



651 Commerce Drive  
Roseville, CA 95678

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# Agenda

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**Date: Wednesday, June 3, 2020**

**Subject: Facilities Committee Meeting**

**Location: NCPA Headquarters, 651 Commerce Drive, Roseville, CA**

**Time: 10:00 am**

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**This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Act, Governor Gavin Newsom's Emergency Declaration related to COVID-19, and Governor Newsom's Executive Order N-29-20 issued March 17, 2020 that allows attendance by Committee Members, NCPA staff, and the public to participate and conduct the meeting by teleconference.**

**You may participate in the meeting via teleconference by:**

**Dial: 1 877-568-4106**

**Code: 801-666-237#**

*The Facilities (Committee) may take action on any of the items listed on this Agenda regardless of whether the matter is described as an Action Item, or an Informational Item. This agenda is often supplemented by various documents which are available to the public upon request. Pursuant to Government Code Section 54957.5, the following is the location at which the public can view agendas and other public writings: NCPA Offices, 651 Commerce Drive, Roseville, California, or [www.ncpa.com](http://www.ncpa.com).*

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

## **REVIEW SAFETY PROCEDURES**

### **1. Call Meeting to Order and Roll Call**

### **PUBLIC FORUM**

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

## **OPEN SESSION**

### **DISCUSSION / ACTION ITEMS**

2. **Approval of Minutes** – Approve the April 30, 2020 Special Facilities Committee meeting minutes, and the May 6, 2020 Facilities Committee meeting minutes.
3. **All NCPA Facilities – Univar USA, Inc. First Amendment to MTEMS** – Staff is seeking a recommendation for Commission approval of a First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies, changing the vendor name to Univar Solutions, Inc., with no change to the not to exceed amount or 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*)
4. **All Generation Services Facilities and NCPA Members – Bell Burnett & Edwards MTCSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Bell Burnett & Edwards for financial analysis, planning advisory, generation and transmission project planning, energy efficiency and demand reduction program design, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA and NCPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Administrative Services*)
5. **Palo Alto Admission to MPP** – Pursuant to Section 11.1 of the Amended and Restated Market Purchase Program Agreement (MPP), staff is seeking a recommendation for Commission approval of admission of the Palo Alto as a new MPP Participant. (*Commission Category: Consent; Sponsor: Power Management*)
6. **Amendment 5 to the O&M Funding Agreement** – Staff is seeking a recommendation for Commission approval of Amendment 5 to the Agreement for the Funding and Operations and Maintenance for Central Valley Project Power Facilities (O&M Funding Agreement). (*Commission Category: Consent; Sponsor: Power Management*)

### **INFORMATIONAL ITEMS**

7. **New Business Opportunities** – Staff will provide an update regarding new business opportunities. (*Sponsor: Power Management*)
8. **Resource Adequacy Commitments Impact on Operations** – Staff will review and discuss impacts Resource Adequacy commitments have on joint project operations. (*Sponsor: Power Management*)
9. **Combined Integrated Resource Plan 2020 Annual Update** – Staff will provide notice to the Committee that the 2020 Combined Integrated Resource (IRP) Plan Annual Update was filed with Western, on behalf of the NCPA Pool Members. (*Sponsor: Power Management*)
10. **NCPA Generation Services Plant Updates** – Plant Staff will provide the Committee with an informational update on current plant activities and conditions. (*Sponsor: Generation Services*)

**11. Planning and Operations Update** – Staff will provide an update on issues related to planning and operations. (*Sponsor: Power Management*)

**12. Next Meeting** – The next Facilities Committee meeting is scheduled for July 1, 2020.

**ADJOURNMENT**

/cp



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# Minutes – Draft

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**Date:** May 14, 2020  
**To:** NCPA Facilities Committee  
**From:** Carrie Pollo  
**Subject:** April 30, 2020 Special Facilities Committee Meeting Minutes

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- 1. Call Meeting to Order & Roll Call** – Committee Chair Brian Schinstock (Roseville), called the meeting to order at 10:10 am. Attending via teleconference and/or on-line presentation were Alan Harbottle (Alameda), Mark Sorensen (Biggs), Jiayo Chiang (Lodi), Shiva Swaminathan (Palo Alto), Mike Brozo (Plumas-Sierra), and Saul Lopez (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Facilities Committee Representatives from BART, Gridley, Healdsburg, Lompoc, Port of Oakland, Redding, TID, and Ukiah were absent. A quorum of the Committee was not established.

## **PUBLIC FORUM**

No public comment.

## **OPEN SESSION**

## **DISCUSSION / ACTION ITEMS**

- 2. NCPA CT1 Facility – CT1 Alameda Unit 2 Turbine Maintenance Project** – Staff presented background information and was seeking a recommendation for approval of the CT1 Alameda Unit 2 Turbine Maintenance Project, granting authority to the General Manager to award bids, enter into agreements, and issue purchase orders, for an amount not to exceed \$645,000, to be funded from the CT1 Maintenance Reserve Account.

CT1 Alameda Unit 2 has been in a planned outage since March 2, 2020. During a routine borescope inspection of the internal condition of the gas turbine, two blades were identified to have cracks, which were within acceptable tolerances for internal repair. However, when working to restore oil so the turbine could turn and blend out the cracks, additional blades were also discovered to be cracked, one of which is outside the range of acceptable tolerances for repair. Staff also discovered a feather seal, which has begun migrating out of position, with the potential to cause significant damage to downstream parts if it liberates. In order to minimize risk of further damage, a “modified minor” Hot Gas Path should be performed.

This facility is essential in providing electric power to the electric grid in the communities serviced by the Member-Owners during this pandemic and through the summer in support of grid reliability. This maintenance work will allow the unit to continue operating and to prevent additional damage to the unit.



The scope of work was sent to four bidders, Allied Power Group, LLC, Mechanical Dynamics & Analysis, LLC (MD&A), Sulzer Turbo Services Houston, Inc., and Trinity Turbine Technology, LP. NCPA has bid the specific scope of work consistent with NCPA procurement policies and procedures. Bids were received from Allied, MD&A and Sulzer. MD&A cannot perform the parts refurbishment aspect of the job. Between Allied and Sulzer, Sulzer is the best overall value to NCPA to complete the job. A Commission Staff Report was available for review.

No formal action was taken due to the lack of a quorum, however, the general consensus of the Facilities Committee recommends approval of the CT1 Alameda Unit 2 Turbine Maintenance Project, in accordance with NCPA Purchasing Policies and Procedures, and consistent with Local Emergency concerning the COVID-19 Virus Proclamation Resolution 20-30, granting authority to the General Manager to enter into agreements and to issue purchase orders for the project, for a total not to exceed amount of \$645,000.

3. **All Generation Services Facilities, Members, SCPPA – Sulzer Turbo Services Houston, Inc. Second Amendment to MTGSA-EMS** – Staff presented background information and was seeking a recommendation for approval of a Second Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc., extending the contract expiration date to August 12, 2020, with no change to the not to exceed amount, for continued 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.

NCPA entered into a five year Multi Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc. effective May 12, 2015 for an amount not to exceed \$1,500,000. A first amendment was executed on August 30, 2017 to allow for NCPA members, SCPPA and SCPPA Members to utilize the agreement.

The CT1 Alameda Unit 2 has been in a planned outage since March 2, 2020. During the outage, it was determined that a “modified minor” Hot Gas Path (HGP) should be performed. The HGP scope of work was sent to four bidders and Sulzer was determined to be the best overall value to NCPA to complete the job. NCPA’s current agreement with Sulzer expires on May 12, 2020, and the HGP work will go beyond this date. This second amendment will extend the expiration date of the agreement by three months to August 12, 2020. This agreement is still available for use at any facility owned and/or operated by the Agency, NCPA Members, SCPPA, or SCPPA Members. This is an enabling agreement with no commitment of funds. A draft Commission Staff Report and draft Second Amendment to the agreement were available for review.

No formal action was taken due to the lack of a quorum, however, the general consensus of the Facilities Committee recommends approval of the Second Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc. in accordance with NCPA Purchasing Policies and Procedures and consistent with Local Emergency concerning the COVID-19 Virus Proclamation Resolution 20-30, granting authority to the General Manager to execute this Second Amendment to extend the term of the Agreement by three months, to August 12, 2020.

The General Manager will update the Commission regarding these two items.

## **ADJOURNMENT**

The meeting was adjourned at 10:34 am by the Committee Chair.

**Northern California Power Agency  
April 30, 2020 Special 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]

## Teleconference call only due to Covid19.

### Northern California Power Agency April 30, 2020 Special Facilities Committee Meeting Attendance List

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

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



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# Minutes – Draft

---

**Date:** May 14, 2020  
**To:** NCPA Facilities Committee  
**From:** Carrie Pollo  
**Subject:** May 6, 2020 Facilities Committee Meeting Minutes

---

1. **Call Meeting to Order & Roll Call** – Committee Chair Brian Schinstock (Roseville), called the meeting to order at 9:05 am. Attending via teleconference and/or on-line presentation were Alan Harbottle (Alameda), Mark Sorensen (Biggs), Paul Eckert (Gridley), Jiayo Chiang (Lodi), Shiva Swaminathan (Palo Alto), Mike Brozo (Plumas-Sierra), Jared Carpenter (Port of Oakland), Nick Rossow (Redding), and Basil Wong and Steve Hance (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Facilities Committee Representatives from BART, Healdsburg, Lompoc, TID, and Ukiah were absent. A quorum of the Committee was established.

## **PUBLIC FORUM**

No public comment.

## **OPEN SESSION**

## **DISCUSSION / ACTION ITEMS**

2. **Approve Minutes from the April 1, 2020 Facilities Committee Meeting.**

Motion: A motion was made by Brian Schinstock and seconded by Jiayo Chiang recommending approval of the April 1, 2020 Facilities Committee meeting minutes. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Port of Oakland, Roseville, and Santa Clara. The motion passed.

3. **All NCPA Facilities, Members, SPPA – Securitas Security Services USA, Inc. MTGSA –** Staff presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Securitas Security Services USA, Inc. for security services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SPPA, and SPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures.

This is a renewal agreement with an existing vendor. It is an enabling agreement with no commitment of funds. NCPA had a previous agreement in place with Securitas Security Services USA, Inc., which is running low on funds and expiring. Staff has utilized this vendor in the past, and has a good working relationship with the 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 projects. A pending agreement is in place for similar services with Borgens and Borgens, Inc. dba Delta Protective Services. A draft Commission Staff Report and draft agreement were available for review. It is recommended to place this item on the consent calendar.

Motion: A motion was made by Basil Wong and seconded by Brian Schinstock recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Securitas Security Services USA, Inc. for security related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. The motion passed.

4. **All NCPA Facilities, Members, SCPPA – Energy Project Solutions, LLC MTGSA – Staff** gave background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Energy Project Solutions, LLC for pipeline operations and 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. All purchase orders will be issued following NCPA procurement policies and procedures.

This is a renewal agreement with an existing vendor. It is an enabling agreement with no commitment of funds. NCPA had a previous agreement in place with Energy Project Solutions, LLC which is expiring. NCPA requested competitive bids specifically for the CT1 Alameda pipeline services required. Energy Project Solutions, LLC was the only bidder on the project. Staff has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into a multi-task enabling agreement with Energy Project Solutions, LLC so established terms and conditions are in place should this vendor be the successful bidder on future projects. Execution of this enabling agreement will also increase the pool of qualified and proven vendors for these types of services. NCPA does not currently have any agreements in place with similar vendors for these types of services. A draft Commission Staff Report and draft agreement were available for review. It is recommended to place this item on the consent calendar.

Motion: A motion was made by Mike Brozo and seconded by Basil Wong recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Energy Project Solutions, LLC for CT1 Alameda pipeline operations and general maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Redding, Roseville, and Santa Clara. The motion passed.

5. **NCPA Geothermal Facility – Steam Field Operations Forecast Report – Staff** provided background information and was seeking a recommendation for Commission approval of the 2020 Steam Field Operations Forecast Report dated April 2020, including approval regarding the market power price at which to curtail the load at the NCPA Geothermal facilities, as the Geothermal Operating Protocol effective July 1, 2020, and remaining in effect until replaced by the Commission.

The Steam Field Operations Forecast Report is an in depth study of The Geysers reservoir relative to the operation of NCPA's Geothermal facility and provides a generation forecast of the

facility. This report will act as the Operating Protocol with the goal of maximizing the generation output. The proposed 2020 Geothermal Facility Operating Protocol will be a two-zone baseload operation with curtailment conditions including; negative Day Ahead pricing of at least \$25 per MWh, and the level of curtailment limited to 45 MW with discretion to adjust this level based on the steam field response. The curtailment duration will be at least four hours or more, and limited to cycling once per calendar day.

Motion: A motion was made by Brian Schinstock and seconded by Basil Wong recommending Commission approval of the 2020 Steam Field Operations and Forecast Report, dated April 2020, as the Geothermal Operating Protocol, effective July 1, 2020. This Operating Protocol is to remain in effect until replaced by the Commission. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Palo Alto and Redding. The motion passed.

**6. NCPA Wildfire Mitigation Plan Updates** – Staff presented the NCPA Wildfire Mitigation Plan Audit Report, outlining recommended changes to the plan, and was seeking a recommendation for Commission approval of the recommended changes.

The Public Utilities Code Section 8387 requires electric utilities to assess the risk of catastrophic wildfire posed by a utility's overhead electrical lines and equipment. In response to this requirement, NCPA created its Wildfire Mitigation Plan, to reduce the risk of NCPA facilities igniting wildfire, including identifying preventative maintenance procedures and practices. The NCPA 2020 Wildfire Mitigation Plan was approved at the Commission meeting December 5, 2019. This Plan shall be reviewed and approved on an annual basis.

As required in NCPA's Wildfire Mitigation Plan, NCPA must contract with a qualified independent evaluator to review and assess the comprehensiveness of the Plan. The assessment report must be presented at a Commission meeting and posted to the website. NCPA hired Dudek to complete this evaluation. Upon Commission approval, staff will revise the Wildfire Mitigation Plan from version 1.0 to 1.1 for document revision history. This Plan will be submitted to the Wildfire Safety Advisory Board.

Motion: A motion was made by Basil Wong and seconded by Jiayo Chiang recommending Commission approval of the NCPA 2020 Wildfire Mitigation Plan, with updated revisions based on the qualified independent evaluator's recommendations. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Redding. The motion passed.

**7. Port of Oakland Admission to MPP** – Pursuant to Section 11.1 of the Amended and Restated Market Purchase Program Agreement (MPP), staff was seeking a recommendation for Commission approval of admission of the Port of Oakland as a new MPP Participant.

Per the MPP Agreement, NCPA can act on behalf of Participants to transact Approved Products. Under Section 11.1, a Member may execute the MPP Agreement and become a Participant provided that such joinder is approved by the NCPA Commission. The Port of Oakland has expressed interest in becoming a Participant under the MPP Agreement. Upon joining the MPP Agreement, the Port of Oakland will participate in the program pursuant to the terms and conditions of the MPP Agreement.

Motion: A motion was made by Mike Brozo and seconded by Brian Schinstock recommending Commission approval of the Port of Oakland becoming a Participant under the Amended and Restated Market Purchase Program Agreement (MPP Agreement) upon Port of Oakland's execution of the MPP Agreement. A vote was taken by roll call: YES = Alameda, Gridley, Lodi,

Palo Alto, Plumas-Sierra, Port of Oakland, Redding, Roseville, and Santa Clara. The motion passed.

## **INFORMATIONAL ITEMS**

- 8. NCPA Generation Services Plant Updates** – Plant Staff will provide the Committee with an informational update on current plant activities and conditions.

**Hydro** – New Spicer Meadows (NSM) Reservoir capacity is increasing with peak flows between 1:00 – 2:00 am. The capacity is approximately 120,000 acre-feet. The NSM Powerhouse is currently in a PG&E outage from April 2 – May 9, 2020. It took one week to plow the road to the powerhouse due to April snows. Hydro is preparing for the annual ground based inspection of the entire 230 kV line, which is approximately 40 miles, and includes LIDAR survey, and vegetation management. Staff is also planning and preparing for the Insulator Replacement Project on the 230 kV line. The Osprey have been persistent, and nests have come back twice on the top of power poles after WAPA removed them, and placed plastic cones on at the top of the poles. Staff are coordinating with USFS for the opening of NSM Campground.

**CTs** – April was a quiet month for the CTs, with two actual starts at CT1. Neither CT had any forecasted starts. The YTD starts for CT1 is 216, with CT2 at 36. There were zero forced outages. The CT1 Alameda Unit 2 outage has been extended due to cracked blades out of the acceptable range of repair. As well, the STIG outage has also been extended into June due to the transformer.

**Geo** – There were no safety incidents to report for the month of April. Established safety measures are in place to prevent Covid-19 exposure, as well as screening for symptoms. A Covid-19 screening station has been set up at the C-Site Well Pad for NCPA employees, contractors, and visitors. Staff are now focusing on the fire season, with continued maintenance of existing firebreaks, clearing vegetation around the infrastructure, and possible shutdown of the SEGEP Pipeline during PSPS events. The FY2020 YTD actual generation is 524.5 GWhrs. Generation is still down due to the Kincadee fire, but is slowly building back up. It is now 15% below the forecast. An outage was originally planned for Plant 2, Unit 4, from April 6-16, 2020. The unit was taken off line early on March 24, 2020 due to low turbine oil pressure with high bearing vibration. The unit is scheduled for completion on May 12, 2020. Plant 1, Unit 2 was in an outage April 20-22, 2020 for replacement of the 2.4 KVA transformer.

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

Sonoma Clean Power (SCP) issued a RFP for Schedule Coordinator (SC) Services. NCPA submitted a Statement of Qualifications on February 11, 2020. Staff participated in an interview on February 25, 2020. NCPA has been tentatively selected as SCP's preferred services provider. Staff is currently working on a draft agreement with a limited scope of services for the SC services. The initial term of services will be for three years from January 1, 2021 through December 31, 2023, with an automatic extension. Services provided will include scheduling ISTs, loads, and limited resources, similar to EBCE. The estimated costs for services will be \$205,000 per year, with a 2% escalation per year. The liability proposal will include liability for select services limited to cost for services in the event of NCPA's active negligence.

The security account requirement protects Members from default by providing cash flow during the period in which NCPA seeks a remedy for default or the removal of a load from the SC portfolio. The current requirement is the highest three months of estimated CAISO invoices, which is defined as Estimated Aggregate Liability (EAL). SCP has expressed concerns with the standard posting requirement as it may result in a large posting requirement. SCP has acknowledged the purpose and intent of the security account requirement, but has requested an alternative requirement that is more aligned with other business requirements and practices.

Alternatives to consider include modifying the number of months to a prompt month requirement or a two-month requirement instead of three. Other considerations include possibly shortening the period of cure for an event of default from 30 days to ten days, with a focus on limiting contingent liability. Please contact Power Management staff with input and any questions.

#### **10. Planning and Operations Update –**

- Nevada Irrigation District's (NID) Combie South Powerhouse was successfully integrated into the NCPA SCID portfolio effective May 1, 2020. The Deer Creek Powerhouse will be integrated next, after FERC approval.
- NCPA Renewables RFP – Staff is working to present a summary of initial proposals to the Members at the May 14, 2020 UD meeting.
- SFWPA – NCPA is reengaging in negotiations with SFWPA to explore opportunity for purchase of project output, and provision of scheduling and dispatch services.
- PG&E PSPS – Staff is working to improve coordination and communications with PG&E as we look forward to the CY 2020 wild fire season. Will refocus on a dedicated contact. Last year there were 12 separate PG&E desks.

**11. Next Meeting –** The next regular Facilities Committee meeting is scheduled for June 3, 2020.

#### **CLOSED SESSION**

Non-essential Members and NCPA staff left the meeting for the closed session Item #12.

#### **12. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

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

#### **RECONVENED TO OPEN SESSION**

All meeting attendees rejoined the meeting.

#### **REPORT FROM CLOSED SESSION**

*Closed Session Disclosure:* General Counsel Jane Luckhardt stated no reportable action was taken on the closed session Item #12.

#### **ADJOURNMENT**

The meeting was adjourned at 11:45 am, by Committee Chair, Brian Schinstock.



**Northern California Power Agency  
May 6, 2020 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]

## Teleconference call only due to Covid19.

### Northern California Power Agency May 6, 2020 Facilities Committee Meeting Attendance List

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

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



# Commission Staff Report

**Date:** June 3, 2020

**COMMISSION MEETING DATE:** June 25, 2020

**SUBJECT:** Univar USA, Inc. – First Amendment to the Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities.

**AGENDA CATEGORY:** Consent

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

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

Approve Resolution 20-XX authorizing the General Manager or his designee to enter into a First Amendment to the five-year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Univar USA, Inc., with any non-substantial changes as recommended and approved by the NCPA General Counsel, to change the vendor name in the Agreement to Univar Solutions, Inc., for continued use at all facilities owned and/or operated by Northern California Power Agency (NCPA).

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

## **BACKGROUND:**

Purchase of various chemicals, including those required to operate the plant facilities, are required at NCPA from time to time.

On June 21, 2018, NCPA entered into a Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies, for purchase of chemicals with Univar USA, Inc. On August 22, 2019, Univar USA, Inc. notified NCPA of their intention to change their name to Univar Solutions, Inc. This amendment does not change any of the other terms or conditions of the agreement.

## **FISCAL IMPACT:**

Upon execution, the total cost of the Agreement remain not to exceed \$1,500,000 over five years, to be used out of NCPA approved annual operating budgets as materials are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

## **SELECTION PROCESS:**

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has similar agreement in place with The Dow Chemical Company, CellMark USA, Inc, SUEZ WTS USA, Inc., and Brenntag Pacific, Inc. and seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the chemicals needed at the time the chemicals are required.

## **ENVIRONMENTAL ANALYSIS:**

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

## **COMMITTEE REVIEW:**

Committee review pending.

Respectfully submitted,

RANDY S. HOWARD  
General Manager

Attachments (3):

- Resolution
- Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Univar USA, Inc.
- First Amendment to Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Univar USA, Inc.

## RESOLUTION 20-XX

### RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A FIRST AMENDMENT TO THE FIVE YEAR MULTI-TASK AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES WITH UNIVAR USA, INC.

(reference Staff Report #xxx:20)

WHEREAS, purchase of various chemicals are required from time to time at all facilities owned and/or operated by the Northern California Power Agency (NCPA); and

WHEREAS, Univar USA, Inc. is a provider of these various chemicals; and

WHEREAS, NCPA entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Univar USA, Inc. on June 21, 2018; and

WHEREAS, On August 22, 2019 Univar USA, Inc. notified NCPA of their intention to change their name to Univar Solutions, Inc., effective September 1 2019; and

WHEREAS, NCPA now desires to enter into a First Amendment with Univar USA, Inc. to amend the current agreement and reflect the supplier's name change to Univar Solutions, Inc. with no change to any of the other terms and conditions of the Agreement; 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 of his designee to enter into a First Amendment to the Five Year Multi-Task Agreement For Purchase Of Equipment, Materials And Supplies with Univar USA, Inc. with any non-substantial changes as approved by the NCPA General Counsel, changing the vendor name to Univar Solutions, Inc. for continued use at all facilities owned and/or operated by NCPA.

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

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

\_\_\_\_\_  
ROGER FRITH  
CHAIR

ATTEST:

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



**MULTI-TASK  
AGREEMENT FOR PURCHASE OF  
CHEMICALS  
BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
UNIVAR USA INC.**

This Agreement for Purchase of Chemicals ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Univar USA Inc., ("Supplier"), whose principal office is located at 3075 Highland Parkway, #200, Downers Grove, IL 60515 (together sometimes referred to as the "Parties") as of June 21, 2018 (the "Effective Date").

**Section 1. SCOPE.** In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to the designated Project Site, DDP, when requested by the Agency. Supplier shall be responsible at its sole expense for delivering the Goods to the designated Project Site and title and risk of loss shall not pass until the Agency accepts delivery at this Site. Such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

**Section 2. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP.

**Section 3. TERM OF AGREEMENT.** This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A. Either party may terminate this Agreement at any time upon 60 days' prior written notice.

**Section 4. REQUEST FOR GOODS.** At such time that Agency determines to have Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"), may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods shall be delivered. Supplier shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Supplier chooses not to provide the Requested Goods. If Supplier agrees to provide the Requested Goods, begins to provide the Requested Goods, or does not respond within the seven day period specified, then Supplier will have agreed to provide the Requested Goods on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

**Section 5. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a



guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

- 5.1 Invoices.** Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the Goods for which Supplier is seeking payment. Amounts owing to or payable by either party under this Agreement shall be deemed finally reconciled on the first anniversary of the final delivery under this Agreement and any outstanding rights of either party to receive overpayments or under payments including rights to unclaimed credits or refunds shall expire on such date.. All invoices shall be submitted to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
[AcctsPayable@ncpa.com](mailto:AcctsPayable@ncpa.com)

- 5.2 Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.
- 5.3 Timing for Submittal of Final Invoice.** Supplier shall have ninety (90) days after delivery of the Requested Goods to submit its final invoice for the Requested Goods. In the event Supplier fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Supplier is deemed to have waived its right to collect its final payment for the Requested Goods from Agency.

**Section 6. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Supplier, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 6.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 6.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any



loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

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

**6.5 All Policies Requirements.**

**6.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

**6.5.2 Notice of Reduction in or Cancellation of Coverage.** Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.

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

**6.6 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

**Section 7. WARRANTY.** Supplier warrants that all Goods meet Supplier's specifications at the time of delivery; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and are not subject to any liens or encumbrances. SUPPLIER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

If the Goods provided by Supplier under this Agreement fail to meet Supplier's warranty, Supplier shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction. Any claim for shortage or non-conforming Products must be made in writing to Seller within 30 days after Buyer's receipt of the Product. Any claim for non-delivery of Product must be made within 30 days after the date upon which the Product was to be delivered.

**Section 8. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.**

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

**8.2 Scope.** Supplier shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Supplier, its officers, officials, agents, and employees, except as caused by the sole 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.

Supplier's liability is exclusively limited to the purchase price of the Goods or the applicable insurance limits, whichever is greater, that are the subject of Agency's claim. Neither party is liable for consequential, special or incidental damages.

**8.3 Transfer of Title.** Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications if the spill or release occurs prior to Agency's acceptance of the Goods. Should Supplier be required to

remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

## **Section 9. MISCELLANEOUS PROVISIONS.**

- 9.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 9.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 9.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 9.9 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.

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

**9.11 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.

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

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

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

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

Univar USA Inc.  
Attn: Craig Colbert  
2256 Junction Ave.  
San Jose, CA 95131-1216

With a copy to:

Univar USA, Inc.  
Attn: Legal & Corporate Affairs  
17411 NE Union Hill Road  
Redmond, WA 98052

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

**9.15.1** Each party shall designate a senior management or executive level representative to negotiate any dispute.

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

**9.15.3** 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.

**9.15.4** 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.

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

**9.15.6** 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.*

**9.16 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.

**9.17 Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.

- 9.18 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19 **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.
- 9.20 **Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

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

NORTHERN CALIFORNIA POWER AGENCY

Date: 6/21/18  
Randy S. Howard  
RANDY S. HOWARD, General Manager

UNIVAR USA INC.

Date: 5-30-18  
Sara Stewart  
SARA STEWART, General Manager

Attest:

[Signature]  
Assistant Secretary of the Commission

Approved as to Form:

[Signature]  
Jane Luckhardt, General Counsel



## EXHIBIT A

### PURCHASE LIST

As requested by Agency, Supplier shall provide the following listed Goods, but not limited to the following, as requested by Agency at any one of its facility locations:

Chemical
Peroxide
Caustic Soda 15%
Soda Ash Dense
Lime 90%
Mag Ox 36%
Sulfuric Acid 93%
Sodium Hypochlorite 12.5% (Bleach)
Magnesium Sulfate 30%
Sodium Bisulfite 12% (Nalco PC?408)
Phosphoric Acid 70% (Nalco PC 185)
Aqua Ammonia
Sodium Hydroxide 15%
Additional products not listed above to be provided as requested in writing by NCPA facilities.

Additional products not listed above to be provided as requested in writing by NCPA facilities.

Supplier's deliveries shall be made by a vehicle suitable constructed to contain chemicals meeting Agency's product specifications. All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change. Pricing for goods shall be quoted by Supplier at the time the product is requested. Total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount as set forth in Section 5 (Compensation) of this Agreement.

**EXHIBIT B**

**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, Sara Stewart, General Manager

(Name of person signing affidavit)(Title)

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

(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 30<sup>th</sup> day of May, 2018.

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



**EXHIBIT C**

**CERTIFICATION**

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

I, Sara Stewart, General Manager,

(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,

Univar

(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]  
(Signature of officer or agent)

Dated this 30<sup>th</sup> day of May, 2018

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



**FIRST AMENDMENT TO MULTI-TASK AGREEMENT FOR PURCHASE OF CHEMICALS  
BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND UNIVAR USA, INC.  
CHANGING NAME TO UNIVAR SOLUTIONS, INC.**

This First Amendment ("Amendment") to the Multi-Task Agreement for Purchase of Chemicals is entered into by and between the Northern California Power Agency ("Agency") and Univar Solutions, Inc., ("Supplier") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2020.

WHEREAS, the Parties entered into a Multi-Task Agreement for Purchase of Chemicals dated effective June 21, 2018, (the "Agreement") for Supplier to provide various chemicals for the Agency; and

WHEREAS, effective September 1, 2019, Univar USA, Inc. changed its name to Univar Solutions, Inc. and the Agency desires to amend the Agreement to reflect the change of Supplier's name to Univar Solutions, Inc. ; and

WHEREAS, the Agency now desires to amend Section 9.14 entitled "Notices" of the Agreement to reflect change of the Supplier's name; and

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

WHEREAS, in accordance with Section 9.20 all changes to the Agreement must be in writing and signed by all the Parties; and

WHEREAS, Univar Solutions, Inc. consents to the amendment;

NOW, THEREFORE, the Parties agree as follows:

1. As of the Amendment Effective Date, the preamble to the Agreement is replace in its entirety as follow:

"This Agreement for Purchase of Chemicals ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Univar Solutions, Inc., ("Supplier"), whose principal office is located at 3075 Highland Parkway, #200, Downers Grove, IL 60515 (together sometimes referred to as the "Parties") as of June 21, 2018 ("Effective Date") in Roseville, California."

2. As of the Amendment Effective Date, Section 9.14 Notices is replaced in its entirety as follows:

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

Univar Solutions, Inc.  
Attn: Craig Colbert  
2256 Junction Ave.  
San Jose, CA 95131-1216

With a copy to:

Univar Solutions, Inc.  
Attn: Legal & Corporate Affairs  
17411 NE Union Hill road  
Redmond, WA 98052

Any written notice to Agency shall be sent to:

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

With a copy to:

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

3. Agency hereby approves the name change of the Agreement from Univar USA, Inc. to Univar Solutions, Inc., Supplier.
4. 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: \_\_\_\_\_

UNIVAR SOLUTIONS, INC.

\_\_\_\_\_  
**SARA STEWART, General Manager**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Jane E. Luckhardt, General Counsel



# Commission Staff Report

June 3, 2020

**COMMISSION MEETING DATE:** June 25, 2020

**SUBJECT:** Bell Burnett and Edwards – Five Year Multi-Task Consulting Services Agreement for financial analysis, planning, advisory and forecasting, generation and transmission project planning, project and program development, energy efficiency and demand reduction program design; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities and NCPA Members.

**AGENDA CATEGORY:** Consent

<b>FROM:</b>	Monty Hanks	<b>METHOD OF SELECTION:</b>
	AGM Admin Services/CFO	N/A
<b>Division:</b>	Administrative Services	<i>If other, please describe:</i>
<b>Department:</b>	General Services	

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

## **RECOMMENDATION:**

Staff is recommending the Northern California Power Agency (NCPA) Commission approve Resolution 20-XX authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Bell Burnett and Edwards for financial analysis, planning, advisory and forecasting, generation and transmission project planning, project and program development, energy efficiency and demand reduction program design, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA and NCPA Members.

It is recommended that this item be placed on the Commission Consent Calendar.

## **BACKGROUND:**

Bell Burnett and Edwards is a corporation formed to assist with a broad range of consulting related services including but not limited to capital planning, rate forecasting, strategic analysis, resource adequacy planning, project development, implementation, reporting and management, and energy efficiency evaluation and program design. They offer independent development, review and assessment of strategic plans and initiatives to clients in the private and public sectors. Their approach centers on optimization, efficiency, affordability and sustainability with services designed to enhance governance, communication, project delivery, resources, and systems integration.

## **FISCAL IMPACT:**

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

## **SELECTION PROCESS:**

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

## **ENVIRONMENTAL ANALYSIS:**

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

**COMMITTEE REVIEW:**

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD  
General Manager

Attachments:

- Resolution 20-XX
- Multi-Task Consulting Services Agreement with Bell Burnett and Edwards

## RESOLUTION 20-XX

### RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH BELL BURNETT and EDWARDS

(reference Staff Report #xxx:20)

WHEREAS, financial analysis, planning, advisory and forecasting, generation and transmission project planning, project and program development, energy efficiency and demand reduction program design are periodically required at the facilities owned and/or operated by the Northern California Power Agency (NCPA) and NCPA Members; and

WHEREAS, Bell Burnett and Edwards (BB&E) is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with BB&E to provide such services as needed at all NCPA facilities and NCPA Members in an amount not to exceed \$1,000,000 over five years; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Bell Burnett and Edwards with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for financial analysis, planning, advisory and forecasting, generation and transmission project planning, project and program development, energy efficiency and demand reduction program design services, for use at all facilities owned and/or operated by NCPA and NCPA Members.

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

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

\_\_\_\_\_  
ROGER FRITH  
CHAIR

ATTEST:

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

DRAFT





## **MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND BELL BURNETT & EDWARDS**

This Consulting 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 Bell Burnett & Edwards, a corporation with an office located at 26 Broderick Street, San Francisco, CA. 94117-3115 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2020 ("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.
- 1.5 Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day period specified, then Consultant will have agreed to perform the Requested

Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** one million dollars (\$1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
[AcctsPayable@ncpa.com](mailto:AcctsPayable@ncpa.com)

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

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

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

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

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

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

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

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

**4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$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.** Not applicable.

**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 pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific 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, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

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

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

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

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

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

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

**6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

**6.4 Certification as to California Energy Commission.** Not Applicable.

## **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. .Provided there are no outstanding Purchase Orders issued to Consultant or Work, Consultant may cancel this Agreement with thirty (30) days prior written notice to Agency.

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

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

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

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

- 8.4.1** Immediately terminate the Agreement;
- 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.4.3** Retain a different consultant to complete the Services not finished by Consultant; and/or
- 8.4.4** Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

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

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

- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.
- 9.4.2 Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in 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 Monty Hanks, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

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

Bell Burnett & Edwards  
Alex Burnett  
26 Broderick Street  
San Francisco, CA 94117-3115

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 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

BELL BURNETT & EDWARDS

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**MICHAEL BELL, Principal**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Jane E. Luckhardt, General Counsel

**EXHIBIT A**  
**SCOPE OF SERVICES**

1. Financial Analysis, Planning, Advisory and Forecasting:
  - a. Capital Planning
  - b. Debt management
  - c. Financial policies, procedures and contract administration
  - d. Budget development and analysis, including funding models and revenue, cost, rate and financial metric analysis
  - e. Financial reporting and controls
  - f. Rate and pricing development, implementation, and stakeholder communication
  - g. Rate forecasts, comparisons, peer analysis and alternatives
  - h. Strategic analysis, including immediate and long-term financial implications, strategies, and stakeholder communication re COVID 19 and other utility adopted policies and practices
2. Generation and Transmission Project Planning<sup>1</sup>:
  - a. Project Reliability
  - b. Resource Adequacy Planning
  - c. Supply and procurement program design
  - d. Operational impact assessment
  - e. Risk assessment and management
  - f. Customer and stakeholder outreach
  - g. Operations studies
  - h. Feasibility studies
3. Project and Program Development and Delivery
  - a. Project and program budget and funding analysis
  - b. Cost, lifecycle and alternatives analysis
  - c. Project development and strategic analysis
  - b. Project procurement, documentation and implementation
  - c. Contract review, negotiation and support<sup>2</sup>
  - d. Project implementation, reporting and management
  - e. Program implementation, reporting and management
  - f. Management audits and reviews
  - g. Process improvement evaluations and studies
4. Energy Efficiency and Demand Reduction Program Design
  - a. Demand side reduction services and program design
  - b. Energy efficiency evaluation and program design
  - c. Program rate designs and incentives to promote behavioral change

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<sup>1</sup> None of these services include engineering, design or other professional services typically covered by professional liability insurance

<sup>2</sup> These services do not include legal services.

## **EXHIBIT B**

### **COMPENSATION SCHEDULE AND HOURLY FEES**

Compensation for all tasks, including hourly fees and expenses, shall not exceed \$1,000,000. The hourly rates and/or fixed compensation break down and an estimated amount of expenses is as follows:

Fees may be a fixed amount, or an amount charged on a time and materials basis depending upon work performed under this Agreement and subject to mutual agreement in writing by all of the Parties prior to any services being rendered. As of 2020, BB&E's hourly rate for principals is \$500. If non-principals work on any assignment for any reason, the hourly rate for these non-principals shall be reduced to \$300. Administrative staff, if any, will not be billed under any time and materials contract. All hourly rates are subject to a 3% annual increase.

Pricing for services to be performed for NCPA or Agency Members 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.