this Agreement.

NORTHERN CALIFORNIA
POWER AGENCY
651 Commerce Drive
Roseville, CA 95678

CITY OF ALAMEDA
2000 Grand Street
P.O. Box H
Alameda, CA 94501

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

CITY OF BIGGS
465 "C" Street
Biggs, CA 95917

CITY OF GRIDLEY
685 Kentucky Street
Gridley, CA 95948

By: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Its: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Its: _____

Date: _____

CITY OF HEALDSBURG
401 Grove Street
Healdsburg, CA 95448

CITY OF LODI
221 W. Pine Street
Lodi, CA 95240

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

CITY OF LOMPOC
100 Civic Center Plaza
Lompoc, CA 93436

CITY OF OAKLAND, acting
by and through its
Board of Port Commissioners
530 Water Street
Oakland, CA 94607

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

CITY OF PALO ALTO
250 Hamilton Avenue
Palo Alto, CA 94301

PLUMAS-SIERRA RURAL
ELECTRIC COOPERATIVE
73233 Highway 70
Portola, CA 96122

By: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Its: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Its: _____

Date: _____

CITY OF SANTA CLARA
1500 Warburton Avenue
Santa Clara, CA 95050

SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT (BART)
300 Lakeside Drive, 16th Floor
Oakland, CA 94612

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

Approved as to form:

Approved as to form:

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

CITY OF UKIAH
300 Seminary Avenue
Ukiah, CA 95482

By: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Its: _____

Date: _____

EXHIBIT A
LIST OF PARTICIPANTS AND PROGRAM PARTICIPATION PERCENTAGES

The following is a list of the Participants who are signatory to this Agreement, and each Participant's respective Program Participation Percentage:

Participants	Program Participant Percentages
City of Alameda	4.75%
BART	5.01%
City of Biggs	0.20%
City of Gridley	0.45%
City of Healdsburg	0.98%
City of Lodi	6.28%
City of Lompoc	1.86%
City of Palo Alto	11.64%
Plumas Sierra REC	2.14%
Port of Oakland	1.62%
City of Santa Clara	63.55%
City of Ukiah	1.51%
Total	100.00%

Note: The Program Participation Percentages listed in this Exhibit A are consistent with each Participant's project participation percentage listed in Table A of Commission Resolution 23.122. The Program Participant Percentages listed in the Exhibit A can be amended by the Commission from time to time, pursuant to the voting procedures set forth in Section 3 of this Agreement.



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: First Amendment to the Geothermal Plant 1 Cooling Tower Refurbishment Project; Applicable to the following: NCPA's Geothermal Facility.

AGENDA CATEGORY: Discussion/Action

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

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

RECOMMENDATION:

Approval of Amendment to Resolution 22-93 authorizing additional funds of \$1,741,353 for the Geothermal Plant 1 Cooling Tower Refurbishment 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 an updated total not to exceed cost of \$4,600,000, with \$1,800,000 of the project funds contingent upon future approval of the FY25 budget, and approval to spend up to \$150,000 from the planned FY24 Maintenance Reserve fund and to spend up to \$150,000 from the contingent FY25 Maintenance Reserve fund.

BACKGROUND:

In 2022, NCPA staff identified possible thermal performance deficiencies in the cooling towers at the Geothermal Plant 1 due to aging structure and fill technology. Staff determined that the cooling towers needed refurbishment and thermal upgrade services to correct these deficiencies. The Geothermal Plant 1 Cooling Tower Project was originally approved by the Commission on August 25, 2022 (Resolution 22-93) for an amount not to exceed \$2,858,647. This project would replace the existing aging cooling tower splash fill with a modern fill that would increase thermal performance resulting in an increased net MW output to the grid. Pre-project work, including engineering, estimating, and RFP issuance were completed back in 2022, and the fill product was purchased. The original 2022 project scope did not include prevailing wages in the labor costs, or trucking and disposal costs of the old cooling tower fill. As a result, NCPA did not have sufficient funds for installation of the purchased fill product.

The original Plant 1 Cooling Tower Refurbishment Project was broken out into two phases:

- Phase 1 – Material Procurement and Delivery **(FY23) Complete**
- Phase 2 – Cooling Tower Refurbishment Installation **(FY24)**

The Plant 1 Cooling Tower Refurbishment Project will now be broken out into three phases:

- Phase 1 – Material Procurement and Delivery **(FY23) Complete**
- Phase 2 – Cooling Tower Refurbishment Installation – Unit 2 **(FY24)**
- Phase 3 – Cooling Tower Refurbishment Installation – Unit 1 **(FY25)**

FISCAL IMPACT:

The Plant 1 Cooling Tower Refurbishment Project original cost was not to exceed \$2,858,647. Staff is now seeking approval for an additional \$1,741,353 to complete Phases 2 and 3 of the project, for an updated total project cost of not to exceed \$4,600,000. Funds from the remaining phases of this project will come from the FY24 and FY25 budgets. Funds from the FY25 budget are contingent upon future approval of the budget, and no commitment of funds will be made until that date. A breakdown of the project costs by Phase are shown below.

Phase 1 – Material Procurement & Delivery (FY23) COMPLETE	\$1,000,000
Total	\$1,000,000
Phase 2 – Cooling Tower Refurbishment (FY24) Replacement for Unit 2 in FY24	\$1,152,129
Disposal and Trucking of old fill	\$250,000
Tower Maintenance Activities (to be funded from Maintenance Reserve)	\$150,000
Contingency (~7%)	\$97,871
Total	\$1,650,000
Phase 3 – Cooling Tower Refurbishment (FY25) Replacement for Unit 2 in FY25	\$1,285,627
Disposal and Trucking of old fill	\$275,000
Tower Maintenance Activities (to be funded from Maintenance Reserve)	\$150,000
* Contingency (~13%)	\$239,373
Total	\$1,950,000
Total Project Cost	\$4,600,000

Note: The disposal, trucking and contingency cost were increased in 2025 due to inflation.

Phase 2 and Phase 3 of this project include line items for Tower Maintenance Activities for potential discovery maintenance work inside the cooling towers, to be funded from the Maintenance Reserve fund. A table of the Geothermal FY25 Maintenance Reserve Schedule, including the proposed \$300,000 in potential work related to the Plant 1 Cooling Tower Project, is shown below.

GEO Maintenance Reserve Schedule

Funding/(Expenditures)	Beginning Balance					
		2024	2025	2026	2027	2028
Unit Four Overhaul		(1,664,108)				(6,600,000)
Well Replacement /Workover			(1,000,000)	(2,000,000)	(2,000,000)	-
Balance of Plant Work		(500,000)	(500,000)	(515,000)	(530,450)	(546,364)
Plant 1 & 2 Emergency Eyewash Stations		(140,000)				
Plant 2 Cooling Tower Basin Clean Out		(150,024)				
Contingent maintenance		(150,000)	(500,000)	(512,500)	(525,313)	(538,445)
Projected Requirements		(2,604,132)	(2,000,000)	(3,027,500)	(3,055,763)	(7,684,809)
Annual Funding Req*		3,380,400	5,112,452	5,240,263	5,371,270	5,371,270
Balance	1,908,895	2,685,163	5,797,615	8,010,378	10,325,885	8,012,346
Minimum Emergency Contingency Balance	\$ 2,250,000	2,250,000	2,250,000	2,250,000	2,250,000	2,250,000

Despite the significant cost increase, the economics of this project remain strong. NCPA staff recommends completion of the project due to the ultimate benefits, which are detailed in the following table:

EXPENDITURE SCHEDULE (total project, i.e.original AFEs plus any supplements)					
Year	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
FY 2023				1,000,000	1,000,000
FY 2024				1,650,000	1,650,000
FY 2025		1,950,000			1,950,000
Total:	-	1,950,000	-	2,650,000	4,600,000

FINANCIAL EVALUATION SUMMARY	
Useful Life (Years):	20.00
IRR:	44%
Payback (years):	3.0
NPV @ 5%:	\$15,755,093
Est. Annual Benefits:	\$994,428

SELECTION PROCESS:

In accordance with NCPA's procurement policies and procedures, Geothermal project staff followed a formal competitive bid process. On March 16, 2022, a Request for Proposal Bid No. GEO-393 for the Geothermal Plant 1 Cooling Tower Refurbishment Project was released, with proposals due by May 26, 2022. A bid walk took place on March 29, 2022, with two vendors in attendance. Two vendors submitted proposals: EvapTech, Inc. and SPX Cooling Technologies, Inc. NCPA staff determined both proposals were non-responsive due to various technical exceptions in the responses. On June 23, 2022, staff gave written notice of non-responsive bidder to both vendors. After negotiating directly with both vendors, NCPA awarded purchase of the cooling tower fill product to EvapTech, Inc.

The installation of the new cooling tower fill (Phases 2 and 3) was sent out for bid again in November 2023, with the previously-missing prevailing wage costs included. NCPA received responses from two vendors: Alliance Cooling Products & Construction, Inc. and Evaptech, Inc. Alliance Cooling Products & Construction, Inc. was the low bidder at \$2,437,756, while the revised quote from Evaptech, Inc. was \$2,847,187. NCPA intends to award this work to Alliance Cooling Products & Construction, Inc., pending approval of the First Amendment to the Plant 1 Cooling Tower Refurbishment Project.

The Trucking and Disposal costs for Phases 2 and 3 were sent out for bid in January 2024. Two vendors, Patriot Environmental and ACTEnviro, did not respond to the bid. NCPA received a response from one vendor: MP Environmental Services, with a bid of \$250,000 for FY24 and \$275,000 for FY25 for disposal of the old fill material. NCPA intends to award this work to MP Environmental Services, pending approval of the First Amendment to the Plant 1 Cooling Tower Refurbishment Project.

ENVIRONMENTAL ANALYSIS:

The Plant 1 Cooling Tower Refurbishment Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 and 15302 of the CEQA Guidelines (Class 1 and 2 as applied to electric utility systems). The project consists of

maintenance to the existing Plant 1 cooling tower by removing the existing and no longer thermally efficient cooling tower fill and adding modern fill to return and potentially enhance the energy efficiency of the cooling tower. This project will not change the function, size or operation of the cooling tower. The new fill will potentially improve efficiency of Plant 1 by 2%. NCPA filed a Notice of Exemption that covers this activity with Lake and Sonoma Counties. Thus, this project conforms to these exemptions.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024, the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (1):

- Amended Resolution 22-93

AMENDED RESOLUTION 22-93

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING THE FIRST AMENDMENT TO THE GEOTHERMAL PLANT 1 COOLING TOWER REFURBISHMENT PROJECT

(reference Staff Report #XXX-24)

WHEREAS, the Geothermal Plant 1 Cooling Towers needs refurbishment and thermal upgrade services. NCPA staff have identified possible thermal performance deficiencies due to aging structure and fill technology. The Geothermal Facility is seeking to refurbish the existing cooling tower in order to increase net MW output to the grid; and

WHEREAS, the Geothermal Plant 1 Cooling Tower Project was originally approved by the Commission on August 25, 2022 (Resolution 22-93) for an amount not to exceed \$2,858,647; and

WHEREAS, pre-project work, including engineering, estimating, and RFP issuance were completed back in 2022, and the fill product was purchased; and

WHEREAS, the original 2022 project scope did not include prevailing wages in the labor costs, or trucking and disposal costs of the old cooling tower fill. As a result, NCPA did not have sufficient funds for installation of the purchased fill product; and

WHEREAS, the installation of the new cooling tower fill was sent out for bid again in November 2023, with the previously-missing prevailing wage costs included. NCPA received responses from two vendors: Alliance Cooling Products & Construction, Inc. and Evaptech, Inc. Alliance Cooling Products & Construction, Inc. was the low bidder at \$2,437,756. NCPA intends to award this work to Alliance Cooling Products & Construction, Inc., pending approval of the First Amendment to the Plant 1 Cooling Tower Refurbishment Project; and

WHEREAS, the trucking and disposal costs for the old cooling tower fill were sent out for bid in January 2024. Two vendors, Patriot Environmental and ACTEnviro, did not respond to the bid. NCPA received a response from one vendor: MP Environmental Services, with a bid of \$250,000 for FY24 and \$275,000 for FY25 for disposal of the old fill material. NCPA intends to award this work to MP Environmental Services, pending approval of the First Amendment to the Plant 1 Cooling Tower Refurbishment Project; and

WHEREAS, staff is now seeking approval for an additional \$1,741,353 to complete installation of the fill product, for an updated total project cost of not to exceed \$4,600,000. Funds from the remaining phases of this project will come from the FY24 and FY25 budgets. Funds from the FY25 budget are contingent upon future approval of the budget, and no commitment of funds will be made until that date. Staff is also seeking approval to spend up to \$150,000 from the planned FY24 Maintenance Reserve fund and to spend up to \$150,000 from the contingent FY25 Maintenance Reserve fund for related Tower Maintenance Activities; and

WHEREAS, The Plant 1 Cooling Tower Refurbishment Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 and 15302 of the CEQA Guidelines (Class 1 and 2 as applied to electric utility systems). The project consists of maintenance to the existing Plant 1 cooling tower by removing the existing and no longer thermally efficient cooling tower fill and adding modern fill to return and potentially enhance the energy efficiency of the cooling tower. This project will not change the function, size or operation of the cooling tower. The new fill will potentially improve efficiency of Plant 1 by 2%. NCPA filed a Notice of Exemption that covers this activity with Lake and Sonoma Counties. Thus, this project conforms to these exemptions; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the First Amendment to the Geothermal Plant 1 Cooling Tower Refurbishment 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 the new total not to exceed cost of \$4,600,000, with \$1,800,000 of the project funds contingent upon future approval of the FY25 budget, and approval to spend up to \$150,000 from the planned FY24 Maintenance Reserve fund and to spend up to \$150,000 from the contingent FY25 Maintenance Reserve fund.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024, 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: March 28, 2024

SUBJECT: NCPA Preliminary Studies and Investigations Procedure; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members.

AGENDA CATEGORY: Discussion/Action

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

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

Approve Resolution 24-XX for Commission approval of the NCPA Preliminary Studies and Investigations Procedure (GS-201), establishing a process for the use of funds in the Preliminary Studies and Investigations (PS&I) budget account, including the requirements for project evaluation approvals, funds tracking, and reimbursement.

BACKGROUND:

On March 23, 2023 the NCPA Commission directed NCPA staff to establish a Preliminary Studies and Investigations (PS&I) budget account to fund activities associated with researching and/or evaluating new projects that may be of interest to NCPA Members. The Commission also directed NCPA staff to establish a procedure for the use of these funds.

NCPA staff is now seeking approval of the completed Preliminary Studies and Investigations Procedure (GS-201). As requested by the NCPA Commission, this procedure details the responsibilities and process for utilizing funds from the PS&I budget account. This procedure is applicable to any research or development project that is not specifically connected to an existing NCPA Phase II agreement.

FISCAL IMPACT:

There are no fiscal impacts associated with the development of this procedure. As detailed in the procedure, NCPA staff will seek Commission approval prior to spending any funds from the PS&I Budget Account.

SELECTION PROCESS:

Approval of this procedure does not commit NCPA to any expenditure of funds. As detailed in the procedure, NCPA staff will seek Commission approval prior to moving forward with further evaluation of any potential projects. Work will be awarded following NCPA's standard procurement policies and procedures.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On March 6, 2024 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 24-XX
- GS-201 Preliminary Studies and Investigations Procedure

RESOLUTION 24-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE NCPA PRELIMINARY STUDIES AND INVESTIGATIONS PROCEDURE (GS-201)**

(reference Staff Report #XXX:24)

WHEREAS, on March 23, 2023 the NCPA Commission directed NCPA staff to establish a Preliminary Studies and Investigations (PS&I) budget account to fund activities associated with researching and/or evaluating new projects that may be of interest to NCPA Members. The Commission also directed NCPA staff to establish a procedure for the use of these funds; and

WHEREAS, NCPA staff have completed the Preliminary Studies and Investigations Procedure (GS-201). This procedure details the responsibilities and process for utilizing funds from the PS&I budget account; and

WHEREAS, NCPA staff is now seeking approval of the completed Procedure, to apply to any research or development project that is not specifically connected to an existing NCPA Phase II agreement; and

WHEREAS, on March 6, 2024 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency approves the NCPA Preliminary Studies and Investigations Procedure (GS-201), establishing a process for the use of funds in the Preliminary Studies and Investigations (PS&I) budget account, including the requirements for project evaluation approvals, funds tracking, and reimbursement.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2024, 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	_____	_____	_____

JERRY SERVENTI
CHAIR

ATTEST:

CARRIE POLLO
ASSISTANT SECRETARY


	Generation Services Procedures GS-201
Rev. 0	Preliminary Studies and Investigations Use Procedure
Date Approved:	Date First Issued:

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1.0 PURPOSE

At the Commission direction during the March 2023 meeting, NCPA has established a Preliminary Studies and Investigations (PS&I) budget account to fund the activities associated with researching and/or evaluating new projects that might be of interest to the Members. The Commission also provided direction that NCPA is to establish a procedure for the use of the funds in the account. The objective of this procedure is to meet the NCPA Commissions requirements and provide a process for project study approvals, funds tracking, and reimbursement.

2.0 SCOPE

This procedure is applicable to conceptual projects not specifically connected to an existing NCPA Phase II agreement that utilizes funds from the Preliminary Studies and Investigations budget account.

3.0 DEFINITIONS

4.0 RESPONSIBILITIES

- 4.1 The Assistant General Manager of Generation Services will oversee the program. This role will ensure that the PS&I process does not progress without subsequent approvals.
- 4.2 The Director of Engineering will be responsible for managing each of the project studies, ensuring that proper accounting codes are in place. This role will report back to the Facilities Committee after each authorized study step. The Director of Engineering will collaborate with the Assistant Controller to establish the necessary account codes for tracking expenditures for any initial study packages approved by the Commission.
- 4.3 The Assistant Controller will be responsible for establishing account codes for each study project. The expenditures will be traceable across multiple years for member reimbursement should the project proceed. This role will produce reports as needed showing the study expenditures, vendor(s), and member responsibility. At minimum, once each fiscal year, the Assistant Controller will prepare a report summarizing all open study projects and the funds expended.

5.0 PROCEDURE

- 5.1 Conceptual Projects - NCPA to bring potential projects to the Facilities Committee and Utility Director meetings for review, discussion, and approval.
 - At this stage, the concept is not a financial model or any other objective measure.
 - The concept is purely subjective.
 - NCPA will seek a recommendation from the Facilities Committee for Commission

approval to proceed investigating the conceptual projects, with an amount not to exceed, using funds from the Preliminary Studies and Investigations (PS&I) budget account.

- 5.2 Study Package - NCPA will present the conceptual findings from step 5.1 to the Facilities Committee and Utility Director meetings for review and discussion and seek approval for the next study plan steps.
- NCPA will recommend study packages that best fit each conceptual project with estimated costs.
 - A study packages may include fatal flaw analysis for transmission, electrical power plant equipment, power island equipment, electrical protection, civil, environmental, regulatory, permitting, economics, or others that may be best suited for the conceptual project.
 - NCPA will seek a recommendation from the Facilities Committee for Commission approval to proceed with the study package, with an amount not to exceed, using funds from the Preliminary Studies and Investigations (PS&I) budget account.
- 5.3 Study Package Results - NCPA will present the study package results from step 5.2 to the Facilities Committee and Utility Director meetings for review and discussion and seek approval for the next steps.
- NCPA may recommend returning to step 5.2 to include additional studies depending on initial findings.
 - NCPA may recommend a Phase II Agreement depending on initial findings.
- 5.4 Phase II Agreement - Upon completion of the Study Package Results, if a recommendation is made to proceed with the project, a Phase II agreement will be prepared for those Members interested in participating.
- The corresponding Phase II budget will include a funding allocation to reimburse the Preliminary Studies and Investigations account.
 - Approvals at this stage will follow NCPA's standard procurement policies and procedures for project approvals.

A. VERSION HISTORY

No.	Explanation	Date	By
0	Procedure created	4/28/2023	Michael DeBortoli

B. APPROVALS

Approved By	Signature	Date
Jeremy Lawson – Director of Engineering, Generation Services		
Sondra Ainsworth – Treasurer Controller. Administrative Services		
Michael DeBortoli – Assistant General Manager, Generation Services		
Monty Hanks – Assistant General Manager, Administrative Services		
Randy Howard – General Manager		

C. DISTRIBUTION

Name	Date
Michael DeBortoli, Assistant General Manager, Generation Services	
Sondra Ainsworth – Treasurer Controller. Administrative Services	
Monty Hanks – Assistant General Manager, Administrative Services	
Randy Howard – General Manager	