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Agenda

Date: Wednesday, July 7, 2021
Subject: Facilities Committee Meeting
Location: NCPA Headquarters, 651 Commerce Drive, Roseville, CA
Time: 9:00 am

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-08-21 issued June 11, 2021, that allows attendance by NCPA Facilities Committee Members, staff, and the public to participate and conduct the meeting by teleconference.

You may participate in the meeting via teleconference by:

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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.

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 minutes from the June 2, 2021 Facilities Committee meeting.
3. **Revisions to NCPA's Personnel Policies and Procedures Manual** – Staff is seeking a recommendation for Commission approval to add proposed language to the Personnel Policies and Procedures Manual, and delegate authority to the General Manager for implementation. *(Commission Category: Consent; Sponsor: Human Resources)*
4. **All NCPA Facilities, Members, SCPPA – Gannett Fleming, Inc. MTPSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task Professional Services Agreement with Gannett Fleming, Inc. for consulting services related to dam safety engineering, civil, environmental, geotechnical, and structural engineering, with a not to exceed of \$2,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. *(Commission Category: Consent; Sponsor: Hydro)*
5. **All NCPA Facilities, Members, SCPPA – Cisco Air Systems, Inc. First Amendment to MTGSA** – Staff is seeking a recommendation for Commission approval of a First Amendment to the current Multi-Task General Services Agreement with Cisco Air Systems, Inc. for specialized OEM air compressor maintenance services, extending the contract expiration date from July 29, 2021 to October 21, 2021, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. *(Commission Category: Consent; Sponsor: CTs)*
6. **All NCPA Facilities – Airstrike Bird Control, Inc. GSA** – Staff is seeking a recommendation for Commission approval of a five-year General Services Agreement with Airstrike Bird Control, Inc. for bird control related services, with a not to exceed of \$400,000, for use at all facilities owned and/or operated by NCPA. All purchase orders will be issued following NCPA procurement policies and procedures. *(Commission Category: Consent; Sponsor: CTs)*
7. **All NCPA Facilities - Alliant Insurance Services, Inc. MTCSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Alliant Insurance Services, Inc., for professional insurance brokerage services with a not to exceed of \$800,000, for use at all facilities owned and/or operated by NCPA. All purchase orders will be issued following NCPA procurement policies and procedures. *(Commission Category: Consent; Sponsor: Administrative Services)*
8. **Authorize NCPA's General Manager to Execute Confirmation Number 0223 for The Energy Federation, Inc. Services to Alameda Municipal Power, Execute the Corresponding SCPPA Task Order, and Issue a Purchase Order Under the Support Services Program** – Subject to approval by the Alameda Municipal Power Public Utilities Board of the requested services under the terms of the Northern California Power Agency Support Services Program Agreement, Commission approval of Resolution 21-68 authorizing the NCPA General Manager or his designee to execute Confirmation Number 0223 and corresponding Southern California Public Power Authority Task Order, with any non-substantive changes as approved by the NCPA General Counsel, and issue a Purchase Order to The Energy Federation, Inc. for energy efficiency services including an eCommerce marketplace and fulfillment services and downstream rebate processing services. The Confirmation exceeds the General Manager's signing authority which requires Commission approval. Staff anticipates this item will be placed on the July 29, 2021 Commission agenda. *(Commission Category: Consent; Sponsor: Administrative Services)*

- 9. BART Admission to GPP** – Pursuant to Section 7.2 of the Natural Gas Program Agreement (GPP), staff is seeking a recommendation for Commission approval of admission of BART as a new Participant under the GPP, upon BART's execution of the GPP Agreement. (*Commission Category: Consent; Sponsor: Power Management*)

INFORMATIONAL ITEMS

- 10. New Business Opportunities** – Staff will provide an update regarding new business opportunities. (*Sponsor: Power Management*)
- 11. Combined Integrated Resource Plan 2021 Annual Update** – Staff will provide notice to the Committee that the 2021 Combined Integrated Resource (IRP) Plan Annual Update was filed with Western, on behalf of the NCPA Pool Members. (*Sponsor: Power Management*)
- 12. NCPA 2022 Plant Outage Schedule** – Staff will provide an overview of the draft 2022 Plant Outage Schedule to allow Members to review and provide comments. (*Sponsor: Generation Services Administration*)
- 13. NCPA Generation Services Plant Updates** – Plant Staff will provide the Committee with an informational update on current plant activities and conditions. (*Sponsor: Generation Services*)
- 14. Planning and Operations Update** – Staff will provide an update on issues related to planning and operations. (*Sponsor: Power Management*)
- 15. Next Meeting** – The next Facilities Committee meeting is scheduled for August 4, 2021.

ADJOURNMENT

BW/cp



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Minutes – Draft

Date: June 14, 2021
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: June 2, 2021 Facilities Committee Meeting Minutes

- 1. Call Meeting to Order & Roll Call** – The meeting was called to order by Committee Chair Basil Wong (Santa Clara) at 9:04 am. Attending via teleconference and/or on-line presentation were Alan Harbottle (Alameda), Mark Sorensen (Biggs), Catalina Sanchez and Cliff Wagner (Gridley), Jiayo Chiang (Lodi), Shiva Swaminathan (Palo Alto), Mike Brozo (Plumas-Sierra) Khaly Nguyen (Port of Oakland), Nick Rossow (Redding), Brian Schinstock (Roseville), Paulo Apolinario and Eric Shum (Santa Clara). Owen Goldstrom (non-voting representative with TID) also attended via teleconference. Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Healdsburg, Lompoc, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

OPEN SESSION

DISCUSSION / ACTION ITEMS

- 2. Approval of Minutes from the May 5, 2021 Facilities Committee Meeting, and the May 18, 2021 Special Facilities Committee Meeting.**

Motion: A motion was made by Basil Wong and seconded by Jiayo Chiang recommending approval of the minutes from the May 5, 2021 Facilities Committee meeting, and the May 18, 2021 Special Facilities Committee meeting. 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.

- 3. All NCPA Facilities, Members, SCPPA – GHD, Inc. MTPSA –** Staff presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Professional Services Agreement with GHD, Inc. for engineering consulting services including mapping, surveying, GIS, drawings, specifications, technical documents, and construction observation and testing, with a not to exceed of \$2,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures.

NCPA currently has an agreement in place with GHD Inc., which is expiring in August 2021. NCPA has worked with GHD extensively in the past on projects such as construction management, topographic surveys, landslide monitoring, easement research and more. The vendor has a wide offering of services, and has proven to be a competent resource for NCPA. NCPA desires to renew this agreement to keep established terms and conditions in place should this vendor be the successful bidder on future projects. NCPA has agreements in place for similar services with Condor Earth Technologies, Gannett Fleming, CBEC Consultants, GEI Consultants, Coffman Engineers, Black and Veatch, and others. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. A draft Commission Staff Report and the draft agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Catalina Sanchez and seconded by Brian Schinstock recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with GHD Inc. for engineering consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and 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.

- 4. All NCPA Facilities, Members, SCPPA – Wilson Utility Construction Company, Inc. MTGSA**
– Staff is presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Wilson Utility Construction Company, Inc. for transmission and distribution line maintenance, inspections, substation and switchyard maintenance, and other maintenance services as required, with a not to exceed of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures.

Wilson Utility Construction Company, Inc. was previously the low bidder on a single-task agreement (GSA) for Hydro's 230kv Transmission Line Insulator Replacement Project. Their management team and crew members were competent and reliable. NCPA desires to enter into this new multi-task agreement so established terms and conditions are in place should this vendor be the successful bidder on future projects or should the Agency have need of Wilson's services in an emergency situation. Additionally, adding this vendor will increase the pool of qualified vendors for these types of services. As this is a very specialized skillset, NCPA has only two agreements in place for similar services with Western Area Power Administration (WAPA) and an Operations and Maintenance Agreement with Pacific, Gas and Electric (PG&E). This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. A draft Commission Staff Report and the draft agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Jiayo Chiang and seconded by Mark Sorensen recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Wilson Utility Construction Company, Inc. for transmission and distribution line 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 any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and 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. All NCPA Facilities, Members, SCPPA – Precision Iceblast Corporation MTGSA – Staff** provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Precision Iceblast Corporation inspection and maintenance services related to CO & CO Catalyst cleaning, grids, drains, and towers, with a not to exceed of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures.

The current agreement with Precision Iceblast Corporation is expiring. 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. NCPA has agreements in place for similar services with Environex, Inc., Groome Industrial Service group, Inc. and Tetra Engineering Group, Inc. A draft Commission Staff Report and the draft agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

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

- 6. NCPA Headquarters and Disaster Recovery Center – Ben Evans Inc., dba Environment Control MTGSA – Staff** presented background information and was seeking recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Ben Evans Inc., dba Environment Control, with a not to exceed amount of \$300,000 for full service janitorial and building maintenance services at NCPA Headquarters and the Disaster Recovery Center. All purchase orders will be issued following NCPA procurement policies and procedures.

NCPA has a current agreement in place with this vendor which is expiring June 30, 2021. NCPA requested formal bidding for full service janitorial, and building maintenance services at NCPA headquarters and the Disaster Recovery Center. Ben Evans Inc., dba Environment Control was determined as the recommended vendor due to pricing and past performance. NCPA has utilized this vendor in the past and has a good working relationship with the vendor. NCPA desires to enter into a five-year, Multi-Task General Services Agreement with Ben Evans Inc., dba Environment Control to provide ongoing full service janitorial and building maintenance at NCPA headquarters and the Disaster Recovery Center. A draft Commission Staff Report and the draft agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Brian Schinstock and seconded by Catalina Sanchez recommending Commission approval authorizing the General Manager or his designee to enter into a Five-Year Multi-Task General Services Agreement with Ben Evans Inc., dba Environment Control for full service janitorial and building maintenance services at NCPA headquarters and the Disaster Recovery Center, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$300,000 over five years. 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.

- 7. All NCPA Facilities, Members, SCPPA – Quest Media and Supplies, Inc. Second Amendment to MTCSA** – Staff provided background information and was seeking a recommendation for Commission approval of a Second Amendment to the five-year Multi-Task Consulting Services Agreement with Quest Media and Supplies, Inc. for network infrastructure design, telecom consulting, data center administration, application design and security consulting services, increasing the not-to-exceed amount from \$200,000 to \$1,500,000 as well as extending the expiration date an additional six months from January 8, 2022 to July 8, 2022 for the continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures.

Quest Media and Supplies Inc. (Quest) is a corporation with over 30 years of experience assisting companies with network infrastructure design, engineering and troubleshooting, telecom consulting, data center administrative and architectural services, application design and development services, security consulting, physical infrastructure, and fiber and Ethernet cabling. They work seamlessly with staff, systems, policies and procedures helping companies achieve their IT goals.

On January 9, 2017, NCPA entered into a five-year Multi-Task Consulting Services Agreement with Quest, for an amount not to exceed \$100,000. On September 2020, the Parties entered into a First Amendment to the Agreement, to increase the not to exceed amount of the Agreement from \$100,000 to a not to exceed amount of \$200,000. Due to interest expressed by a Member of NCPA in utilizing the Agreement for a fiber optic cabling project and other possible NCPA or Member projects during fiscal year 2022, the Agency now desires to amend the agreement to increase the total compensation authorized by the agreement from the not to exceed amount of \$200,000 to a not to exceed amount of \$1,500,000, and extend the term for an additional six months from the current expiration date of January 8, 2022, to a new expiration date of July 8, 2022. The Second Amendment to 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. A draft Commission Staff Report and the draft Second Amendment, with the original Agreement and First Amendment, were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Mike Brozo and seconded by Jiayo Chiang recommending Commission approval authorizing the General Manager or his designee to enter into a Second Amendment to the Multi-Task Consulting Services Agreement with Quest Media and Supplies Inc. for network infrastructure design, engineering and troubleshooting; telecom consulting; data center administrative and architectural services; application design and development services; security consulting; physical infrastructure; and fiber and Ethernet cabling, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed to \$1,500,000 and extending the term for six months, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, the Southern California Public Power Authority (SCPPA), or 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.

- 8. Authorize the NCPA General Manager to Execute Confirmation Number 0219 for Quest Media and Supplies, Inc. Services to the City of Redding/Redding Electric Utility and Issue a Corresponding Purchase Order under the NCPA Support Services Program** – Subject to the NCPA Commission's approval of a Second Amendment to the Quest Media and Supplies, Inc. Agreement and subject to approval by the Redding City Council of the requested services, staff is seeking authorization for the General Manager or his designee to execute Confirmation Number 0219 for Quest Media and Supplies, Inc. services to the City of Redding/Redding Electric Utility and issue a corresponding purchase order under the NCPA Support Services Program

Agreement. The confirmation exceeds the General Manager's signing authority which requires Commission approval. If recommended for approval, this item will be placed on the June 17, 2021 Commission agenda.

The City of Redding became a signatory to the Northern California Power Agency (NCPA) Support Services Program Agreement (SSPA) on April 19, 2016, in which agreement authorizes among other things, the purchase or acquisition of goods and services by NCPA Members through use of NCPA's agreements with its vendors. NCPA entered into an Agreement with Quest Media & Supplies, Inc. effective January 9, 2017, which was subsequently amended effective September 15, 2020. A proposed Second Amendment to the Agreement will be brought to the Commission for approval at its June 17, 2021, meeting to increase the not-to-exceed amount from \$200,000 to \$1,500,000. This recommendation is subject to the Commission's approval of the Second Amendment.

In May 2021 the City of Redding/Redding Electric Utility (REU) submitted a Member Task Request under the SSPA for Quest Media & Supplies, Inc. to provide design for the Fiber Optic infrastructure Project which consists of approximately 28-mile loop of 288 ribbon fiber optic cable with an additional seven miles of 96 ribbon fiber optic cable divided into various radial runs to locations in Redding. Pursuant to the Quest Media & Supplies, Inc. proposal, the cost for the services including additional Options 1 and 2 is \$258,600. REU requested that a twenty percent (20%) contingency be added to the services proposal amount to cover permit fees and other contingencies, for a total of \$310,320.

If approved, Confirmation Number 0219 states that NCPA agrees to provide the requested services through its contract with Quest Media & Supplies, Inc. dated effective January 9, 2017, as amended, in the amount of not-to-exceed \$310,320. With the addition of NCPA's administrative fees, the total amount expended under the Confirmation will not exceed \$312,820. There is no fiscal impact to NCPA. The services provided by Quest Media & Supplies, Inc. to REU will be billed to and paid by Redding pursuant to the terms of the Support Services Program Agreement. NCPA's administrative costs will be reimbursed by Redding.

This item will be considered by the Redding City Council at a Council meeting in June 2021, and is subject to that approval.

Motion: A motion was made by Jiayo Chiang and seconded by Mark Sorensen recommending, subject to Commission approval of a Second Amendment to the Quest Media & Supplies, Inc. Agreement and subject to approval by the Redding City Council of the requested services under the terms of the NCPA Support Services Program Agreement, Commission approval of Resolution 21-59 authorizing the NCPA General Manager or his designee to execute Confirmation Number 0219, with any non-substantive changes as approved by the NCPA General Counsel, and issue a corresponding Purchase Order to Quest Media & Supplies, Inc. for design services for Redding Electric Utility's Fiber Optic Infrastructure Project. 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.

****Willie Manuel with TID joined the meeting via teleconference at 9:45 am.****

- 9. NCPA Geothermal Facility – Enterprise Management (EMS) Upgrade Project –** Staff presented background information and was seeking a recommendation for Commission approval authorizing the Enterprise Management System (EMS) Upgrade Project, and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total project cost not to exceed of \$600,000.

NCPA's Geothermal Facility utilizes the EMS to monitor and control both the steam field and effluent pipeline systems, including: steam well control valves, steam flow data, several pump stations, a holding tank, a reservoir, and several miles of pipeline system stretching from Clear Lake, CA to Middletown to the Geothermal Facility. The EMS is difficult to operate and maintain because it is outdated and unsupported. The EMS Upgrade Project will update the existing system. This project encompasses both the steam field and effluent pipeline monitoring systems. The scope of work for this project includes support in network configuration, system software development, Programmable Logic Controller (PLC) programming, and commissioning, as well as an extended warranty. NCPA staff intends to use the existing hardware (including field instruments, PLC's, servers, and all associated cabling, including fiber-optics). Upgrading the current system will result in an up-to-date, reliable, and supported system, for the safe operation of the steam field and effluent pipeline.

In FY2021, a scope was developed to update a minimal amount of the EMS and update the remaining components in the future. After receiving bids and performing an additional assessment of the entire EMS, it was determined that it was more cost-effective and prudent to update the complete EMS. As a result, a new scope and budget was developed.

The total cost for this project is not to exceed \$600,000. The project will be funded through the following sources:

- Estimated Proposed Project Cost = \$500,000
 - FY2021 FMS Control Systems Upgrade (Capital Project) - \$100,000
 - FY2022 EMS Upgrade (Capital Project) - \$400,000
- Contingency Funds (20%) = \$100,000
 - FY2022 O&M Budget

Project Authorization Total = \$600,000

Motion: A motion was made by Brian Schinstock and seconded by Basil Wong recommending Commission approval authorizing the Geothermal Facility Enterprise Management System (EMS) Upgrade Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total project cost not to exceed \$600,000. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Redding, Roseville, Santa Clara, and TID. The motion passed.

INFORMATIONAL ITEMS

10. New Business Opportunities – Staff provided an update regarding new business opportunities.

SFWPA (South Feather Hydroelectric) – The final draft PPA is almost complete now. Next is the development of a Third Phase Agreement for Member subscriptions. Working on final refinement to compensation mechanism. Staff had a conference call with SFWPA on 5/27. SFWPA is currently planning to present the PPA and structure to the SFWPA board in June 2021.

Glover Solar – The final PPA under development. Glover Solar posted 2nd IFS deposit with SCE on May 20, 2021.

McCloud Solar 1 and McCloud Solar 2 – The PPA is under review by the developer. This project is approximately 136 MW. SVP and Redding are interested in this project.

Swan Lake Energy Storage (New Pump Storage) – Staff reviewed commercial terms and details with Members regarding this new facility expected to be operational in 2026.

11. NCPA Geothermal Facility – Sulphur Cake Bin Vanadium Level – Staff provided an informational overview of the Sulphur bin vanadium levels as it relates to EPA vs. NCPA thresholds at NCPA's Geothermal Facility.

NCPA produces a dry sulfur cake as a secondary product associated with Geothermal Stretford operations. This high purity sulfur has trace contents of vanadium and mercury, along with other natural occurring trace elements. NCPA analyzes every 20 yard roll off bin of the sulfur cake it produces. Over the last two decades, the majority of the sulfur produced in the Geysers (NCPA & Calpine) was sold as a soil amendment, for pH adjustment for agriculture. Any bin of sulfur cake found to exceed the waste definition criteria for mercury or vanadium is transported for disposal as hazardous waste.

The EPA vanadium threshold limits is 24mg/L or 2400mg/kg. The current NCPA threshold is 10mg/L or 100mg/kg. The current Calpine threshold is 22mg/L or 220mg/kg. Staff is exploring an increase of the allowable vanadium content in sulfur cake to 22mg/L. Any material with content above the proposed 22mg/L or 220mg/kg will be disposed of as hazardous waste. Any modification to the current vanadium threshold limit will be routed back through NCPA Committees for formal approval. Benefits of this change would decrease hazardous waste, reduce risk, and create a more unified industry standard. The economic benefits include decreased disposal cost, with increased revenue.

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

Geo – There were no safety incidents to report for the month of May. There were however, a couple of near misses, when an employee was grinding without a safety shield, and a contractor started the process of cleaning the mercury tank without a confined space permit, and their employees did not have on proper PPE. Safety training is 62.5% complete. The average net generation for May was 73.2 MW. Fiscal year net generation is at 702.8 GWh, 3.7% above target generation. The Plant 1 Fire Protection Project continues, with Orr Protection doing the work. The Plant 1 HVAC Project is delayed due to Covid19. The engineering for Plant 2 Fuel Tank Replacement Project is due to be completed by the end of June.

CTs – May was a busy month for the CTs, with zero forecasted starts for both CT1 and CT2. CT1 had 16 actual starts, and four ghost starts bringing the FYTD total to 235. CT2 had 18 actual starts this month bringing the FYTD total to 116 starts. There were two forced outages at STIG. Work was performed on Saturdays for boiler leaks. There were no planned outages for the month of May.

Hydro – New Spicer Meadow (NSM) Reservoir peaked at 94,860 Acre-Feet on May 24, 2021, as well as all the other NCPA reservoirs. NSM may end the year with less than 45,000 Acre-Feet. Only mandated water releases will happen this year. A CA drought declaration has been issued which will have no bearing the FERC license. NSM will not be able to launch any boats this year, as the water level is too low. Consultants were on sight for the 1 in 10 year FERC Security Assessments. In preparation for the upcoming recreation season there has been extensive coordination with the USFS, meetings with campground concessionaire, deployment of seasonal safety buoys on reservoirs, removal of hazardous trees, and the establishment and certification of the seasonal potable water distribution system.

13. Planning and Operations Update –

- Current Resource Integration Activities – Altamont Wind (EBCE) June 15, 2021, SFWPA (Members) January 1, 2022, but possibly as soon as December 18, 2021, Sky River Wind (BART) September 1, 2021, Slate Solar (BART) October 31, 2021, Ukiah Mendocino Hydro (Ukiah) ongoing, and Antelope Solar (NCPA) December 1, 2021.
- Operational Coordination – Staff is coordinating with the CAISO regarding load shedding activities. Firm load shedding instructions from the CAISO to NCPA include:

- Step 1: Request to PG&E, SCE, SDG&E and VEA
- Step 2: Second request to all UDC/MSS
- Step 3: NCPA to contact individual Members

The CAISO will attempt to provide NCPA at least 1 hour advanced warning to mobilize staffing. Restricted maintenance orders include coordination with CAISO gen desk during events. The CAISO is still working on DR procedures/back-up generation procedures.

14. Next Meeting – The next regular Facilities Committee meeting is scheduled for July 7, 2021.

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

CLOSED SESSION

15. CONFERENCE WITH LEGAL COUNSEL – Existing litigation pursuant to Government Code Section 54956.9(d)(1): Name of case: *In Re PG&E Corporation and Pacific Gas and Electric Company, Debtors; United States Bankruptcy Court, Northern District of California*, Case Nos. 19-30088 (Lead Case) and 19-30089 DM.

RECONVENED TO OPEN SESSION

All meeting attendees rejoined the public meeting.

REPORT FROM CLOSED SESSION

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

ADJOURNMENT

The meeting was adjourned at 12:37 pm by the Committee Chair.



Commission Staff Report – **DRAFT**

June 28, 2021

COMMISSION MEETING DATE: July 29, 2021

SUBJECT: Approval of Revisions to NCPA's Personnel Policies and Procedures Manual

AGENDA CATEGORY: Consent

FROM:	Elizabeth Gonzalez	METHOD OF SELECTION:
	Human Resources Manager	N/A
Division:	Administrative Services	<i>If other, please describe:</i>
Department:	Human Resources	

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

Northern California Power Agency (NCPA) recommends that the Commission approve revisions to NCPA's Personnel Policies and Procedures Manual and delegates authority to the General Manager for implementation.

BACKGROUND:

To ensure compliance with North American Electric Reliability Corporation's (NERC) Critical Infrastructure Protection (CIP) Reliability Standards, NCPA is preparing to meet the CIP Medium Impact definition for certain cyber systems. Standard CIP-004 requires that personnel having authorized electronic or authorized unescorted physical access to certain critical cyber assets have an appropriate level of personnel risk assessment, training, and security awareness. In order to implement a Personnel Risk Assessment Program and a Cyber Security Training Program, NCPA is proposing to update its personnel policies with a new subsection under Section 402 Classifications, titled "Personnel Risk Assessments and Cyber Security Training."

This subsection would require new employee candidates and current employees who require the aforementioned authorized access, as deemed appropriate by the requirements of their job, to undergo a personnel risk assessment which includes verification of identity, a criminal history reference check for the previous seven years, and a criminal history check every seven years thereafter. If the personnel risk assessment reveals information that warrants disqualification from authorized access, it will result in a personnel risk assessment failure which could lead to the rescinding of an employment offer or termination of active employment. In addition to the personnel risk assessment, applicable employees would be required to successfully complete Cyber Security Training prior to being granted authorized access. After the initial training is completed, additional Cyber Security Training would be required at least once every 15 calendar months.

The addition of this proposed policy language, which is shown on the attached document, delegates authority to the General Manager to implement a Personnel Risk Assessment Program and Cyber Security Training Program to ensure that applicable NCPA personnel have the appropriate level of personnel risk assessment, training, and security awareness prior to being granted authorized electronic or unescorted physical access to applicable critical cyber assets. IBEW 1245, HEA, and legal counsel have reviewed and support the proposed revisions.

FISCAL IMPACT:

There is no fiscal impact associated with this change.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending committee review.

AFTER FACILITIES APPROVAL: On July 7, 2021, the Facilities Committee reviewed and endorsed the recommendation above for commission approval.

Respectfully submitted,

Elizabeth Gonzalez
Human Resources Manager

Attachments:

- Resolution 21-67
- NCPA Personnel Policies and Procedures, Section 402 Classifications

RESOLUTION 21-67 – Draft

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING REVISIONS TO NCPA'S PERSONNEL POLICIES AND
PROCEDURES MANUAL**

(reference Staff Report #189:21)

WHEREAS, the North American Electric Reliability Corporation's (NERC) Critical Infrastructure Protection (CIP) Standard CIP-004 requires that personnel having authorized electronic or authorized unescorted physical access to certain critical cyber assets have an appropriate level of personnel risk assessment, training, and security awareness; and

WHEREAS, NCPA staff have updated its Personnel Policies and Procedures Manual (Manual) to include language which ensures compliance with NERC CIP Reliability Standards; and

WHEREAS, the Manual delegates authority to the General Manager for implementation; and

WHEREAS, the proposed revisions to the Manual have been reviewed by legal counsel; and

WHEREAS, NCPA has obtained both IBEW 1245 and HEA support of the proposed revision to the Manual; and

WHEREAS, the Facilities Committee unanimously recommends approval to ensure compliance with NERC CIP Reliability Standards; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency approves the revisions to Section 402 of the Agency's Personnel Policies and Procedures Manual.

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

DAVID HAGELE
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY

402 Classifications

402.1 Pre-Placement and Annual Physical Examinations

New Employees

The physical requirements of jobs will be determined, and job-related standards will be developed and implemented, by the Agency. New employee candidates for safety-sensitive, high level financial or confidential positions must take and successfully pass a pre-placement medical examination including drug and alcohol screening on the candidate's own time, at Agency expense. If a medical examination results in disqualification, a candidate or employee may submit independent medical opinions (at his/her own expense) for consideration by the Agency before a final determination on disqualification is made.

Regular Employees

Employees may be required to take and successfully pass a fitness for duty examination which may include an alcohol and drug test at the Agency's expense and on Agency time, when the Agency has reasonable cause to believe that the employee's health and/or physical or mental condition may impair the employee's ability to do the assigned work, or pose a risk to the health or safety of others with whom the employee works, or to the public. Drug and alcohol testing of existing employees will be conducted in a manner consistent with the Agency's procedures set forth at P407.7.

If an employee has a disability, recognized under applicable law, the employee should so notify the Agency. For employees who have such disabilities, the Agency will engage in an interactive process to determine whether there is a reasonable accommodation which would enable the disabled employee to perform the essential duties of the job.

If action is proposed which would adversely affect an employee's employment or status as a result of said fitness for duty examination, the employee has the right to obtain a second examination by a physician of his/her choice selected from a panel of two or more physicians provided by the Agency at no cost to the employee. Medical examination records available to the Agency shall be considered prior to the Agency proceeding with any adverse action.

Personnel Risk Assessments and Cyber Security Training

New employee candidates and employees who require authorized electronic or unescorted physical access to Bulk Electric System Cyber System Information (BCSI) or applicable system(s) pertaining to the North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) standards, as deemed appropriate by the requirements of the job, will be subject to a Personnel Risk Assessment (PRA). The PRA process includes, but is not limited to, verification of identity, a criminal history reference check for the previous seven years, and a criminal history reference check every seven years thereafter. If information supplied by the applicable new employee candidate or employee appears to be incorrect or misleading or a criminal history check reveals information that warrants disqualification from authorized access, it will result in a PRA failure. In the event of a PRA failure, the CIP Senior Manager and NCPA Senior Management may

convene a team to determine the appropriate course of action, which could include rescinding an employment offer or terminating active employment. In the event that an impacted employee is represented by the union, the Agency will meet and confer with the appropriate bargaining unit representative.

Prior to granting authorized electronic or unescorted physical access to BCSI or applicable system(s), employees are required to successfully complete Cyber Security Training. Cyber Security Training shall include both the presentation of training content and an assessment of basic understanding of that training content. After the initial training is successfully completed, additional Cyber Security Training shall be completed as needed, but no less than at least once every 15 calendar months.

Annual Physicals

Employees in classes designated by the Human Resources Manager or MOU are subject to annual physical examinations including but not limited to hearing, respirator testing and use, if appropriate.

402.2 Personnel Files

Personnel files are maintained on each employee of the Agency. The personnel files are considered confidential and access is limited to management personnel, including but not limited to, the employee's Supervisor, Manager, Assistant General Manager, General Manager, and Human Resources staff, unless otherwise authorized by law.

Medical records are confidential and are maintained separately from an employee's personnel file. Access to medical records is restricted to the subject employee and Human Resources, medical staff, and management with a "need-to-know" basis, unless otherwise authorized by law.

Current employees may request in writing to inspect and/or receive a copy of their personnel files at reasonable intervals upon thirty (30) days advance notice to the Agency. Current employees may be required to review their personnel files during non-work hours. Former employees may request in writing to inspect and/or receive a copy of their personnel files upon thirty (30) days advance notice to the Agency. Former employees shall be limited to one (1) such request per calendar year. Both current and former employees shall be charged the Agency's standard rate per page for copying of personnel records. Both current and former employees may verbally request an Agency-provided form with which to make their written request to inspect and/or obtain copies of their personnel files.

The Agency may preclude inspection of certain information in accordance with law, such as background and other pre-employment information and materials relating to confidential investigations.

402.3 Reference Checks

Following the Agency's determination that an applicant meets the minimum employment qualifications, as stated in any notice issued for the position for which the applicant applied, and prior to making a job offer, reference, background and in certain cases credit checks must be conducted

either by the hiring Manager or by the Human Resources Department. Prior to conducting these checks, the individual must have signed the Pre-Offer Information Release Authorization (part of the NCPA application form).



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: July 29, 2021

SUBJECT: Gannett Fleming, Inc. – Five Year Multi-Task Professional Services Agreement for engineering consulting services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 21-XX authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Gannett Fleming, Inc. for engineering consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

BACKGROUND:

Engineering consulting services including dam safety engineering, civil, environmental, geotechnical and structural engineering services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA currently has an agreement in place with Gannett Fleming, Inc. (formerly Sage Engineers, Inc.), which is expiring in September 2021. Gannett Fleming acquired Sage Engineers mid-way through the current contract. NCPA and NCPA Members have worked with Sage Engineers, now Gannett Fleming, extensively in the past on projects such as grounding studies, protective relays and a variety of other projects. NCPA desires to renew this agreement so established terms and conditions are kept in place should this vendor be the successful bidder on future projects. NCPA has agreements in place for similar services with GHD Engineering, GEI Consultants, SEL Engineering, Coffman Engineers, Costa Engineers, Condor Earth Technologies, Brown & Kysar, CBEC Consultants and others.

FISCAL IMPACT:

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

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review.

AFTER FACILITIES APPROVAL: On July 7, 2021 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On July 12, 2021 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 21-XX
- Multi-Task Professional Services Agreement with Gannett Fleming, Inc.

RESOLUTION 21-XX

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

(reference Staff Report #XXX:21)

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

WHEREAS, Gannett Fleming, Inc. is a provider of these services; and

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

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

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

PASSED, ADOPTED and APPROVED this ____ day of _____, 2021 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	_____	_____	_____

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
GANNETT FLEMING, INC.**

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Gannett Fleming, Inc., a corporation with its office located at 2251 Douglas Boulevard, Suite 200, Roseville, CA 95661 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 20__ ("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 with the degree of care and skill ordinarily exercised by members of the design profession practicing under similar conditions at the same time and locality of the Project. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant either chooses to perform or 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 be deemed to have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

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

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

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

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

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services. Consultant shall have and retain all ownership and title to the equipment provided in connection with this Agreement.

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

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

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

- 4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and

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

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

4.3 Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed five hundred thousand dollars (\$500,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

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

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

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Except for professional services addressed in California Civil Code Section 2782.8, Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the proportional extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency. The indemnification and defense obligation in this section shall conform to California Civil Code Section 2782.8.

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

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

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

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

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement

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

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

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 Monitoring by DIR.** In certain circumstances, some of the Work may be subject to compliance monitoring and enforcement by the Department of Industrial Relations ("DIR"). When performing tasks subject to compliance and monitoring by DIR, NCPA will record the Task Order or this Agreement with DIR.
- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants for any portion of the Work subject to compliance monitoring and enforcement by DIR ("Covered Work") that Contractor is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less

than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing Covered Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Covered Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Covered Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of Covered Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency not more than \$200.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Covered Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant. If Agency has not issued any requests for Services or Purchase Orders to Consultant and if any previously issued requests for Services or Purchase Orders are completed to Agency's

satisfaction, Consultant may cancel this Agreement without cause upon thirty (30) days prior written notice to Agency.

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder ("Work Product") shall be the property of the Agency. Consultant hereby agrees to deliver the Work Product to the Agency within ten (10) business days upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release any Work Product to any non-parties to this Agreement.

Notwithstanding anything to the contrary, Consultant shall have no responsibility or liability for any claims, losses, or damages caused by Agency's re-use of Work Product on other projects or for purposes outside the scope of this Agreement, and Consultant shall have no liability for Agency's alteration or modification of the work product without Consultant's prior review and written approval.

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

proposals with exception to sensitive photos and drawings. Additionally, 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: in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. The Receiving 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 Joel Ledesma, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 10.8 Notices.** Any written notice to Consultant shall be sent to:

Gannett Fleming, Inc.
2251 Douglas Blvd, Suite 200
Roseville, CA 95661

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

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

NORTHERN CALIFORNIA POWER AGENCY

GANNETT FLEMING, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

DARREN A. MACK, Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Gannett Fleming, Inc. ("Consultant") shall provide the following services as requested by the Northern California Power Agency ("Agency") at the facilities owned or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members and specified herein, including:

- Dam Safety Engineering in accordance with 18CFR12D;
- Civil, environmental, geotechnical and structural engineering;
- Consulting related to geology, hydrology or hydraulics;
- Mapping, surveying, GIS services;
- Electrical and mechanical engineering, such as protection relay upgrades and electrical and mechanical engineering support;
- Engineering inspection and construction observation and testing;
- Security and Safety reviews and evaluations;
- Construction Management; and
- Other miscellaneous tasks as requested by Agency.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed \$2,500,000 subject to Section 2 of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:



Gannett Fleming

*Excellence Delivered **As Promised***

SCHEDULE OF CHARGES

Northern California Power Agency (NCPA)

Master Services Agreement

July 1, 2021

The Schedule of Charges applies to all services provided by and/or through Gannett Fleming. Charges for our services are divided into three categories: Personnel, Travel/Reimbursables and Outside Services. A new Schedule of Charges is issued at the beginning of each year. The Schedule of Charges may also be revised during the year, as conditions require. Changes will not be made within a calendar year on a project in progress without prior authorization from Client.

PERSONNEL

Personnel charges are for technical work, including technical typing, editing, graphics and support services involved in the preparation of reports and correspondence, and for the time associated with production of such documents. Personnel category per-hour charge rates are as follows:

<u>Engineer/Geologist</u>	<u>Hourly Rate</u>
Chief Engineer/Geologist	\$ 320.00
Principal Engineer/Geologist II	300.00
Principal Engineer/Geologist I	275.00
Senior Consultant	260.00
Senior Project Engineer/Geologist III	260.00
Senior Project Engineer/Geologist II	235.00
Senior Project Engineer/Geologist I	215.00
Project Engineer/Geologist II	190.00
Project Engineer/Geologist I	175.00
Staff Engineer/Geologist	165.00
Designer/Geologist	145.00
Associate Designer/Geologist	135.00
<u>Safety & Security</u>	
Senior Principal Consultant	288.00
Principal Consultant	260.00
Senior Associate Consultant	245.00
Senior Consultant	215.00
Consultant	195.00
Senior Analyst	161.00
Analyst	141.00
Junior Analyst	115.00
<u>Support Services</u>	
Senior GIS Analyst	160.00
Chief CADD Technician	160.00
CADD/GIS Technician	130.00
Senior Technical Writer/Project Admin	135.00
Technical Writer/Project Admin	120.00
Technical Intern	75.00

The charge for expert witness services, depositions (2-hour minimum per day) and court (4-hour minimum per day) is \$640 per hour.

Gannett Fleming, Inc.

Suite 200 • 2251 Douglas Blvd • Roseville, CA 95661

t: 916.677.4800

www.gannettfleming.com

TRAVEL / REIMBURSABLES

Time spent in travel in the interest of the Client will be charged at the above hourly rates plus mileage at the current IRS rate, except that no more than eight (8) hours of travel time will be charged in any day. When it is necessary for an employee to be away from the office overnight, all actual costs including out-of-pocket expenses will be charged. Meals will be charged on a per diem basis at \$61.00. Reimbursable items (e.g., airfare, hotel, automobile/equipment rental, supplies etc.) will be charged at cost plus fifteen percent (15%).

<u>Specialty Design Software</u>	<u>Hourly Rate</u>
I-Site Studio	\$85.00
FLAC	60.00
SAFE	35.00
EZ-FRISK	25.00
SAP 2000	25.00

<u>Specialty Field Equipment</u>	<u>Daily Rate</u>
Trimble GPS Unit+Antenna	\$250.00
Protective Relay Test Set	250.00
Rope Access Gear	200.00
Concrete Thickness Gage	150.00
Dynamic Cone Penetrometer (DCP) and Hand Auger Kit	75.00
Automatic Level	50.00
Water Level Meter	25.00

OUTSIDE SERVICES

Outside services will be charged at cost plus fifteen percent (15%). Common outside items to which this 1.15 multiplier applies include, but are not limited to drilling services, laboratory testing, printing and photographic work, special insurance and outside consultants.

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

Consultant may revise the hourly rates each year upon the giving of 30 days' advance written notice to NCPA. If the Parties cannot agree to revised hourly rates, NCPA may terminate the Agreement.

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

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I, _____

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: July 29, 2021

SUBJECT: Cisco Air Systems, Inc. – First Amendment to Five Year Multi-Task General Services Agreement for Specialized OEM Air Compressor Maintenance Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

Approve Resolution 21-XX authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Cisco Air Systems, Inc. for specialized OEM air compressor maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the agreement expiration from July 29, 2021 to October 21, 2021, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

BACKGROUND:

Specialized OEM air compressor maintenance services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task General Services Agreement with Cisco Air Systems, Inc. effective July 29, 2016, for an amount not to exceed \$500,000, for use at all NCPA, NCPA Members, SCPPA, and SCPPA Member facilities. NCPA has utilized this vendor for the past five years for air compressor maintenance services at its CT plants, and this vendor has shown themselves to be competent and responsible.

The current agreement is set to expire on July 29, 2021. NCPA is currently in the process of negotiating a renewal agreement with this vendor, however, negotiations are taking longer than previously anticipated, so NCPA now desires to enter into a First Amendment to the Multi-Task General Services agreement to extend the agreement expiration date to October 21, 2021, to allow NCPA additional time to negotiate terms of the new agreement. NCPA has an agreement in place for similar services with California Compression, LLC.

FISCAL IMPACT:

Upon execution, the total cost of the agreement will remain unchanged at not to exceed \$500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On July 7, 2021 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On July 12, 2021 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution 21-XX
- Multi-Task General Services Agreement with Cisco Air Systems, Inc.
- First Amendment to Multi-Task General Services Agreement with Cisco Air Systems, Inc.

RESOLUTION 21-XX

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

(reference Staff Report #XXX:21)

WHEREAS, Northern California Power Agency (NCPA) and Cisco Air Systems, Inc. entered into a Multi-Task General Services Agreement effective July 29, 2016, for Cisco Air Systems, Inc. to provide specialized OEM air compressor maintenance services, for use at any facilities owned and/or operated by NCPA, NCPA Members, by the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, NCPA is currently negotiating a renewal agreement with Cisco Air Systems, Inc., however, negotiations are taking longer than anticipated and will not be complete by the current agreement expiration date; and

WHEREAS, NCPA now desires to extend the agreement expiration date from July 29, 2021 to October 21, 2021 to allow for sufficient time to negotiate terms on the renewal agreement with Cisco Air Systems, Inc.; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Cisco Air Systems, Inc., with any non-substantial changes as approved by the NCPA General Counsel, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2021 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	_____	_____	_____

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
CISCO AIR SYSTEMS, INC.**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Cisco Air Systems, Inc., an S Corporation with its office located at 214 27th Street, Sacramento, CA 95816 ("Contractor") (together sometimes referred to as the "Parties") as of 7/29/, 2016 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Intentionally left blank.

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

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

4.5 All Policies Requirements.

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

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

- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

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

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

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

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

Section 13 **MISCELLANEOUS PROVISIONS.**

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

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

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

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

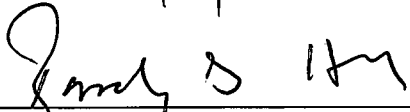
13.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

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

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

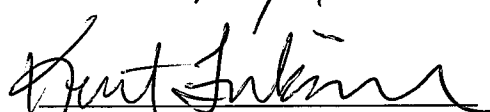
NORTHERN CALIFORNIA POWER AGENCY

Date 7/29/16



RANDY S. HOWARD, General Manager

CISCO AIR SYSTEMS, INC.

Date 7/6/16


KENT FRKOVICH, President

Attest:


Assistant Secretary of the Commission

Approved as to Form:

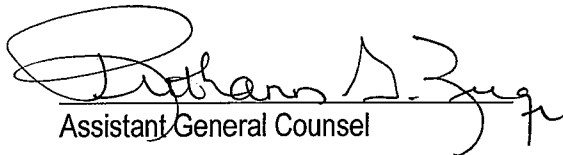

Assistant General Counsel

EXHIBIT A

SCOPE OF WORK

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

EXHIBIT B
COMPENSATION SCHEDULE AND HOURLY FEES

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

Pricing Specific to CT/LEC Facilities:

Brand	Model	Serial	HP	Year	Annual Hrs	Service Visits Per Contract
Atlas Copco	ZT18-FF	Alt704258	30	2005	4,000	10
Atlas Copco	CD60	Alt811770		2005	4,000	10
Atlas Copco	Inline Filters	DD60 & PD60			4,000	2
Atlas Copco	CD350	US0585711		2011	4,000	10

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

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

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

Item	Mfg	Model	Serial Number	Description	Mfg Year	Annual Operating Hours
1	Ingersoll Rand	R180i	V1535U12158	200 HP	2012	4,000
2	Atlas Copco	ZT145	APF162045	200 HP	2012	8,000
3	Atlas Copco	ZT145	APF164682	200 HP	2012	8,000
4	Atlas Copco	DD390P (4)	N/A	Inline Filters	2012	8,000
5	Atlas Copco	PD390 (4)	N/A	Inline Filters	2012	8,000
6						
7						
8						

Quarterly Price Not Including Sales Tax	\$8,685.00
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Pricing for services to be performed at other NCPA facilities, at NCPA Member facilities, or SCPPA or SCPPA member locations will be quoted at the time services are requested.

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

Kent Frkovich

(Name of person signing affidavit)(Title)

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

CISCO AIR SYSTEMS, INC.

(Company name)

for contract work at:

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

(Project name and location)

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

Kent Frkovich

(Signature of officer or agent)

Dated this 6th day of July, 20 16.

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

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E - NOT APPLICABLE

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____

Name of Employer _____

(Authorized Officer & Title)

(Address)



FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND CISCO AIR SYSTEMS, INC.

This First Amendment (“Amendment”) to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Cisco Air Systems, Inc. (“Contractor”) (collectively referred to as “the Parties”) as of _____, 2021.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective July 29, 2016, (the “Agreement”) for Contractor to provide specialized OEM air compressor maintenance services; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement from the original expiration date of July 29, 2021 to a new date of October 21, 2021; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 1.1—Term of Agreement** of the Agreement is deleted in its entirety and replaced with the following:

The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than October 21, 2021, whichever occurs sooner.

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

SIGNATURES ON FOLLOWING PAGE

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///

///

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD, General Manager

Date:_____

CISCO AIR SYSTEMS, INC.

KENT FRKOVICH, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: July 29, 2021

SUBJECT: Airstrike Bird Control, Inc. – Five Year General Services Agreement for Bird Control Related Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 21-XX authorizing the General Manager or his designee to enter into a General Services Agreement with Airstrike Bird Control, Inc. for bird control related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$400,000 over five years, for use at any facilities owned and/or operated by NCPA.

BACKGROUND:

Bird control related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA.

The CT2/LEC facilities utilized Airstrike Bird Control, Inc. for the abatement of pigeons for the cleanliness of the facility and the health and safety of employees. The initial process was a 9 week program. In order to keep the pigeons away, preventative maintenance measures need to be taken on a monthly basis.

Airstrike has a unique capability utilizing raptors to reduce pest bird (pigeons) populations. Airstrike utilizes trained raptors and licensed raptor handlers to abate the pigeons and keep them from roosting in the area. Other providers use air rifles, traps and mechanical means to remove pest birds. The use of raptors is a more natural and subtle means of controlling pest bird populations. NCPA has been unsuccessful in searching for other contractors that provide the same services within a reasonable distance from the facility. NCPA has also excluded the use of the other contractors due to their processes of using rifles and mechanical means (drones), both of which present a danger to employees and equipment. NCPA does not have any additional agreements in place for similar services at this time.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$400,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On July 7, 2021 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On July 12, 2021 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 21-XX
- General Services Agreement with Airstrike Bird Control, Inc.

RESOLUTION 21-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A GENERAL SERVICES AGREEMENT WITH AIRSTRIKE BIRD CONTROL, INC.

(reference Staff Report #XXX:21)

WHEREAS, bird control related services are required from time to time for the operation and maintenance of facilities owned and/or operated by the Northern California Power Agency (NCPA); and

WHEREAS, Airstrike Bird Control, Inc. is a provider of these services; and

WHEREAS, the CT2/LEC facilities utilized Airstrike Bird Control, Inc. for the abatement of pigeons for the cleanliness of the facility and the health and safety of employees. The initial process was a 9 week program. In order to keep the pigeons away, preventative maintenance measures need to be taken on a monthly basis; and

WHEREAS, the NCPA Commission has reviewed the General Services Agreement with Airstrike Bird Control, Inc. to provide such services as needed at any facilities owned and/or operated by NCPA; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into said Agreement, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$400,000 over five years, for use at any facilities owned and/or operated by NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2021 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	_____	_____	_____

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
AIRSTRIKE BIRD CONTROL, INC.**

[Single Task]

This General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Airstrike Bird Control, Inc., a corporation with its office located at 7343 El Camino Real, #325, Atascadero, CA 93422 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2021 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to Agency the services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work"), 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 Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** FOUR HUNDRED THOUSAND dollars (\$400,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 All Policies Requirements.

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

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

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

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

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

4.6 Pollution Insurance. Not Applicable.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

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

5.3 **Transfer of Title.** Not Applicable.

Section 6. **STATUS OF CONTRACTOR.**

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

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

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

Contractor agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable

Care Act. To the extent permitted by law, Contractor shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Contractor.

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

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

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

6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors. If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.

6.6 Maintenance Labor Agreement. If the Work is subject to the terms of the Maintenance Labor Agreement, which is applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 Amendments and Change Orders.** The Parties may amend this Agreement only by a writing signed by all the Parties. The Parties may agree to a change order, modifying the duration of the Agreement or the not-to-exceed compensation referenced in Section 2 hereof, by a writing signed by the Contractor and the Contract Administrator.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1** Immediately terminate the Agreement;
 - 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
 - 8.4.4** Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

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

confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

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

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

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

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

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

Section 10. PROJECT SITE.

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

equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Agency may assume that anything left on the Project site an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any Agency owned equipment and property provided by Agency for the performance of Work.

Section 11. WARRANTY.

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

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

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

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

- 12.8 Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

Section 13. MISCELLANEOUS PROVISIONS.

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

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

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

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

Airstrike Bird Control, Inc.
Attention: Brad Felger
7343 El Camino Real, #325
Atascadero, CA 93422

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

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

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

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

AIRSTRIKE BIRD CONTROL, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

BRAD FELGER, CEO/President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Airstrike Bird Control, Inc. ("Contractor") shall provide bird control services as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA.

List of Subcontractors:

Hawk for Hire, LLC

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

CT Facilities Cost Breakdown:

PROJECTED SCHEDULE

<i>Month</i>	<i>Qty.</i>	<i>Item</i>	<i>Unit Cost</i>	<i>Extended Cost</i>
1-6	78	Intensive hazing visit (8 hour visits 3/week)	\$486.00	\$37,908.00
7-12	78	Intensive hazing visit (6 hour visits 3/week)	\$365.00	\$28,470.00
13-18	78	Intensive hazing visit (6 hour visits 3/week)	\$378.00	\$29,484.00
19-24	78	Intensive hazing visit (4 hour visits 3/week)	\$252.00	\$19,656.00
25-36	156	Intensive hazing visit (4 hour visits 3/week)	\$262.00	\$40,872.00
37-48	156	Intensive hazing visit (4 hour visits 3/week)	\$272.00	\$42,432.00
49-60	156	Intensive hazing visit (4 hour visits 3/week)	\$282.00	\$43,992.00

** Please note that the prices above already incorporate an approximately 3.5% yearly cost increase.*

Total projected cost for 5-year program: \$242,814.00

Pricing for any additional services will be quoted at the time they are requested.

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

Airstrike Bird Control, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

MAINTENANCE LABOR AGREEMENT ATTACHMENT [LEC ONLY]

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report

COMMISSION MEETING DATE:

SUBJECT: Alliant Insurance Services, Inc. – Five Year Multi-Task Consulting Services Agreement for Professional Insurance Brokerage Services; Applicable to the Northern California Power Agency (NCPA)

AGENDA CATEGORY: Consent

FROM:	Monty Hanks Chief Financial Officer/Assistant General Manager	METHOD OF SELECTION:	<i>Competitive Pricing Process</i>
Division:	Administrative Services	<i>If other, please describe:</i>	
Department:	Risk Management		

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

Approve Resolution 21-XX authorizing the General Manager or his designee to enter into a Five-Year Multi-Task Consulting Services Agreement with Alliant Insurance Services, Inc. for professional insurance brokerage services, applicable to all facilities owned and operated by NCPA, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$800,000 over five years.

BACKGROUND:

NCPA engages professional services associated with insurance risk management, risk financing, insurance brokerage, and loss claim advocacy matters. The Agency retains these services in connection with its insurance program which includes property, liability, workers compensation, and directors and officers insurance programs, etc. The Agency previously used Aon Risk Services to perform these services but the agreement was terminated effective June 30, 2021.

Staff issued a Request for Proposals (RFP) to solicit insurance brokerage firms to provide the above-mentioned services and received 5 responses from the following firms:

- Alliant Insurance Services, Inc.
- Aon Insurance Services
- Marsh USA Inc.
- McGriff Insurance Services
- Willis Towers Watson

All firms had extensive experience in the power industry and excellent qualifications to provide NCPA the desired services for insurance brokering and support. After a thorough evaluation and consultation with other utilities, Alliant Insurance Services, Inc. stood out as the best fit and selection for NCPA with its full-service capability, industry experience, team profile, and competitive service fee. Staff is confident the Alliant team can assist the Agency building upon a new marketing strategy providing options and solutions to maximize results while mitigating risks to our insurance programs.

The Five-Year Multi-Task Consulting Services Agreement with Alliant Insurance Services fees are as follows:

Year of Services	Annual Compensation
2021	\$140,000
2022	\$144,000
2023	\$148,000
2024	\$148,000
2025	\$148,000
Contingency (~10%)	\$72,000

FISCAL IMPACT:

Upon execution, the total cost of the agreement shall not to exceed \$800,000 including approximately 10% for contingency related items over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures. The insurance brokerage services are included in the current fiscal year Risk Management budget.

SELECTION PROCESS:

An RFP was posted on NCPA's website May 5, 2021 to May 26, 2021. A total of five responses were received and evaluated based on industry experience, team profile, and cost. Alliant Insurance Services, Inc. was selected as a result of the formal bidding process in accordance with NCPA's procurement policies and procedures.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 21-XX
- Five Year Multi-Task Consulting Services Agreement with Alliant Insurance Services, Inc.

RESOLUTION 21-XX

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

(reference Staff Report #xxx:21)

WHEREAS, the Northern California Power Agency (NCPA) is required by various contracts and agreements with its members and its generating and transmission project participants to provide for property, casualty and other insurance to protect its interests therein; and

WHEREAS, to accomplish this NCPA requires professional services associated with risk management, risk financing, insurance brokerage, and claims adjustment matters in connection with its property, liability, workers compensation insurance programs and related surety and performance bonds; and

WHEREAS, the Agency completed a Request for Proposals (RFP) to solicit insurance brokerage firms to provide the above-mentioned services and evaluated all the responses; and

WHEREAS, Alliant Insurance Services, Inc. stands out as the best selection for NCPA with its full-service capability, industry experience, team profile, and competitive service fee; and

WHEREAS, the Consulting Services Agreement with Alliant Insurance Services, Inc. provides for a five-year term with compensation not to exceed \$800,000 including approximately 10% for contingency related items over the term; and

WHEREAS, the FY2022 Annual Budget has contemplated and included the necessary funds to provide for these services; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into said Agreement, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$800,000 over five years, for use at NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2021 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	_____	_____	_____

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND ALLIANT INSURANCE SERVICES, INC.

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 Alliant Insurance Services, Inc., a corporation with its office located at 5444 Westheimer Road, Suite 900, Houston, TX 77056 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2021 ("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) year from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, 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 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** EIGHT HUNDRED THOUSAND dollars (\$800,000) 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

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 Commercial General Liability, with a self-insured retention or deductible of no more than \$100,000. As of the Effective Date, Consultant's Commercial General Liability deductible does not exceed \$100,000. Consultant shall advise NCPA on or before July 1 of each year should its deductible increase above \$100,000. No endorsement shall be attached limiting the coverage which would render Consultant non-compliant with the insurance requirements set forth herein.

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. As of the

Effective Date, Consultant's Automobile Liability deductible does not exceed \$100,000. Consultant shall advise NCPA on or before July 1 of each year should its deductible increase above \$100,000. This insurance shall provide contractual liability covering all motor vehicles utilized in performance of the Services.

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

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

4.4 All Policies Requirements.

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

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

4.4.3 Reserved.

4.4.4 Waiver of Subrogation. , Except for Professional Liability insurance, 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 reasonable costs and fees of litigation), judgments and causes of action of every nature arising out of or caused by any negligent acts or omissions or willful misconduct 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.

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

- 8.4.1** Immediately terminate the Agreement;
- 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.4.3** Retain a different consultant to complete the Services not finished by Consultant; and/or
- 8.4.4** Charge Consultant the difference between the costs to complete the Services that 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 where permitted by law 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:

Derek Whipple
Senior Vice President
Alliant Insurance Services
5444 Westheimer Road, Suite 900
Houston, TX 77056

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.

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

NORTHERN CALIFORNIA POWER AGENCY

ALLIANT INSURANCE SERVICES, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

DEREK WHIPPLE, Senior Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Alliant Insurance Services, Inc. ("Consultant") will act as the risk management advisor and consultant and insurance broker, as applicable, for the Northern California Power Agency ("Agency" or "NCPA") with respect to the following lines of insurance:

- (a) All Risks Property & Terrorism
- (b) Electronic Data Processing (Misc. Property)
- (c) Excess Liability
- (d) Automobile Liability/Physical Damage (e) Workers Compensation/Employers Liability
- (f) Property & Terrorism (Lodi Energy Center)
- (g) Casualty (Lodi Energy Center)
- (h) Crime/Fidelity
- (i) Directors & Officers Liability
- (j) Surety
- (k) Other lines of insurance as needed (e.g., professional liability, etc.)

The primary responsibilities and requirements of Consultant are outlined below:

1. Assigned Personnel

Consultant shall designate a Principal to be assigned to this account to act as the primary contact for NCPA. If for any reason NCPA finds, in its sole discretion, that the service provided by any assigned personnel is unsatisfactory, Consultant will agree to assign replacement personnel that must also be approved by NCPA.

2. Current Policy Review

Consultant shall review all NCPA policies and other documents in detail within 45 days of receipt of the documents. The Consultant will check the wording and accuracy of each policy, binder, certificate, endorsement or other document received from insurers. The Consultant will review and provide feedback to NCPA that the intended coverage is provided, all coverage, terms, conditions and other wording is complete.

3. Program Administration

Program administration shall include, but not be limited to the following:

- A. Act as an independent insurance advisor to the Agency and proactively provide ongoing and unbiased professional advice and recommendations that benefit the Agency.
- B. Proactively provide ongoing review and analysis of the Agency's insurance programs and identification of cost and benefit options.
- C. Be familiar with the insurance needs of the Agency.
- D. Be familiar with the coverage provided by all relevant insurance policies and documents issued to the Agency.
- E. Assure that insurance policies are placed in a timely manner, with reputable and financially responsible insurers.

- F. Provide service for the insurance policies placed for the Agency including processing all changes and endorsements.
- G. Provide early warning of rate and coverage changes or renewal problems.
- H. At least once a year, provide a comprehensive report that reviews all of the Agency's insurance programs.
- I. Be available to answer questions or obtain answers from underwriters for policy coverage questions.
- J. Meet with Agency staff as may be reasonably requested.
- K. Provide consultation service and written reports as normally expected of a professional broker.

4. Claim Assistance

Assist NCPA with claim filing, evaluation, negotiation and settlement. Included in the annual service fees identified in Exhibit B, Consultant agrees to provide up to 50 hours of claims assistance annually. Any request in excess of this amount will be negotiated.

5. Periodic Review

Brokerage and consulting services must be provided for annual policy renewals and on an as needed basis, including:

- A. Consultant must provide a thorough renewal presentation each year at least sixty (60) days, or as agreed by NCPA, before current policy expiration date with policy recommendations to include an analysis of available alternatives.
- B. Brokerage services must also include market research.
- C. The Broker will also advise on a continuing basis, and in a timely manner, of any and all significant matters and developments regarding carrier service issues.

In addition to the primary responsibilities described above and to support Agency's efforts to obtain appropriate insurance from entities providing services to Agency, Agency may request insurance related training for contract administrative staff and/or consultation services. Should Agency request formal training in the form of a presentation either in person or virtual, Consultant will develop a program in consultation with Agency. Consultant will provide up to two training sessions per year.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount specified in Section 2 of the Agreement. The annual fees for Services are as follows:

July 29, 2021 - June 30, 2022:	\$140,000
July 1, 2022 - June 30, 2023:	\$144,000
July 1, 2023 - June 30, 2024:	\$148,000
July 1, 2024 - June 30, 2025:	\$148,000
July 1, 2025 - June 30, 2026:	\$148,000

In addition, any use of third-party intermediaries will be compensated separately. These will be discussed and mutually agreed with NCPA before any engagement. For London and Bermuda wholesale property broker partners we will limit their compensation to no more than 10% commission based on signed lines only. It should be noted that all layer pricing for property insurance programs will be dictated by the US team and therefore commissions will be paid by the insurance markets and not NCPA.

Should Bermuda or London capacity be accessed for the casualty program, third-party intermediaries are compensated either by a fixed fee agreement or by commission, which is paid by NCPA.

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

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



Commission Staff Report

COMMISSION MEETING DATE: July 29, 2021

SUBJECT: Authorize Northern California Power Agency's General Manager to Execute Confirmation Number 0223 for The Energy Federation, Inc. Services to Alameda Municipal Power, Execute the Corresponding Southern California Public Power Authority Task Order, and Issue a Purchase Order Under the Support Services Program

AGENDA CATEGORY: Consent

FROM:	Monty Hanks Chief Financial Officer/Assistant General Manager	METHOD OF SELECTION: <i>Other</i>
Division:	Administrative Services	<i>Alameda Municipal Power Acknowledged Satisfaction of its Purchasing Policies</i>
Department:	Accounting & Finance	

IMPACTED MEMBERS:					
All Members	<input type="checkbox"/>	City of Lodi	<input type="checkbox"/>	City of Shasta Lake	<input type="checkbox"/>
Alameda Municipal Power	<input checked="" 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:

Subject to approval by the Alameda Municipal Power Public Utilities Board of the requested services under the terms of the Northern California Power Agency (NCPA) Support Services Program Agreement, approval of Resolution 21-68 authorizing the NCPA General Manager or his designee to execute Confirmation Number 0223 and corresponding Southern California Public Power Authority (SCPPA) Task Order, with any non-substantive changes as approved by the NCPA General Counsel, and issue a Purchase Order to The Energy Federation, Inc. (EFI) for energy efficiency services including an eCommerce marketplace and fulfillment services and downstream rebate processing services.

BACKGROUND:

NCPA and SCPPA executed a Shared Services Agreement effective August 1, 2015, authorizing among other things, the purchase or acquisition of goods and services by each party or a party's members where provision has been provided in contracts for the other party and its members to avail themselves of goods and services offered under the contract or where either party's bidder or consultant is willing to extend prices to the other party and its members.

The City of Alameda dba Alameda Municipal Power (AMP) became a signatory to the NCPA Support Services Program Agreement (SSPA) on June 8, 2016, which agreement authorizes among other things, the purchase or acquisition of goods and services by NCPA Members through use of NCPA's agreements with its vendors.

SCPPA entered into a Master Goods and Services Agreement with The Energy Federation, Inc. effective March 18, 2021. In June 2021 AMP submitted a Member Task Request under the SSPA for EFI services to develop, deploy, and operate an eCommerce marketplace and fulfillment services to enable AMP customers the ability to consult, compare, learn, and purchase qualifying energy efficient products; and provide downstream rebate processing services for items not purchased or offered on the marketplace. Per the EFI proposal and AMP Task Request, the cost for the services is not-to-exceed \$264,365.

If approved, Confirmation Number 0223 states that NCPA agrees to provide the requested services through SCPPA's contract with EFI, in the amount of not-to-exceed \$264,365. With the addition of NCPA's administrative fees, the total amount expended under the Confirmation will not exceed \$270,000.

This item will be considered by the AMP Public Utilities Board at its meeting in July 2021, and is subject to that approval.

FISCAL IMPACT:

There is no fiscal impact to NCPA. The services provided by EFI to AMP will be billed to and paid by AMP pursuant to the terms of the Support Services Program Agreement. NCPA's administrative costs will be reimbursed by AMP.

SELECTION PROCESS:

AMP will utilize EFI's services through NCPA's Support Services Program and its Shared Services Agreement with SPPA. AMP has confirmed through submission of its Task Request that it is responsible for satisfying AMP's Purchasing Policies.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Facilities Committee review and approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 21-68
- Proposed Confirmation Number 0223
- SPPA Task Order No.: EFI-NCPA-AMP01

RESOLUTION 21-68

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY AUTHORIZING THE GENERAL MANAGER TO EXECUTE CONFIRMATION NUMBER 0223 FOR THE ENERGY FEDERATION, INC. SERVICES TO ALAMEDA MUNICIPAL POWER, EXECUTE THE CORRESPONDING SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY TASK ORDER, AND ISSUE A PURCHASE ORDER UNDER THE SUPPORT SERVICES PROGRAM (reference Staff Report #190:21)

WHEREAS, the Northern California Power Agency (NCPA) and Southern California Public Power Authority (SCPPA) executed a Shared Services Agreement effective August 1, 2015, authorizing among other things, the purchase or acquisition of goods and services by each party or a party's members where provision has been provided in contracts for the other party and its members to avail themselves of goods and services offered under the contract or where either party's bidder or consultant is willing to extend prices to the other party and its members; and

WHEREAS, The City of Alameda dba Alameda Municipal Power (AMP) became a signatory to the NCPA Support Services Program Agreement (SSPA) on June 8, 2016, which agreement authorizes among other things, the purchase or acquisition of goods and services by NCPA Members through use of NCPA's agreements with its vendors; and

WHEREAS, SCPPA entered into a Master Goods and Services Agreement with The Energy Federation, Inc. (EFI) effective March 18, 2021; and

WHEREAS, in June 2021, AMP requested services through the SSPA for EFI to develop, deploy, and operate an eCommerce marketplace and fulfillment services to enable AMP customers the ability to consult, compare, learn, and purchase qualifying energy efficient products; and provide downstream rebate processing services for items not purchased or offered on the marketplace. The cost for the services is not-to-exceed \$264,365; and

WHEREAS, Confirmation Number 0223 states that NCPA agrees to provide the requested services through SCPPA's agreement with EFI in an amount not-to-exceed \$265,365. With the addition of NCPA's administrative fees, the total amount expended under Confirmation Number 0223 will not exceed \$270,000; and

WHEREAS, this item will be considered by the AMP Public Utilities Board at its meeting in July 2021, and is subject to that approval; and

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

NOW, THEREFORE BE IT RESOLVED, subject to approval by the Alameda Municipal Power Public Utilities Board and under the terms of the NCPA Support Services Program Agreement, the Commission of the Northern California Power Agency authorizes the NCPA General Manager or his designee to execute Confirmation Number 0223 and corresponding Southern California Public Power Authority Task Order, with any non-substantive changes as approved by the NCPA General Counsel, and issue a Purchase Order to The Energy

Federation, Inc. for energy efficiency services including an eCommerce marketplace and fulfillment services and downstream rebate processing services.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2021, 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	_____	_____	_____

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY

CONFIRMATION UNDER THE NCPA SUPPORT SERVICES PROGRAM AGREEMENT

1. This is a Confirmation pursuant to the Support Services Program Agreement and subject to the terms and conditions of that agreement, except as expressly provided in this Confirmation. All capitalized terms have the meaning given to them in the Support Services Program Agreement.

2. The Participating Member for this Confirmation is the CITY OF ALAMEDA DBA ALAMEDA MUNICIPAL POWER in the total amount of not-to-exceed \$264,365.00 for The Energy Federation, Inc. (EFI) services described in paragraph 3.

3. The Participating Member requests the following described Support Services in the dollar amount specified. NCPA agrees to provide the following Support Services to the Participating Member:

EFI shall provide services to develop, deploy, and operate an eCommerce marketplace and fulfillment services to enable AMP customers the ability to consult, compare, learn, and purchase qualifying energy efficient products for their AMP service address; and EFI will provide downstream rebate processing services for items not purchased or offered on the marketplace. Those services are more fully described in EFI's eCommerce Marketplace Program Statement of Work and Downstream Rebate Program Scope of Work, copies of which are attached hereto as Exhibit "A". The services are anticipated to start in September 2021 and continue through March 17, 2024.

4. The Participating Member agrees to pay for the Support Services in the amount set forth in paragraph 2 above; plus, the administrative fees in the amount not-to-exceed \$5,635.00 (\$685.00 for development of the Confirmation and first month's processing, plus \$165.00 per month for each additional month administrative costs are actually incurred), in accordance with the provisions of the Support Services Program Agreement. The total amount expended under this Confirmation will not exceed \$270,000.00.

5. A Security Account deposit is not required for this Confirmation.

SIGNATURES ON FOLLOWING PAGE

Date: _____

Participating Member:

CITY OF ALAMEDA DBA
ALAMEDA MUNICIPAL POWER

By its Designated Representatives:

Nico Procos, General Manager

And

Alan M. Cohen, AMP General
Counsel

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

By: _____
Randy S. Howard, General Manager

Attest:

Assistant Secretary to Commission

Approved as to form:

Jane E. Luckhardt, NCPA General Counsel

Alameda Municipal Power
ECOMMERCE MARKETPLACE PROGRAM
STATEMENT OF WORK

EFI shall develop, deploy, and operate an eCommerce marketplace and fulfillment services to support Alameda Municipal Power. The marketplace shall include EFI's standard online marketplace functionality unless otherwise specified. In this document is an overview of the in-scope components. Functionality not referenced in this document shall be considered out of scope.

A. Introduction and Overview

The goal of EFI's eCommerce Marketplace program is to allow eligible customers of Alameda Municipal Power (AMP) to learn about and purchase qualifying energy efficient products through an AMP-branded eCommerce site with AMP incentives incorporated into the purchase price and orders shipped directly to the customer by EFI.

B. Scope of Work

EFI shall create, host, and maintain a secure eCommerce site ("marketplace") to be used by AMP's eligible customers. The marketplace will support current and future versions of the major Web browsers on common operating systems and be mobile responsive, ensuring a positive user experience on computers, tablets, and smart phones.

B.1. EFI shall provide program management support to AMP through an assigned Account Manager.

B.2. The marketplace shall be based on EFI's most recent eCommerce platform, using EFI's "best practices" design, including a hero image furnished by EFI along with featured product content that would be refreshed as needed in conjunction with periodic promotions and campaigns.

B.3. The marketplace shall be designed to feature product categories pre-approved by AMP.

B.4. The marketplace shall incorporate pre-approved AMP branding throughout the site. AMP shall furnish applicable brand guidelines and assets to be presented on the site.

B.5. The marketplace shall provide an "About Us" page on which information about AMP and EFI may be presented. The content about AMP shall be furnished by AMP.

B.6. The marketplace shall present product prices along with other discounts, if/when available. The pre-discount price, supplier and marketplace discounts (if applicable), AMP's

instant rebate (if applicable), and the net customer price for the offered products shall be displayed.

- B.7. The marketplace shall support the use of the account numbers, coupled with the premise zip code, as a validation methodology.
- B.8. The marketplace shall restrict discounts for products based upon agreed upon rules criteria by AMP.
- B.9. The marketplace shall limit the number of times a given account number will be able to be used to establish a marketplace account.
- B.10. The marketplace shall allow the customer to provide the address to which the order shall be shipped, but it shall restrict package delivery to addresses within the zip codes served by AMP.
- B.11. The marketplace shall present clear product descriptions and specifications on the product ordering pages created by EFI, as well as product images, and/or product-related videos available from manufacturers when available.
- B.12. The marketplace shall provide an easy-to-use navigational structure to facilitate customers' abilities to locate and select products.
- B.13. EFI shall be the retailer and thus responsible for payment processing on this marketplace. The marketplace shall allow customers to securely place orders using major credit cards (MasterCard, VISA, Discover, and American Express), PayPal, or a physical check. Other payment options may be added by EFI subsequent to deployment.
- B.14. EFI shall coordinate with AMP to determine the collection and remittance of sales tax.
- B.15. The marketplace shipping schedule shall be \$6.00 flat rate shipping, reviewed and updated annually.
- B.16. The marketplace shall present customers with a means of obtaining assistance relating to purchase-related issues such as product and order status questions by phone, e-mail, or live chat from 8:00 am to 8:00 pm (ET) Monday through Friday. During promotional periods, hours on Saturday from 8:00 am to 5:00 pm may be added. The contact center shall be closed on holidays.
- B.17. The marketplace shall present terms and conditions that the customer must agree to comply with in conjunction with the purchase. Unless otherwise specified, the terms and conditions to be presented during checkout shall include the following:

- Customer agrees to install the ordered products at the address associated with the account premise address.
- Customer agrees that ordered products will not be resold under any circumstances.
- EFI and AMP reserve the right to revise the product offering, product availability, and product pricing at any time.
- Customer agrees to indemnify, hold harmless and release EFI, AMP, and affiliates from any actions or claims in regard to the installation, operation and disposal of equipment (and related materials) covered herein including liability from incidental or consequential damages.
- Customer acknowledges that EFI, AMP, and affiliates do not expressly or implicitly warrant the performance of installed purchased products, and are not liable for any damage caused by the installation of these products or for any damage caused by the malfunction of the installed purchased products.

B.18. Upon successful submission of an order, the EFI marketplace shall send customers a confirmation of their order by email, along with a confirmation when the order has shipped with package tracking information. Logged-in customers who abandon a shopping cart shall be sent a reminder email.

C. Inventory Management & Order Fulfillment

- C.1. EFI shall own and use commercially reasonable efforts to maintain sufficient inventory to support the anticipated needs of the program based on forecasts provided by AMP to EFI on a quarterly basis, or in advance of proactive campaigns with sufficient lead times for EFI to acquire inventory.
- C.2. If a change to the product offering is necessary in advance of scheduled updates (such as a product no longer being manufactured, or the manufacturer no longer being able to fill EFI's purchase orders in a timely way), EFI shall communicate those changes to AMP.
- C.3. Unless otherwise agreed, or if impacted non-forecast spikes in order volume or Acts of God, EFI shall fulfill orders for in-stock individual products (during non-promotional periods) within seven (7) business days, though EFI shall strive to fulfill orders within three (3) business days, or less, whenever possible.
- C.4. EFI shall comply with all applicable laws and regulations relating to marketing, eCommerce, and order fulfillment.

D. Reporting

D.1. EFI shall provide a dashboard reporting portal through which shipped order-related data file will be posted nightly, and subsequently retrieved by AMP. Dashboard documentation shall include versions of the report examples in the appendix, along with order-level data. The data fields that shall be available shall include, but not be limited to:

CUSTOMER FIELDS

Account Number
First Name
Last Name
Company
Address 1
Address 2
City
State
Zip Code
Email Address
Phone Number

ORDER FIELDS

Coupon Code
Order Number
Order Date
Invoice Number
Invoice/Shipping Date
Shipping Address 1
Shipping Address 2
Shipping City
Shipping State
Shipping Zip Code
Product Subtotal
Discount Amount
Sales Tax
Shipping Charge
Net Total

PRODUCT FIELDS

Product Name
EFI Part #
Quantity
Unit Price

Unit Rebate (if applicable)
Extended Price
Extended Rebate (if applicable)
kWh saved
Serial Number (thermostats only)

D.2. EFI shall provide AMP access to a Google Analytics view of marketplace activity.

D.3. EFI shall provide SFTP directory through files may be securely exchanged.

E. Completion and Acceptance Criteria

E.1. Compliance with Statement of Work Specifications to be confirmed

E.2. End-to-end Testing to be confirmed

F. Compensation/Fees

FEES

- One-Time Set-Up: \$10,000.00
- SSO/API integration (optional): \$10,000 / Integration

PROGRAM MANAGEMENT FEES

- Monthly Program Management: \$500.00 / month
- Tableau Reporting License: \$1,000 / User / Year

HOURLY RATES (for out of scope work)

- Customization (Software Developer): \$185.00 / Hour
- IT Business Analyst: \$150.00 / Hour
- Marketing Support (Creative/Design): \$125.00 / Hour
- Program Manager: \$95.00 / Hour
- Contact Center Support: \$72.00 / Hour

PAYMENT TERMS

- Net 30 from invoice date.

terms per Master Goods and Service Agreement between SCPPA and EFI dated 3/18/21.

Scope of Work: Alameda Municipal Power Downstream Rebate Program

EFI will manage downstream rebate processing for Alameda Municipal Power.

Downstream Rebate Processing

The steps involved in processing post-purchase ("downstream") customer rebate requests are:

1. AMP customers will submit their rebate requests and supporting documents through an online application portal. EFI's solution is designed to support rapid development and deployment through the use of a template that allows for targeted branding and light customization of the solution.
2. Complete applications are indexed and queued into EFI's paperless workflow system as they are received, on a daily basis.
3. Rebate requests are entered into EFI's internal incentive management system (IMS) and vetted for eligibility.
4. Eligible rebate requests are processed and payment is issued to the customer.

The two most critical guidelines that must be met for a rebate application to be processed and paid are 1) the applicant must be verified as an eligible customer of AMP, and 2) the product or measure for which the rebate is requested must meet eligibility requirements as set forth by the program guidelines.

Verification

EFI verifies customer eligibility against customer files provided by AMP. Ideally, customer files are provided weekly to ensure that the most up to date accounts are available. The customer files are required to have at minimum, customer names, addresses, and utility account numbers. In addition, EFI requires a technical contact and adherence to customer data file forms. As per EFI's data file setup process, a polling process is set up to look for new customer files on a daily basis.

Qualifying Products

Once customer eligibility has been determined, EFI will confirm the products purchased by applicants qualify for incentive payments. Product eligibility is configured against model attributes in known industry maintained databases (e.g., Energy Star or AHRI) which are uploaded into EFI's IMS and refreshed on a weekly basis. Data processing staff match models noted on applications and documented on receipts with model numbers in EFI's systems. Data processing staff do not have the ability to override eligibility or ignore the selections in the IMS.

Business Rules

In addition to customer and measure eligibility, EFI's IMS is also configured to vet rebate submissions against additional business rules including eligible purchase and postmark dates, required survey questions, purchase limits, and incentive not to exceed values. EFI will provide Program Administrators with a copy of the business rules on an annual basis and whenever they are changed. In addition to the internal system logic, EFI employs data quality control specialists who manage a quality assurance verification process (QA) by checking a percentage of rebate batches input by our

data processing staff and comparing the electronic submission documents with information keyed into the IMS. Any issues that are identified through the QA process will be reviewed with the DP rep and if issues are repetitive, he/she will be provided additional program training before resuming entry on that program. This QA process is applicable to both clean applications and non-compliant applications (NCAs).

Non-Compliant Applications & Denied Rebates

In cases where a customer's rebate submission cannot be processed as submitted because it is missing required information, it becomes a non-compliant application (NCA). EFI will resolve NCAs follows:

1. EFI will perform a quality assurance verification process (QA) on a subset of NCAs prior to initiating formal communications with the customer. QA process is described above.
2. EFI will send an initial NCA communication to customers. This initial communication is in the form of an AMP branded email and outlines the steps necessary for a customer to take in order to resolve their NCA, as well as provides the EFI phone number that customers may call with questions.
3. Customer responses to NCAs are queued into the paperless workflow and rebate requests are updated in EFI's IMS and re-vetted for eligibility as described above.

Rebates that do not qualify are entered into a denied status and reviewed via the same QA process as stated above; EFI will send a communication in the form of an AMP branded email that details the reasons why their submission was denied and provides the EFI phone number that customers may call with questions.

Incentive Issuance & Payment Terms

Under EFI's current processing cycle for downstream rebates, applications are reviewed and entered into IMS within 7 calendar days of receipt. Approved rebates are batched for payment as defined below and payment files are uploaded to EFI's card fulfillment vendor to distribute digital payments. Customers are delivered digital payment choice via a branded email with custom messaging ensuring customers know why they are receiving the rebate. Customers click the link to validate their address and then access funds on a full branded, mobile-optimized site. The program will be configured to show virtual and physical prepaid card options, as well as transfer to debit card for rebate values over \$100. Payment is mailed to customers within 3-5 calendar days once funding is made available through one of the mechanisms as defined below:

EFI Advance

EFI advance funding will adhere to the following process and guidelines:

1. Customer Rebates: EFI to fund at 1 % Cost of Money and pay all incentives where customer payments are made in conjunction with invoicing AMP.
2. Customer Rebate Supporting Documentation: EFI to provide backup data (i.e., an extract file or files) to support rebates paid that coincide with the EFI invoice. EFI and AMP will work together to ensure that EFI has been provided adequate extract mappings and measure codes and any changes to extracts will be provided to EFI with an 8 week

lead time for implementation.

3. Invoice Terms: Invoice Payment terms on correct and approved invoices (with matching data backup) will include a 1% Cost of Money (COM) on rebates paid at Net 30 terms.

Data Tracking & Reporting

Clients rely on the data we provide so that their savings and program goals are tracked accurately. Our systems for delivering incentive fulfillment services and detailed and summary reporting of the energy efficiency programs we administer for our clients have the longest track record in the industry and have consistently met or exceeded the requirements and expectations of our clients. EFI can provide AMP with data extract from our relational database where EFI manages completed and paid rebates. These reports were developed by EFI in conjunction with AMP to meet reporting and invoicing needs. These include:

- Detailed and summary reports and data files accompanying each invoice, tying payment requests to identified transactions. These reports are generated with each closing.
- Detailed and summary reports depicting program activity by product or measure.

These data extract files are available electronically and can be delivered via secure email or SFTP upload. Reports can be supplied in a number of formats (i.e., .csv, .xlsx) allowing for easy data import into AMP's internal systems. Frequencies of report and data exports are dependent on the method employed and are often produced in concert with the bi-monthly closings.

Tableau Client Dashboard & Reporting

EFI's internal processing and database structure is securely linked to our Tableau client-facing online environment, allowing critical data to be surfaced in the form of dashboards, and ad-hoc reports. The ad-hoc reporting tools allow for the extraction of data to formats commonly used for in-house analytics.

Notable features of EFI's web-based reporting platform include:

- **Secure cloud-based access.** Tableau's powerful platform provides fast, accessible information for clients 24 hours a day.
- **Layered access controls.** Rights and privileges can be assigned to multiple entities, such as individual users or groups, and at multiple levels. The number of users and access is limited only by the number of Tableau licenses a client is willing to purchase.
- **Customizable reports and management dashboards.** The user-friendly interface allows the customization of high-level graphical charts and tabular reports with the ability to drill down to individual measure details. Dashboards with key program data allows clients to quickly review personalized metrics and determine program health (progress) at a glance.
- **Program data is updated daily.** Data is refreshed daily, allowing clients to track and monitor progress on a day-to-day, rather than month-to-month basis.

Program Management

Each program is managed by a team of EFI personnel which includes a Program Manager as well as

one or more Program Coordinators. Regular activities covered by Program Management include:

- **Initial program set-up.** The Program Manager will coordinate with AMP program administrators and EFI internal departments to ensure proper configuration of internal systems; finalized business rules, program specific call center and data entry training; billing details (PO#s, contacts, delivery methods); and data extract specifications.
- **On-going program maintenance and Activity Coordination.** The Program Manager will serve as point of contact for client and EFI internal questions related to program operations; responding to and resolving customer escalations and inquiries; and communication with Industry Partners and Implementation/Outreach Contractors.
- **Program development.** The Program Manager will perform regular monitoring of program activity and performance, with ongoing suggestions for program improvements and business rule updates; attend regularly scheduled client meetings.
- **Billing and invoicing.** The Program Management team will create, verify, and distribute program billing reports, extract files, and invoices by program.

Out of scope activities include, but are not limited to:

- Any client change request that involves IT time to develop or would require changes to EFI standard processes.
- Ad hoc reporting requests.
- Customization of reporting outside of the established Tableau offerings.
- Changes to data extract specifications, including changes to measure codes.
- Custom reporting for vendors.

Any out of scope activities will require a scope of work, the anticipated hours, and the estimated costs, with written approval received prior to commencement of work.

Customer Contact Center

EFI has an in-house customer contact center that responds to calls coming in on dedicated toll free lines for incentive programs. A dedicated toll-free number will be provided for the AMP downstream rebate programs for addressing service and rebate related questions. EFI also has integrated a live chat feature on our online rebate platform, which allows customers to instantly chat online with a specialized EFI Customer Service Representative (CSR) during our normal hours of operation.

Our customer contact centers hours of operation are 8 am to 8 pm ET Monday through Friday, and 8am to 5pm ET Saturdays during promotional periods. The department is closed on Sundays and six national holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas. EFI's after-hours call center message will clearly state the hours of operation when a customer calls in and the call center is closed and alternative methods for contacting EFI.

EFI's contact center representatives (CSRs) are responsible for follow up associated with applications that are incomplete or where the supporting documentation is ambiguous. This service adds value to the customer experience, helping customers navigate through what can be complicated technical requirements of their incentives. EFI differentiates itself from its competitors in this regard, as this process generally results in increased conversion rates and customer satisfaction.

EFI Phone Systems

EFI uses a phone system with automated call distribution (ACD) functionality to address incoming and outgoing calls. The ACD ensures that all incoming calls are responded to promptly, and in the order in which they are received. It also has the ability to identify where the incoming call is from, so that the CSR can provide a customized greeting for each program with dedicated lines. EFI's ACD also allows for skills-based routing to ensure more complex program calls are routed to the best-qualified CSR available. Call prioritization escalation is also available based on wait time or other systems based criteria.

Call Monitoring, Supervision, and Quality Assurance

EFI regularly monitors representative and customer interactions to ensure service quality. Calls taken by CSRs are recorded for the purpose of quality control and employee development. EFI continually monitors and records CSR and customer interactions to ensure service quality. For the purpose of quality control and employee development, we do the following:

- The recorded call is stored in a secure spot on the network where the call can be retrieved later for evaluation and coaching purposes;
- The call center supervisor assesses a certain number of random recordings of each CSR's calls on a weekly basis;
- The supervisor records the specific details of the assessment using custom built call monitoring software;
- The supervisor sits with CSRs regularly to review the recorded calls and provide feedback for improvement / development.

In conjunction with scoring the CSRs using a call monitoring assessment form, weekly call statistics are posted to assure department metrics are being met. EFI's standard call center key performance indicators (KPIs) are to have 70 percent of all calls answered in less than 30 seconds. Our call abandon rate for calls of 20 seconds or more duration is less than 3% (the 20 seconds eliminates hang ups attributable to customers hearing the program message greeting and recognizing they have called the wrong number). EFI to provide monthly call volume as well as reporting on call reason codes during the quarterly meetings with AMP.

Pricing

Initial Set-up and Implementation

\$20,000, covering 110 hours of development and configuration work.

On-going Support

Quarterly Program Fee: This fee is to be inclusive of all aspects of running the Alameda Municipal Power downstream rebate programs (i.e., data entry, incentive issuance, postage, customer calls, emails, eligibility confirmation, program reporting, database management, personnel training, and all management and administrative work).

\$7,500 per quarter for up to 150 rebate submissions received, with rebates in excess of 150 billed at \$10.50 per submission. In quarters where 150 rebate submissions have been exceeded, invoices will include the absolute quantity of rebates submissions above 150, as well as the associated dollar amount.

Digital Discount: If Alameda Municipal Power were to opt into a 100% digital program (i.e., all submissions received through the online portal only, and all rebate payments made via daVinci Payment's digital Paywall solution), the Quarterly Program Fee will be reduced to \$6,000 per quarter.

Cost-of-Money (optional): 1% for EFI Float models of rebate funding.

Tableau Dashboard and Reporting Licenses: \$1,000 per user per year.

Program Updates & Modifications: Regular maintenance and support of EFI's rebate processing systems is included in the quarterly management fee; however, program updates and modifications are charged on a time and materials basis at the Hourly Out-of-Scope Rates as defined below.

Program updates and modifications include, but are not limited to:

- Any change request that involves IT time to develop or would require changes to EFI standard processes;
- Ad hoc reporting requests;
- Changes to data extract specifications, including changes to measure codes;
- Program changes, including changes to incentive values, addition, or removal of measures, and changes to survey questions; and,
- Custom reporting for vendors.

Given the size and scope of the AMP Rebate Program, updates are estimated at 20 hours annually.

Hourly Out-of-Scope Rates

For work not defined as in-scope for each SCPPA implementation, the following hourly pricing rates prevail:

- | | |
|-------------------------|---------------------------------------|
| • Program Management | \$95.00 per hour, 2% annual increase |
| • Marketing Services | \$125.00 per hour, 2% annual increase |
| • IT Business Analyst | \$150.00 per hour, 2% annual increase |
| • IT Software Developer | \$185.00 per hour, 2% annual increase |

TASK ORDER No.: EFI-NCPA-AMP01

Date: 9/1/2021

Project Description: The Energy Federation, Inc. eCommerce Marketplace and Rebate Processing Services

Sponsor: Northern California Power Agency (NCPA)

Participating NCPA Member: City of Alameda dba Alameda Municipal Power (AMP)

Consultant: The Energy Federation, Inc. (“EFI”)

Consultant, SCPPA and NCPA, on behalf of the Participating NCPA Member (“Participating Member”) identified above, agree that Consultant shall provide the Services specified herein pursuant to the terms and conditions of the Master Goods and Services Agreement Between Southern California Public Power Authority and The Energy Federation, Inc. (“Agreement”) dated March 18, 2021, except as specifically modified herein.

SCPPA and NCPA executed a Shared Services Agreement effective August 1, 2015, authorizing among other things, the purchase or acquisition of goods and services by each Party or a Party’s Members where provision has been provided in contracts for the other Party and its Members to avail themselves of goods and services offered under the contract or where either Party’s bidder or Consultant is willing to extend prices to the other Party and its Members.

Scope of Services

Consultant will develop, deploy, and operate an eCommerce marketplace and fulfillment services to enable AMP customers the ability to consult, compare, learn, and purchase qualifying energy efficient products for their AMP service address; and Consultant will provide downstream rebate processing services for items not purchased or offered on the marketplace. These services are more fully described in EFI’s eCommerce Marketplace Program Statement of Work and Downstream Rebate Program Scope of Work, copies of which are attached hereto as Exhibit “A”.

Compensation and Schedule

The total cost for the requested Services under this Task Order **shall not exceed \$264,365.00**, which shall include all fees, costs, reimbursables, and expenses, in accordance with Consultant’s Pricing included in Exhibit “A.” This dollar amount is not a guarantee that the full amount will be paid to Consultant, but is merely a limit of potential expenditures under this Task Order.

The services requested by this Task Order shall be performed starting in approximately September 2021 and continue through March 17, 2024 based on the Purchase Order issued by NCPA to EFI.

Changes/Amendments to Agreement

In accordance with Section 4 of the Agreement, entitled “Changes/Amendments,” the Agreement between SCPPA and EFI is hereby amended and/or restated for purposes of this Task Order only as follows:

- a. The following WHEREAS clause is added to the Agreement:

WHEREAS, in addition to the SCPPA members, the Northern California Power Agency (“NCPA”) and its member agencies, from time to time, have a similar need for services, and where NCPA and its member agencies participate in this Agreement the term Member shall apply to each in the same manner as it applies to any SCPPA member; and

- b. The definition of “Participating Member” set forth in Section 1, entitled “Work to be Provided”, is amended as follows: A Member, or NCPA or a NCPA member agency, who participates in any Task Order shall be referred herein as the “Participating Member.”

- c. Section 5 of the Agreement, entitled “Payment,” is hereby amended and restated for purposes of this Task Order only to read in full as follows:

5. Payment: NCPA shall pay Consultant directly for Services provided to Alameda Municipal Power under this Task Order in accordance with the terms and payment schedule contained in the applicable Task Order. Consultant shall submit invoices not more often than once a month during the term of this Task Order based on the cost for services performed and reimbursable expenses incurred prior to the invoice date. Invoices shall contain the following information:

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

Invoices shall be sent to:
Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

NCPA shall make payments to Consultant, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. NCPA shall have sixty (60) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

Representatives of Sponsor and Participating Member:

Sponsor Representative

Randy S. Howard, General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
Telephone: 916-781-3636

Linda Stone, Support Services Program Coordinator
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Participating Member Representative:

Heather Heinbaugh
City of Alameda dba Alameda Municipal Power
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Telephone: 510-748-3946

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have signed this Task Order effective as of the date first written above.

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

By:

MICHAEL S. WEBSTER
Executive Director

Approved as to Legal Form and Content:

MARY BETH MARTIN
General Counsel

THE ENERGY FEDERATION, INC.

By:

PAUL DANEHY
Chief Executive Officer

Sponsor's Acknowledgement and Agreement

By signing this Task Order, NCPA agrees that it is responsible for payment to Consultant for all fees and expenses invoiced by Consultant in accordance with Section 5, above, and will be responsible for all payment obligations incurred in connection with the work performed at the direction of or on behalf of Participating Member (City of Alameda dba Alameda Municipal Power). Sponsor agrees to indemnify, defend and hold SCPPA and all SCPPA Members harmless for payment for work performed at the direction of, and for the exclusive benefit of Participating NCPA Member.

NORTHERN CALIFORNIA POWER AGENCY

By:

RANDY S. HOWARD
General Manager

Approved as to form:

Jane E. Luckhardt, NCPA General Counsel

Participating Member's Acknowledgment and Agreement

Participating NCPA Member, Alameda Municipal Power, agrees to indemnify, defend and hold harmless SCPPA, all other members and their respective directors, officers, agents, representatives, employees, successors and assigns from and against any and all losses, injuries, costs and expenses, damages, liens, claims, or liabilities, including reasonable attorney's fees incurred by SCPPA in connection with the work performed for the benefit of, or on behalf of, Participating Member pursuant to the Agreement, except for the gross negligence or willful misconduct of SCPPA or such other SCPPA members, and their officers, agents, representatives or employees.

CITY OF ALAMEDA DBA ALAMEDA MUNICIPAL POWER

Nico Procos, General Manager

Approved as to form:

Alan M. Cohen, AMP General Counsel

Alameda Municipal Power
ECOMMERCE MARKETPLACE PROGRAM
STATEMENT OF WORK

EFI shall develop, deploy, and operate an eCommerce marketplace and fulfillment services to support Alameda Municipal Power. The marketplace shall include EFI's standard online marketplace functionality unless otherwise specified. In this document is an overview of the in-scope components. Functionality not referenced in this document shall be considered out of scope.

A. Introduction and Overview

The goal of EFI's eCommerce Marketplace program is to allow eligible customers of Alameda Municipal Power (AMP) to learn about and purchase qualifying energy efficient products through an AMP-branded eCommerce site with AMP incentives incorporated into the purchase price and orders shipped directly to the customer by EFI.

B. Scope of Work

EFI shall create, host, and maintain a secure eCommerce site ("marketplace") to be used by AMP's eligible customers. The marketplace will support current and future versions of the major Web browsers on common operating systems and be mobile responsive, ensuring a positive user experience on computers, tablets, and smart phones.

B.1. EFI shall provide program management support to AMP through an assigned Account Manager.

B.2. The marketplace shall be based on EFI's most recent eCommerce platform, using EFI's "best practices" design, including a hero image furnished by EFI along with featured product content that would be refreshed as needed in conjunction with periodic promotions and campaigns.

B.3. The marketplace shall be designed to feature product categories pre-approved by AMP.

B.4. The marketplace shall incorporate pre-approved AMP branding throughout the site. AMP shall furnish applicable brand guidelines and assets to be presented on the site.

B.5. The marketplace shall provide an "About Us" page on which information about AMP and EFI may be presented. The content about AMP shall be furnished by AMP.

B.6. The marketplace shall present product prices along with other discounts, if/when available. The pre-discount price, supplier and marketplace discounts (if applicable), AMP's

instant rebate (if applicable), and the net customer price for the offered products shall be displayed.

- B.7. The marketplace shall support the use of the account numbers, coupled with the premise zip code, as a validation methodology.
- B.8. The marketplace shall restrict discounts for products based upon agreed upon rules criteria by AMP.
- B.9. The marketplace shall limit the number of times a given account number will be able to be used to establish a marketplace account.
- B.10. The marketplace shall allow the customer to provide the address to which the order shall be shipped, but it shall restrict package delivery to addresses within the zip codes served by AMP.
- B.11. The marketplace shall present clear product descriptions and specifications on the product ordering pages created by EFI, as well as product images, and/or product-related videos available from manufacturers when available.
- B.12. The marketplace shall provide an easy-to-use navigational structure to facilitate customers' abilities to locate and select products.
- B.13. EFI shall be the retailer and thus responsible for payment processing on this marketplace. The marketplace shall allow customers to securely place orders using major credit cards (MasterCard, VISA, Discover, and American Express), PayPal, or a physical check. Other payment options may be added by EFI subsequent to deployment.
- B.14. EFI shall coordinate with AMP to determine the collection and remittance of sales tax.
- B.15. The marketplace shipping schedule shall be \$6.00 flat rate shipping, reviewed and updated annually.
- B.16. The marketplace shall present customers with a means of obtaining assistance relating to purchase-related issues such as product and order status questions by phone, e-mail, or live chat from 8:00 am to 8:00 pm (ET) Monday through Friday. During promotional periods, hours on Saturday from 8:00 am to 5:00 pm may be added. The contact center shall be closed on holidays.
- B.17. The marketplace shall present terms and conditions that the customer must agree to comply with in conjunction with the purchase. Unless otherwise specified, the terms and conditions to be presented during checkout shall include the following:

- Customer agrees to install the ordered products at the address associated with the account premise address.
- Customer agrees that ordered products will not be resold under any circumstances.
- EFI and AMP reserve the right to revise the product offering, product availability, and product pricing at any time.
- Customer agrees to indemnify, hold harmless and release EFI, AMP, and affiliates from any actions or claims in regard to the installation, operation and disposal of equipment (and related materials) covered herein including liability from incidental or consequential damages.
- Customer acknowledges that EFI, AMP, and affiliates do not expressly or implicitly warrant the performance of installed purchased products, and are not liable for any damage caused by the installation of these products or for any damage caused by the malfunction of the installed purchased products.

B.18. Upon successful submission of an order, the EFI marketplace shall send customers a confirmation of their order by email, along with a confirmation when the order has shipped with package tracking information. Logged-in customers who abandon a shopping cart shall be sent a reminder email.

C. Inventory Management & Order Fulfillment

- C.1. EFI shall own and use commercially reasonable efforts to maintain sufficient inventory to support the anticipated needs of the program based on forecasts provided by AMP to EFI on a quarterly basis, or in advance of proactive campaigns with sufficient lead times for EFI to acquire inventory.
- C.2. If a change to the product offering is necessary in advance of scheduled updates (such as a product no longer being manufactured, or the manufacturer no longer being able to fill EFI's purchase orders in a timely way), EFI shall communicate those changes to AMP.
- C.3. Unless otherwise agreed, or if impacted non-forecast spikes in order volume or Acts of God, EFI shall fulfill orders for in-stock individual products (during non-promotional periods) within seven (7) business days, though EFI shall strive to fulfill orders within three (3) business days, or less, whenever possible.
- C.4. EFI shall comply with all applicable laws and regulations relating to marketing, eCommerce, and order fulfillment.

D. Reporting

D.1. EFI shall provide a dashboard reporting portal through which shipped order-related data file will be posted nightly, and subsequently retrieved by AMP. Dashboard documentation shall include versions of the report examples in the appendix, along with order-level data. The data fields that shall be available shall include, but not be limited to:

CUSTOMER FIELDS

Account Number
First Name
Last Name
Company
Address 1
Address 2
City
State
Zip Code
Email Address
Phone Number

ORDER FIELDS

Coupon Code
Order Number
Order Date
Invoice Number
Invoice/Shipping Date
Shipping Address 1
Shipping Address 2
Shipping City
Shipping State
Shipping Zip Code
Product Subtotal
Discount Amount
Sales Tax
Shipping Charge
Net Total

PRODUCT FIELDS

Product Name
EFI Part #
Quantity
Unit Price

Unit Rebate (if applicable)
Extended Price
Extended Rebate (if applicable)
kWh saved
Serial Number (thermostats only)

D.2. EFI shall provide AMP access to a Google Analytics view of marketplace activity.

D.3. EFI shall provide SFTP directory through files may be securely exchanged.

E. Completion and Acceptance Criteria

E.1. Compliance with Statement of Work Specifications to be confirmed

E.2. End-to-end Testing to be confirmed

F. Compensation/Fees

FEES

- One-Time Set-Up: \$10,000.00
- SSO/API integration (optional): \$10,000 / Integration

PROGRAM MANAGEMENT FEES

- Monthly Program Management: \$500.00 / month
- Tableau Reporting License: \$1,000 / User / Year

HOURLY RATES (for out of scope work)

- Customization (Software Developer): \$185.00 / Hour
- IT Business Analyst: \$150.00 / Hour
- Marketing Support (Creative/Design): \$125.00 / Hour
- Program Manager: \$95.00 / Hour
- Contact Center Support: \$72.00 / Hour

PAYMENT TERMS

- Net 30 from invoice date.

terms per Master Goods and Service Agreement between SCPPA and EFI dated 3/18/21.

Scope of Work: Alameda Municipal Power Downstream Rebate Program

EFI will manage downstream rebate processing for Alameda Municipal Power.

Downstream Rebate Processing

The steps involved in processing post-purchase ("downstream") customer rebate requests are:

1. AMP customers will submit their rebate requests and supporting documents through an online application portal. EFI's solution is designed to support rapid development and deployment through the use of a template that allows for targeted branding and light customization of the solution.
2. Complete applications are indexed and queued into EFI's paperless workflow system as they are received, on a daily basis.
3. Rebate requests are entered into EFI's internal incentive management system (IMS) and vetted for eligibility.
4. Eligible rebate requests are processed and payment is issued to the customer.

The two most critical guidelines that must be met for a rebate application to be processed and paid are 1) the applicant must be verified as an eligible customer of AMP, and 2) the product or measure for which the rebate is requested must meet eligibility requirements as set forth by the program guidelines.

Verification

EFI verifies customer eligibility against customer files provided by AMP. Ideally, customer files are provided weekly to ensure that the most up to date accounts are available. The customer files are required to have at minimum, customer names, addresses, and utility account numbers. In addition, EFI requires a technical contact and adherence to customer data file forms. As per EFI's data file setup process, a polling process is set up to look for new customer files on a daily basis.

Qualifying Products

Once customer eligibility has been determined, EFI will confirm the products purchased by applicants qualify for incentive payments. Product eligibility is configured against model attributes in known industry maintained databases (e.g., Energy Star or AHRI) which are uploaded into EFI's IMS and refreshed on a weekly basis. Data processing staff match models noted on applications and documented on receipts with model numbers in EFI's systems. Data processing staff do not have the ability to override eligibility or ignore the selections in the IMS.

Business Rules

In addition to customer and measure eligibility, EFI's IMS is also configured to vet rebate submissions against additional business rules including eligible purchase and postmark dates, required survey questions, purchase limits, and incentive not to exceed values. EFI will provide Program Administrators with a copy of the business rules on an annual basis and whenever they are changed. In addition to the internal system logic, EFI employs data quality control specialists who manage a quality assurance verification process (QA) by checking a percentage of rebate batches input by our

data processing staff and comparing the electronic submission documents with information keyed into the IMS. Any issues that are identified through the QA process will be reviewed with the DP rep and if issues are repetitive, he/she will be provided additional program training before resuming entry on that program. This QA process is applicable to both clean applications and non-compliant applications (NCAs).

Non-Compliant Applications & Denied Rebates

In cases where a customer's rebate submission cannot be processed as submitted because it is missing required information, it becomes a non-compliant application (NCA). EFI will resolve NCAs follows:

1. EFI will perform a quality assurance verification process (QA) on a subset of NCAs prior to initiating formal communications with the customer. QA process is described above.
2. EFI will send an initial NCA communication to customers. This initial communication is in the form of an AMP branded email and outlines the steps necessary for a customer to take in order to resolve their NCA, as well as provides the EFI phone number that customers may call with questions.
3. Customer responses to NCAs are queued into the paperless workflow and rebate requests are updated in EFI's IMS and re-vetted for eligibility as described above.

Rebates that do not qualify are entered into a denied status and reviewed via the same QA process as stated above; EFI will send a communication in the form of an AMP branded email that details the reasons why their submission was denied and provides the EFI phone number that customers may call with questions.

Incentive Issuance & Payment Terms

Under EFI's current processing cycle for downstream rebates, applications are reviewed and entered into IMS within 7 calendar days of receipt. Approved rebates are batched for payment as defined below and payment files are uploaded to EFI's card fulfillment vendor to distribute digital payments. Customers are delivered digital payment choice via a branded email with custom messaging ensuring customers know why they are receiving the rebate. Customers click the link to validate their address and then access funds on a full branded, mobile-optimized site. The program will be configured to show virtual and physical prepaid card options, as well as transfer to debit card for rebate values over \$100. Payment is mailed to customers within 3-5 calendar days once funding is made available through one of the mechanisms as defined below:

EFI Advance

EFI advance funding will adhere to the following process and guidelines:

1. Customer Rebates: EFI to fund at 1 % Cost of Money and pay all incentives where customer payments are made in conjunction with invoicing AMP.
2. Customer Rebate Supporting Documentation: EFI to provide backup data (i.e., an extract file or files) to support rebates paid that coincide with the EFI invoice. EFI and AMP will work together to ensure that EFI has been provided adequate extract mappings and measure codes and any changes to extracts will be provided to EFI with an 8 week

lead time for implementation.

3. Invoice Terms: Invoice Payment terms on correct and approved invoices (with matching data backup) will include a 1% Cost of Money (COM) on rebates paid at Net 30 terms.

Data Tracking & Reporting

Clients rely on the data we provide so that their savings and program goals are tracked accurately. Our systems for delivering incentive fulfillment services and detailed and summary reporting of the energy efficiency programs we administer for our clients have the longest track record in the industry and have consistently met or exceeded the requirements and expectations of our clients. EFI can provide AMP with data extract from our relational database where EFI manages completed and paid rebates. These reports were developed by EFI in conjunction with AMP to meet reporting and invoicing needs. These include:

- Detailed and summary reports and data files accompanying each invoice, tying payment requests to identified transactions. These reports are generated with each closing.
- Detailed and summary reports depicting program activity by product or measure.

These data extract files are available electronically and can be delivered via secure email or SFTP upload. Reports can be supplied in a number of formats (i.e., .csv, .xlsx) allowing for easy data import into AMP's internal systems. Frequencies of report and data exports are dependent on the method employed and are often produced in concert with the bi-monthly closings.

Tableau Client Dashboard & Reporting

EFI's internal processing and database structure is securely linked to our Tableau client-facing online environment, allowing critical data to be surfaced in the form of dashboards, and ad-hoc reports. The ad-hoc reporting tools allow for the extraction of data to formats commonly used for in-house analytics.

Notable features of EFI's web-based reporting platform include:

- **Secure cloud-based access.** Tableau's powerful platform provides fast, accessible information for clients 24 hours a day.
- **Layered access controls.** Rights and privileges can be assigned to multiple entities, such as individual users or groups, and at multiple levels. The number of users and access is limited only by the number of Tableau licenses a client is willing to purchase.
- **Customizable reports and management dashboards.** The user-friendly interface allows the customization of high-level graphical charts and tabular reports with the ability to drill down to individual measure details. Dashboards with key program data allows clients to quickly review personalized metrics and determine program health (progress) at a glance.
- **Program data is updated daily.** Data is refreshed daily, allowing clients to track and monitor progress on a day-to-day, rather than month-to-month basis.

Program Management

Each program is managed by a team of EFI personnel which includes a Program Manager as well as

one or more Program Coordinators. Regular activities covered by Program Management include:

- **Initial program set-up.** The Program Manager will coordinate with AMP program administrators and EFI internal departments to ensure proper configuration of internal systems; finalized business rules, program specific call center and data entry training; billing details (PO#s, contacts, delivery methods); and data extract specifications.
- **On-going program maintenance and Activity Coordination.** The Program Manager will serve as point of contact for client and EFI internal questions related to program operations; responding to and resolving customer escalations and inquiries; and communication with Industry Partners and Implementation/Outreach Contractors.
- **Program development.** The Program Manager will perform regular monitoring of program activity and performance, with ongoing suggestions for program improvements and business rule updates; attend regularly scheduled client meetings.
- **Billing and invoicing.** The Program Management team will create, verify, and distribute program billing reports, extract files, and invoices by program.

Out of scope activities include, but are not limited to:

- Any client change request that involves IT time to develop or would require changes to EFI standard processes.
- Ad hoc reporting requests.
- Customization of reporting outside of the established Tableau offerings.
- Changes to data extract specifications, including changes to measure codes.
- Custom reporting for vendors.

Any out of scope activities will require a scope of work, the anticipated hours, and the estimated costs, with written approval received prior to commencement of work.

Customer Contact Center

EFI has an in-house customer contact center that responds to calls coming in on dedicated toll free lines for incentive programs. A dedicated toll-free number will be provided for the AMP downstream rebate programs for addressing service and rebate related questions. EFI also has integrated a live chat feature on our online rebate platform, which allows customers to instantly chat online with a specialized EFI Customer Service Representative (CSR) during our normal hours of operation.

Our customer contact centers hours of operation are 8 am to 8 pm ET Monday through Friday, and 8am to 5pm ET Saturdays during promotional periods. The department is closed on Sundays and six national holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas. EFI's after-hours call center message will clearly state the hours of operation when a customer calls in and the call center is closed and alternative methods for contacting EFI.

EFI's contact center representatives (CSRs) are responsible for follow up associated with applications that are incomplete or where the supporting documentation is ambiguous. This service adds value to the customer experience, helping customers navigate through what can be complicated technical requirements of their incentives. EFI differentiates itself from its competitors in this regard, as this process generally results in increased conversion rates and customer satisfaction.

EFI Phone Systems

EFI uses a phone system with automated call distribution (ACD) functionality to address incoming and outgoing calls. The ACD ensures that all incoming calls are responded to promptly, and in the order in which they are received. It also has the ability to identify where the incoming call is from, so that the CSR can provide a customized greeting for each program with dedicated lines. EFI's ACD also allows for skills-based routing to ensure more complex program calls are routed to the best-qualified CSR available. Call prioritization escalation is also available based on wait time or other systems based criteria.

Call Monitoring, Supervision, and Quality Assurance

EFI regularly monitors representative and customer interactions to ensure service quality. Calls taken by CSRs are recorded for the purpose of quality control and employee development. EFI continually monitors and records CSR and customer interactions to ensure service quality. For the purpose of quality control and employee development, we do the following:

- The recorded call is stored in a secure spot on the network where the call can be retrieved later for evaluation and coaching purposes;
- The call center supervisor assesses a certain number of random recordings of each CSR's calls on a weekly basis;
- The supervisor records the specific details of the assessment using custom built call monitoring software;
- The supervisor sits with CSRs regularly to review the recorded calls and provide feedback for improvement / development.

In conjunction with scoring the CSRs using a call monitoring assessment form, weekly call statistics are posted to assure department metrics are being met. EFI's standard call center key performance indicators (KPIs) are to have 70 percent of all calls answered in less than 30 seconds. Our call abandon rate for calls of 20 seconds or more duration is less than 3% (the 20 seconds eliminates hang ups attributable to customers hearing the program message greeting and recognizing they have called the wrong number). EFI to provide monthly call volume as well as reporting on call reason codes during the quarterly meetings with AMP.

Pricing

Initial Set-up and Implementation

\$20,000, covering 110 hours of development and configuration work.

On-going Support

Quarterly Program Fee: This fee is to be inclusive of all aspects of running the Alameda Municipal Power downstream rebate programs (i.e., data entry, incentive issuance, postage, customer calls, emails, eligibility confirmation, program reporting, database management, personnel training, and all management and administrative work).

\$7,500 per quarter for up to 150 rebate submissions received, with rebates in excess of 150 billed at \$10.50 per submission. In quarters where 150 rebate submissions have been exceeded, invoices will include the absolute quantity of rebates submissions above 150, as well as the associated dollar amount.

Digital Discount: If Alameda Municipal Power were to opt into a 100% digital program (i.e., all submissions received through the online portal only, and all rebate payments made via daVinci Payment's digital Paywall solution), the Quarterly Program Fee will be reduced to \$6,000 per quarter.

Cost-of-Money (optional): 1% for EFI Float models of rebate funding.

Tableau Dashboard and Reporting Licenses: \$1,000 per user per year.

Program Updates & Modifications: Regular maintenance and support of EFI's rebate processing systems is included in the quarterly management fee; however, program updates and modifications are charged on a time and materials basis at the Hourly Out-of-Scope Rates as defined below.

Program updates and modifications include, but are not limited to:

- Any change request that involves IT time to develop or would require changes to EFI standard processes;
- Ad hoc reporting requests;
- Changes to data extract specifications, including changes to measure codes;
- Program changes, including changes to incentive values, addition, or removal of measures, and changes to survey questions; and,
- Custom reporting for vendors.

Given the size and scope of the AMP Rebate Program, updates are estimated at 20 hours annually.

Hourly Out-of-Scope Rates

For work not defined as in-scope for each SCPPA implementation, the following hourly pricing rates prevail:

- | | |
|-------------------------|---------------------------------------|
| • Program Management | \$95.00 per hour, 2% annual increase |
| • Marketing Services | \$125.00 per hour, 2% annual increase |
| • IT Business Analyst | \$150.00 per hour, 2% annual increase |
| • IT Software Developer | \$185.00 per hour, 2% annual increase |