



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
fax (209) 333-6374
web www.ncpa.com

LEC PPC Agenda

Date: July 7, 2016
Subject: July 11, 2016 Lodi Energy Center Project Participant Committee Meeting
Location: 12745 N. Thornton Road, Lodi, CA and/or Posted Teleconference Locations
Time: 10:00 a.m.

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

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CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16 th Floor Oakland, CA 94612	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948	CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438
CITY OF BIGGS 465 "C" Street Biggs, CA 95917	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122	POWER & WATER RESOURCES POOLING AUTHORITY 418 32 Street Glenwood Springs, CO 81601
CALIFORNIA DEPARTMENT OF WATER RESOURCES 2135 Butano Drive, Suite 100 Room 125 Sacramento, CA 95825	SILICON VALLEY POWER/CITY OF SANTA CLARA 1500 Warburton Avenue, Santa Clara, CA 95050	CITY OF UKIAH 300 Seminary Avenue Ukiah, CA 95482
NCPA 651 Commerce Drive Roseville, CA 95678		

The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon written request. Pursuant to California

Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or www.ncpa.com

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

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

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

2. Meeting Minutes - Approval of June 13, 2016, regular meeting minutes.

MONTHLY REPORTS

- 3. Operational Report for June 2016** - (Jeremy Lawson)
- 4. Market Data Report for June 2016** – Verbal Report (Bob Caracristi)
- 5. Monthly Asset Report for May 2016** – (Michael DeBortoli)
- 6. Bidding Strategies Report** - Verbal Report and update regarding bidding strategies and regulation down revenues (Ken Goeke)

CONSENT CALENDAR

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

- 7. Treasurer's Report for June 2016** - Accept by all Participants
- 8. Financial Report for June 2016** - Approve by all Participants
- 9. GHG Reports (excerpted from monthly ARB)** - Accept by all Participants

- 10. Cisco Air Systems, Inc. Agreement** – Staff seeking approval of a five year Multi-Task General Services Agreement with Cisco Air Systems, Inc. for an amount not to exceed \$500,000 for air compressor maintenance and services at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.
- 11. 3D Technical Services, Inc. Agreement** – Staff seeking approval of a five year Multi-Task General Services Agreement with 3D Technical Services, Inc. for an amount not to exceed \$500,000 for electrical and instrumentation services at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.
- 12. GHD Inc. Agreement** – Staff seeking approval of a five year Multi-Task Professional Services Agreement with GHD Inc. for an amount not to exceed \$2,500,000 for engineering services for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.
- 13. Pengo Wireline of California, Inc. Amendment** - Staff seeking approval of a First Amendment to the existing three year Multi-Task General Services Agreement with Pengo Wireline of California, Inc., increasing the not to exceed amount from \$180,000 to \$500,000, for downhole wireline services on wells in support of drilling operations for use at all facilities owned and/or operated by NCPA.
- 14. Flynn Resources Consultants, Inc. Agreement** – Staff seeking approval of a five year Multi-Task Consulting Services Agreement with Flynn Resources Consultants, Inc. for an amount not to exceed \$3,000,000 for services related to electric transmission, power generation, regulatory support, contracts, compliance and electric market issues at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

None

INFORMATIONAL/ DISCUSSION ITEMS

- 15. Proposed Outage Schedule for 2017** – Staff presenting proposed outage schedule for consideration; seeking approval in August.

16. Other New Business

ADJOURNMENT

Next Regular Meeting: August 8, 2016

Lodi Energy Center
Project Participant Committee Regular Meeting
June , 2016 - MEETING MINUTES
Location: Lodi Energy Center
12745 N. Thornton Rd, Lodi CA 95242
and by teleconference
10:00 A.M.

1. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:02 a.m. by Vice Chair Martin Caballero. He thanked Melissa Conrad, LEC's FOA, for filling in for Linda Stone for today's meeting. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Lehr	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Absent	0.2679%
CDWR - Forsythe	Present	33.5000%
Gridley - Borges	Absent	1.9643%
Healdsburg - Crowley	Present	1.6428%
Lodi - Price	Absent	9.5000%
Lompoc - Stassi/Singh	Present	2.0357%
MID - Caballero	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Hance	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	6	76.3107%
Absent	7	23.6893%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	June 13, 2016	

Public Forum

Vice Chair Caballero asked if any members of the public were present in Lodi or at any of the other noticed meeting locations who would like to address the PPC on any agenda items or on any item within the jurisdiction of the LEC PPC and not listed on the agenda. No members of the public were present.

2. Meeting Minutes

The draft minutes of the regular meeting held on May 9, 2016, were considered. The LEC PPC considered the following motion:

Date: 6/13/2016

Motion: The PPC approves the minutes of the May 9, 2016 regular meeting as presented.

Moved by: PWRPA

Seconded by: CDWR

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Abstain	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Absent	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	76.3107%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	23.6893%
Result:	Motion passed.	

MONTHLY REPORTS

3. Operational Reports for May 2016

Jeremy Lawson presented the Operational Report for May. There were no OSHA recordable accidents, no permit violations and no NERC/WECC violations. The report reflected monthly production of 3,439 MWH, 17 service hours, and equivalent operating availability of 48.32%. The report set forth the Capacity Factor @ 280MW Pmax of 1.65% and @ 302MW Pmax of 1.53%. There were zero hot starts, zero warm start, and two cold starts during the month. Jeremy said this production is low primarily due to LEC's outage for two weeks in May. The test run after the outage was a simple cycle run that did not include the steamer and it ran well. Jeremy said the next outage is planned for May 2017; there were no forced outages.

4. Market Data Report for May 2016

Bob Caracristi discussed the operating and financial settlement results for the month which dove-tailed with the Operational Report.

5. Monthly Asset Report

Jeremy Lawson presented the monthly asset report and budget review for April. He said the biggest driver for the budget this month is revenues and VOM which remain down, which correlate with the unit being down during the outage. The report shows the budget revenue and VOM are 39% below the budget forecast and overall costs to be above budget by 3.04%. In response to a question from Vice Chair Caballero, Jeremy said the projects are above 35% due to the completion of various projects including the physical security and platforms. Ken Speer mentioned the historical margins are due to the hydro production. Vice Chair Caballero mentioned this is the first non-drought year we have on record for LEC.

6. Bidding Strategies Report

Ken Goeke presented the monthly report about the bidding strategies utilized, regulation revenues and costs comparison in May. No ongoing special strategies were used, however he said after the outage various strategies were tried to get the unit to be picked up, which included lowering the start costs which did not work. The day-ahead dispatch was only one day on May 31st. For hours 23 and 24 the incremental bids are still being reduced to prevent shut down and avoid cycling. The run activity is looking better for June, however, last year LEC ran for 24 hours, and this summer there are more starts and stops. Cool weather and too much congestion from Hydro in the Central Valley are impacting LEC's runs. Staff is hoping for warmer weather to be called to run.

Consent Calendar (Items 7 – 12)

The consent calendar was considered. Vice Chair Caballero asked if any Participant wished to have any item removed for separate discussion. Hearing no requests, he then asked if any Participant wished to abstain from one or more items on the Consent Calendar. There were no abstentions. The LEC PPC considered the following motion:

Date: 6/13/2016

Motion: The PPC approves the Consent Calendar items consisting of agenda items no. 7. Treasurer's Report for May 2016; 8. Financial Reports for May 2016; 9. GHG Reports excerpted from monthly ARB; 10. Expro Americas, LLC five year Multi-Task Consulting Services Agreement for not to exceed \$1,000,000 for wireline tools and operator consulting services; 11. Precision Iceblast Corporation five year Multi-Task General Services Agreement for not to exceed \$850,000 for inspection and maintenance services; and 12. Quantum Spatial, Inc. five year Multi-Task General Services Agreement for not to exceed \$2,000,000 for transmission and distribution line modeling and inspection services, vegetation and aerial surveys, LiDAR mapping and analytics, drafting, and miscellaneous mapping services; all three agreements approved with any non-substantial changes recommended and approved by the NCPA General Counsel, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Moved by:

Lodi – Melissa Price arrived at 10:20 a.m.

Seconded by:

CDWR

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.8107%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Result:	Motion passed.	

BUSINESS ACTION ITEMS

13. PG&E Refund Pursuant to CPUC Mandated Gas Credit

Jeremy Lawson presented this item regarding the PG&E refund received pursuant to the CPUC mandated gas credit. PG&E refunded the amount of \$4,359,910.53 to NCPA. Staff is seeking direction from the participants as to how they want the funds applied. The three options staff identified are to refund the entire amount in accordance to their GES on the next All Resources Bill, apply the funds to Projects and Maintenance Reserves for FYs 2018, 2019 and 2010, or apply the funds to the FY17 Operating Budget. Melissa Price would prefer to have the refund spread over time. Vice Chair Caballero would prefer to apply the funds to FY17 Operating Budget. Corrine Bradley wanted to know how the previous refund was applied. Donna Stevener said it was applied to previous Maintenance Reserves. The LEC PPC considered the following motion:

Date: 6/13/2016

Motion: The PPC approves a refund of the \$4,359,910.53 received for the Lodi Energy Center from PG&E pursuant to the CPUC mandated gas credit in compliance with Decision 15-04-024, to be applied to the FY17 Operating Budget, effectively reducing the required billings to each Participant in accordance with their GES share of the total refund amount.

Moved by: CDWR
Seconded by: Santa Clara

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Abstain	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.8107%
Total Noes	0	0.0000%
Total Abstain	1	0.2679%
Total Absent	5	13.9214%
Result:		Motion passed.

INFORMATIONAL ITEMS – Other New Business

14. PG&E Natural Gas Transmission and Storage Rate Case

Steve Hance presented information about the PG&E gas storage rate case for 2015-2017 and the increased rates that are proposed to take effect after the June 23, 2016, meeting for the Gas Transmission and Storage operations if approved. This Pipeline Safety Enhancement Plan, which was filed in 2013, was originally slated to go into effect as of January 1, 2015. As of January 1, 2015, which is 18 months ago, PG&E has not started to collect these new rates and are now proposing to amortize the increased rates over 18 or 30 months. Steve said the proposal was to increase the price to 89.5 cents/dekatherm for 2016 and 95.2 cents/dekatherm

in 2017, however since the rates did not go into effect previously, the rates now being considered are \$1.24 for 2016 and \$1.30 for 2017. This will have a significant impact on the marginal cost of LEC and will need to be put into the bid price. He noted that the generation cost on the backbone is about 13 cents, or about a tenth of the increased amount, resulting in a huge competitive advantage. Ken Goeke requested that Steve provide him a list of the generation facilities on the backbone.

15. Tariff Change for Aliso Canyon Natural Gas Storage Facility

Tony Zimmer presented changes the CAISO is proposing to account for the loss of Aliso Canyon Natural Gas storage facility and the anticipated gas shortage expected this summer in southern California. This was a follow up to questions asked at the previous meeting. Some of these changes will be in effect through November 2016 and others will be permanent changes.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, July 11, 2016. The meeting was adjourned at 11:07 a.m.

Submitted by: Melissa Conrad



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
fax (209) 333-6374
web www.ncpa.com

Lodi Energy Center Project Participant Committee Operational Report

Agenda Item No.: 3

Date: 7/11/2016
To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents

Notice of Violations

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

Outage Summaries:

- **Natural Gas Pressure Relief Valve** – LEC was forced out of service for 2 hours to repair a leaking pressure relief valve. This was performed offline and in non-RA hours.

Planned Outage Summaries:

- 2017 May: Steam Turbine Limited Overhaul (Steam Turbine Bearing Inspection, Steam Turbine Valve Inspection, Alignments, etc.)

Generating Unit Statistics:

LEC

Report Date:

Start Date 6/1/2016

End Date 7/1/2016

1. Monthly Production

66,596 MWH

2. Productivity Factor

a. Service Hours

280 Hours

b. Service Factor

38.85 %

c. Capacity Factor @ 280MW Pmax

33.03 %

d. Capacity Factor @ 302MW Pmax

30.63 %

3. Equivalent Operating Availability (EOA)

46.39 %

4. Forced Outage Rate (FOR)

a. Combustion Turbine Generator

0.71 %

b. Steam Turbine Generator

0.71 %

5. Heat Rate Deviation (HRD)

a. Fuel Cost (Not Current Market Price)

4.00 \$/mmBTU

MW Range		Average HR BTU/kW-Hr	PMOA HR BTU/kW-Hr	Deviation %	Production MWH	Cost \$
Seg. 1	296 - 302	6,850	6850	0.00%	0	\$0
Seg. 2	284 - 296	6,924	6870	0.78%	19	\$4
Seg. 3	275 - 284	6,976	6971	0.07%	23,523	\$471
Seg. 4	250 - 275	7,003	7081	-1.10%	26,175	-\$8,187
Seg. 5	225 - 250	7,062	7130	-0.95%	5,292	-\$1,430
Seg. 6	200 - 225	7,145	7315	-2.32%	2,281	-\$1,548
Seg. 7	175 - 225	7,383	7711	-4.26%	2,488	-\$3,266
Seg. 8	165 - 175	7,659	7856	-2.50%	4,160	-\$3,274
					63,938	-\$17,230

6. AGC Control Deviation

MW Range		High Dev MWH	Low Dev MWH	Absolute Dev MWH	Cost \$
Seg. 1	296 - 302	0	0	0	\$0
Seg. 2	284 - 296	0	0	0	\$2
Seg. 3	275 - 284	73	-41	114	\$3,168
Seg. 4	250 - 275	82	-122	205	\$5,735
Seg. 5	225 - 250	32	-14	47	\$1,316
Seg. 6	200 - 225	18	-12	30	\$870
Seg. 7	175 - 225	20	-16	36	\$1,054
Seg. 8	165 - 175	22	-3	26	\$790
		248	-209	457	\$12,936

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	14	0	2
Start Time Benchmark (Minutes)	85	160	235
Start Time Actual (Average Minute)	83.0	160.0	188.0
Start Time Deviation (%)	-2.4%	0.0%	-20.0%
Start Fuel Benchmark PMOA (mmBTU)	1,967	5,200	5,430
Start Fuel Actual (Average mmBTU)	1,545	5,200	3,763
Fuel Deviation	-21.5%	0.0%	-30.7%
Costs of Fuel Deviations (\$)	-\$1,689	\$0	-\$6,669

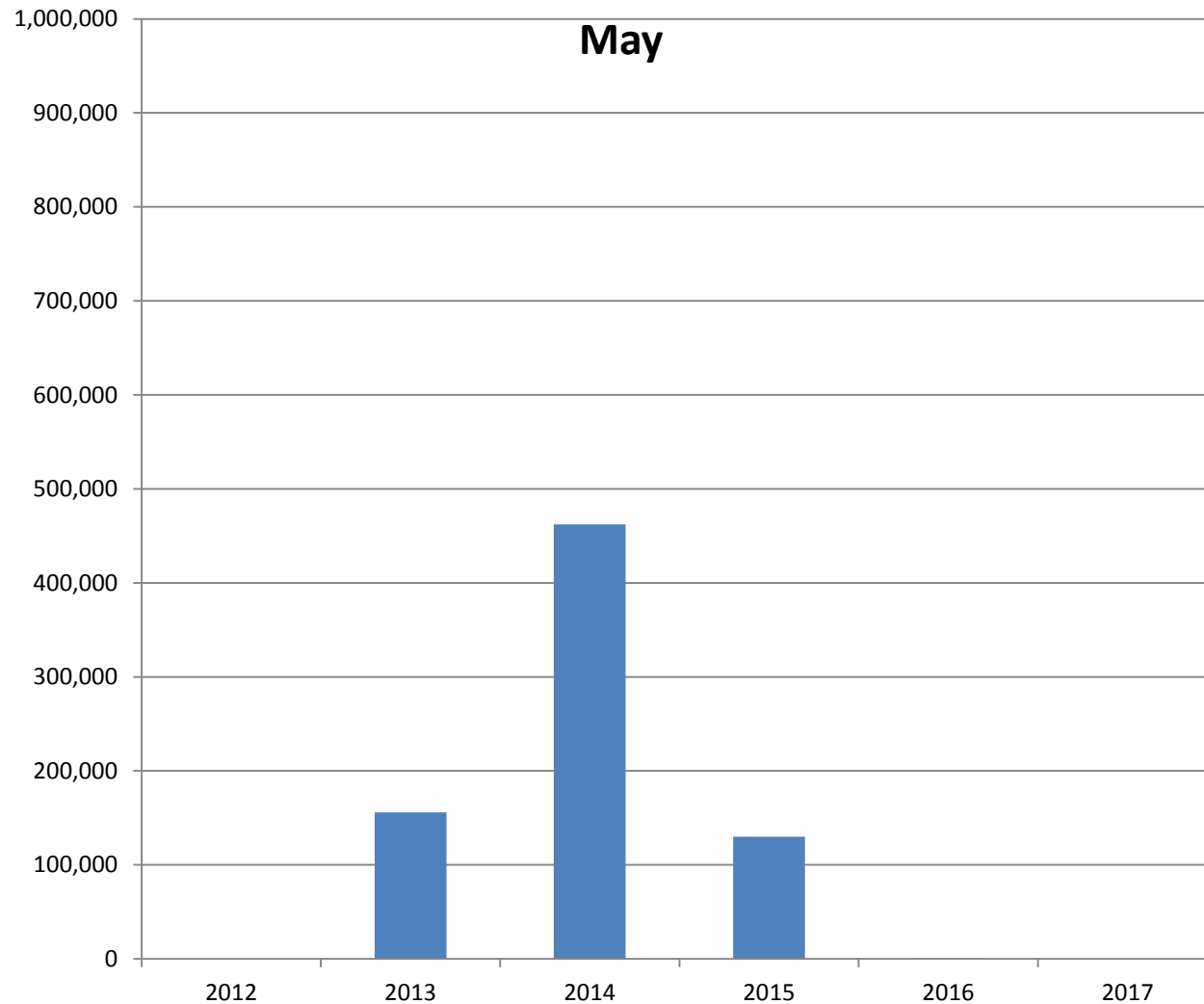
Definitions:

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

May Asset Report

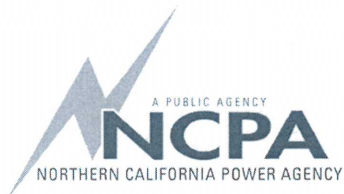
	Most Recent			Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	92,423	226,643	534,517	(134,220)	-59%	
VOM	149,246	86,331	347,018	62,914	73%	Testing / Air Filters
Fixed	779,791	1,208,176	848,433	(428,385)	-35%	Outage Cost not fully invoiced
Projects	174,385	150,000	174,562	24,385	16%	
A&G	110,907	165,000	191,174	(54,093)	-33%	
Debt	2,203,974	2,203,414	2,203,414	560	0.03%	
Net Cost	(3,325,880)	(3,586,278)	(3,230,085)	260,398	-7%	
Net Annual Cost		(38,849,966)	(37,696,301)	(\$1,153,665)		
				Above budget by 3.06%		

Historical Margins



Lodi Energy Center
Monthly Budget Analysis
Expenditures
Report Date: 06/22/2016

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2016 Budget	Percent Used	Comments
VOM	3,176,314	4,311,594	4,043,608	5,613,067	2,164,031	3,506,834	6,838,667	747,598	2,574,931	1,700,125	149,246	2,045,816	36,871,832	62,690,607	58.8%	
Capacity Factor	49%	66%	65%	80%	37%	65%	94%	14%	44%	23%	2%	36%	48%	58%	82.6%	
Fuel Consumed (mmBTU, estimated)	747,890	978,039	935,044	1,181,040	545,582	948,622	1,375,224	196,223	682,831	342,990	28,045	511,200	8,472,729	10,997,634	77.0%	
Avg Fuel Cost (\$/mmBTU)	3.51	3.47	3.40	3.17	3.02	2.89	3.54	2.66	2.28	2.30	2.18	0.00	2.96	4.53	65.4%	
Power Produced (MWhr, estimated)	103,885	137,264	131,608	165,738	75,231	131,781	196,018	27,161	91,577	45,435	3,423	72,000	1,181,121	1,605,494	73.6%	Simple Cycle Test Run 2 Hours
Avg Power Price (\$/MWhr)	37.27	34.97	35.72	34.27	32.46	31.99	35.08	29.34	27.11	27.98	27.00	0.00	31.52	40.64	77.6%	
Operations / Variable / LTSA	1,784	195,973	174,895	991,960	106,254	62,344	941,730	76,070	512,901	662,502	67,964	427,256	4,221,633	4,844,522	87.1%	Air Filters, Chemical Top-Off, Waste Removal
Fuel (estimated)	2,623,866	3,394,919	3,177,971	3,742,910	1,649,422	2,738,963	4,863,110	521,899	1,555,969	788,769	61,248	1,226,880	26,345,926	49,851,535	52.8%	
AB32 GHG Offset (estimated)	505,745	662,253	634,083	807,297	374,366	648,652	950,428	138,113	466,425	229,406	18,601	360,000	5,795,369	7,337,261	79.0%	
CA ISO Charges (estimated)	44,919	58,449	56,660	70,899	33,989	56,875	83,399	11,516	39,636	19,449	1,432	31,680	508,903	657,289	77.4%	
Routine O&M (Fixed)	622,385	812,271	831,659	825,894	669,583	1,421,200	660,648	1,154,529	718,922	1,080,376	779,791	1,075,176	10,652,434	10,217,618	104.3%	
Maintenance / Fixed	36,849	201,799	232,387	306,008	91,062	272,935	185,786	413,614	179,809	178,950	262,152	396,000	2,757,351	1,780,003	154.9%	Outage Billing Not Complete
Administration	87,552	101,780	113,365	100,539	94,899	100,791	7,525	184,871	97,360	96,443	93,301	109,680	1,188,106	1,316,163	90.3%	
Mandatory Costs	26,519	69,918	5,785	906	10,272	5,291	5,847	5,532	20,748	22,837	8,900	13,856	196,411	235,000	83.6%	
Inventory Stock	0	0	53,287	10,320	25,021	0	22,859	40,459	0	189,284	7,481	0	348,711	400,000	87.2%	
Labor	365,086	316,135	321,097	299,585	330,095	330,095	330,095	330,095	330,095	482,087	303,828	450,000	4,188,293	4,381,034	95.6%	
Insurance	0	0	0	0	13,855	606,709	0	77,579	-11,469	0	0	0	686,674	820,000	83.7%	
Power Management & Settlements	102,379	102,379	102,379	102,379	102,379	102,379	102,379	102,379	102,379	102,379	102,379	102,378	1,228,547	1,228,543	100.0%	
Other Costs	4,000	20,260	3,359	6,157	2,000	3,000	6,157	0	0	8,396	1,750	3,262	58,341	56,875	102.6%	
Projects	150,000	210,039	167,177	220,190	159,020	177,883	150,000	150,417	151,480	201,989	174,385	490,000	2,402,580	2,954,589	81.3%	
Maintenance Reserve	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	1,800,000	1,800,000	100.0%	
Operations & Maintenance Projects	0	51,810	9,402	45,728	1,621	23,728	0	0	1,480	46,601	24,385	190,000	394,755	371,740	106.2%	Security getting started
Capital Projects	0	8,229	7,775	24,462	7,399	4,155	0	417	0	5,388	0	150,000	207,825	782,849	26.5%	Platform project getting started
A&G	116,700	172,728	126,784	146,530	174,752	138,216	249,493	146,118	148,929	206,509	110,907	165,000	1,902,666	2,294,095	82.9%	
Administrative & General (Allocated)	102,664	156,924	111,298	125,547	153,586	120,305	234,012	127,529	132,867	171,602	96,943	145,000	1,678,277	1,905,505	88.1%	
Generation Services Shared	14,036	15,804	15,486	20,983	21,166	17,911	15,481	18,589	16,062	34,907	13,964	20,000	224,389	388,590	57.7%	
Total O&M Cost	4,065,399	5,506,632	5,169,228	6,805,681	3,167,386	5,244,133	7,898,808	2,198,662	3,594,262	3,188,999	1,214,329	3,775,992	51,829,511	78,156,909	66.3%	
Debt Service	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,974	2,203,414	26,447,128	26,441,024	100.0%	
Revenues	3,887,446	4,833,235	4,700,555	5,680,284	2,441,755	4,215,137	6,876,895	796,888	2,482,410	1,271,127	92,423	2,148,518	39,426,673	66,901,632	58.9%	
ISO Energy Sales (estimated)	3,871,286	4,799,627	4,700,385	5,680,284	2,441,755	4,215,137	6,876,895	796,873	2,482,330	1,271,127	92,423	2,016,000	39,244,122	65,240,921	60.2%	
Other Income	16,160	33,608	170	0	0	0	0	15	80	0	0	132,518	182,551	1,660,711		
Net	(\$2,381,927)	(\$2,877,371)	(\$2,672,647)	(\$3,329,371)	(\$2,929,605)	(\$3,232,970)	(\$3,225,887)	(\$3,605,749)	(\$3,315,826)	(\$4,121,846)	(\$3,325,880)	(\$3,830,888)	(\$38,849,966)	(\$37,696,301)	Above budget by 3.06%	



651 Commerce Drive
Roseville, CA 95678

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

LEC Treasurer's Report

AGENDA ITEM NO.: 7

Date: July 11, 2016
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended June 30, 2016

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

Cash - At month end cash totaled \$42,142.

Investments - The carrying value of the LEC's investment portfolio totaled \$25,590,612 at month end. The current market value of the portfolio totaled \$25,649,777.

The overall portfolio had a combined weighted average interest rate of 0.937% with a bond equivalent yield (yield to maturity) of 0.880%. Investments with a maturity greater than one year totaled \$14,463,000. During the month \$6.3 million was invested.

Funds not required to meet annual cash flow are reinvested and separately reported as they occur.

Interest Rates - During the month, rates on 90 day T-Bills decreased by 4 basis points (from 0.31% to 0.27%) and rates on one year T-Bills decreased 22 basis points (from 0.67% to 0.45%).

To the best of my knowledge and belief, all securities held by LEC as of June 30, 2016 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

Environmental Analysis

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

Respectfully submitted,

DONNA STEVENER
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH
Treasurer-Controller

Attachments

LODI ENERGY CENTER

TREASURER'S REPORT

JUNE 30, 2016

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Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
June 30, 2016

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
MANDATORY FUNDS					
Debt Service Account	-	2,202,964	2,202,964	8.59%	2,202,964
Debt Service Reserve	-	11,920,875	11,920,875	46.51%	11,944,459
O & M Reserve	-	11,395,558	11,395,558	44.46%	11,431,139
	-	25,519,397	25,519,397	99.56%	25,578,562
ADDITIONAL PROJECT FUNDS					
GHG Cash Account	-	71,214	71,214	0.28%	71,214
Transmission Upgrade Escrow ¹	42,142		42,142	0.16%	
Participant Deposit Account	-	1	1	0.00%	1
	\$ 42,142	\$ 25,590,612	\$ 25,632,754	100.00%	\$ 25,649,777

NOTE A -Investment amounts shown at book carrying value.

¹ Amount held in escrow

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
June 30, 2016

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
MANDATORY FUNDS							
Debt Service Account	\$ -	\$ 280	\$ 2,245,000	\$ (21,065,439)	\$ 16,617,476	\$ 2,202,683	\$ 0
Debt Service Reserve	-	37,331	4,287,000	-	(4,324,331)	-	-
O & M Reserve	-	23,492	5,996,190	-	(6,019,682)	-	-
	-	61,103	12,528,190	(21,065,439)	6,273,463	2,202,683	0
ADDITIONAL PROJECT FUNDS							
GHG Cash Account	-	-	-	-	-	-	-
Transmission Upgrade Escrow ¹		3		-			3
Participant Deposit Account	-	-	-	-	-	-	-
							-
TOTAL	\$ -	\$ 61,106	\$ 12,528,190	\$ (21,065,439)	\$ 6,273,463	\$ 2,202,683	\$ 3

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

¹ Amount held in escrow

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Investment Activity Summary
June 30, 2016

	PURCHASED	SOLD OR MATURED	(NON-CASH) DISC/(PREM) AMORT	(NON-CASH) GAIN/(LOSS) ON SALE	INVESTMENTS TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS						
Debt Service Account	(16,617,476)	(2,245,000)	-	-	-	(18,862,476)
Debt Service Reserve	4,324,331	(4,287,000)	(50)	-		37,281
O & M Reserve	6,019,682	(5,996,190)	(1,555)	-		21,937
	<u>(6,273,463)</u>	<u>(12,528,190)</u>	<u>(1,605)</u>	<u>-</u>	<u>-</u>	<u>(18,803,258)</u>
ADDITIONAL PROJECT FUNDS						
GHG Cash Account		-	-	-		-
Participant Deposit Acct.		-	-	-	-	-
TOTAL	<u>\$ (6,273,463)</u>	<u>\$ (12,528,190)</u>	<u>\$ (1,605)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (18,803,258)</u>

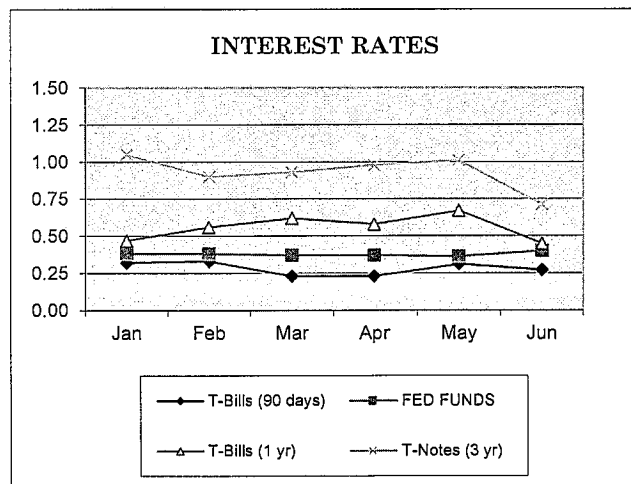
Less Non- Cash Activity	
Disc/(Prem) Amortization & Gain/(Loss) on Sale	1,605
Net Change in Investment --Before Non-Cash Activity	<u>\$ (18,801,653)</u>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Lodi Energy Center
Interest Rate/Yield Analysis
June 30, 2016**

	WEIGHTED AVERAGE INTEREST RATE	BOND EQUIVALENT YIELD
OVERALL COMBINED	<u>0.937%</u>	<u>0.880%</u>
Debt Service Account	0.100%	0.100%
Debt Service Reserve	0.942%	0.978%
O & M Reserve	1.097%	0.931%
GHG Cash Account	0.463%	0.463%

KEY INTEREST RATES		
	CURRENT	PRIOR YEAR
Fed Fds (Ovrnight)	0.40%	0.12%
T-Bills (90da.)	0.27%	0.01%
Agency Disc (90da.)	0.36%	0.09%
T-Bills (1yr.)	0.45%	0.27%
Agency Disc (1yr.)	0.46%	0.28%
T-Notes (3yr.)	0.71%	1.03%



**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
June 30, 2016**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ -	\$ -	\$ -	\$ 3,100	\$ 14,463	\$ -	\$ 17,563	68.76%
US Bank Trust Money Market Commercial Paper	5,593							5,593	21.90%
Investment Trusts (LAIF)	2,385							2,385	9.34%
U.S.Treasury Market Acct.									0.00%
U.S.Treasury Bill									0.00%
Certificates of Deposit									0.00%
Total Dollars	\$7,978	\$0	\$0	\$0	\$3,100	\$14,463	\$0	\$25,541	100.00%
Total Percents	31.24%	0.00%	0.00%	0.00%	12.14%	56.63%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

NORTHERN CALIFORNIA POWER AGENCY

Detail Report Of Investments

APPENDIX

Note: **This appendix has been prepared to comply with
Government Code section 53646.**



Northern California Power Agency
Treasurer's Report

06/30/2016

LEC Issue#1 2010A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	693,632	0.100	07/01/2013	693,632		1	0.100	693,632	SYS79003	79003	693,632
Fund Total and Average		\$ 693,632	0.100		\$ 693,632		1	0.100	\$ 693,632			\$ 693,632

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	726,129	0.100	07/01/2013	726,129		1	0.100	726,129	SYS79004	79004	726,129
Fund Total and Average		\$ 726,129	0.100		\$ 726,129		1	0.100	\$ 726,129			\$ 726,129

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	434,280	0.100	07/01/2013	434,280		1	0.100	434,280	SYS79011	79011	434,280
Fund Total and Average		\$ 434,280	0.100		\$ 434,280		1	0.100	\$ 434,280			\$ 434,280

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	348,923	0.100	07/01/2013	348,923		1	0.100	348,923	SYS79012	79012	348,923
Fund Total and Average		\$ 348,923	0.100		\$ 348,923		1	0.100	\$ 348,923			\$ 348,923
GRAND TOTALS:		\$ 2,202,964	0.100		\$ 2,202,964		1	0.100	\$ 2,202,964			\$ 2,202,964

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016



Northern California Power Agency
Treasurer's Report
06/30/2016

LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	40,822	0.100	07/01/2013	40,822		1	0.100	40,822	SYS79005	79005	40,822
Federal National Mtg	USB	4,170,000	0.875	05/30/2014	4,171,960	08/28/2017	423	0.977	4,181,509	3135GOMZ3	26136	4,170,700
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	1,789	1.659	4,372,775	3133EGBZ7	26337	4,360,000
Fund Total and Average		\$ 8,570,822	1.271		\$ 8,572,782		1116	1.321	\$ 8,595,106			\$ 8,571,522

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	2,262,276	0.100	07/01/2013	2,262,276		1	0.100	2,262,276	SYS79006	79006	2,262,276
Fund Total and Average		\$ 2,262,276	0.100		\$ 2,262,276		1	0.100	\$ 2,262,276			\$ 2,262,276

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	1,087,077	0.100	07/01/2013	1,087,077		1	0.100	1,087,077	SYS79013	79013	1,087,077
Fund Total and Average		\$ 1,087,077	0.100		\$ 1,087,077		1	0.100	\$ 1,087,077			\$ 1,087,077
GRAND TOTALS:		\$ 11,920,175	0.942		\$ 11,922,135		803	0.978	\$ 11,944,459			\$ 11,920,875

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.
Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016
Investment # 26337 – FFCB- Callable on 5/25/17, then any time.



Northern California Power Agency
Treasurer's Report
06/30/2016

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Invesim		2,313,807	0.462	07/01/2013	2,313,807		1	0.462	2,313,807	SYS70047	70047	2,313,807
Union Bank of Califo	UBOC	0	0.002	07/18/2013	0		1	0.002	0	SYS70041	70041	0
Federal Home Loan Ba	UBOC	3,100,000	0.625	06/27/2016	3,099,380	06/27/2017	361	0.645	3,100,806	3130A8LC5	26338	3,099,387
Federal National Mig	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	963	1.220	3,014,156	3135G0ZA4	26248	2,982,364
Federal National Mig	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	1,460	1.300	3,002,370	3136G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,346,807	1.097		\$ 11,411,329		735	0.931	\$ 11,431,139			\$ 11,395,558
GRAND TOTALS:		\$ 11,346,807	1.097		\$ 11,411,329		735	0.931	\$ 11,431,139			\$ 11,395,558

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.
Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016
Investment # 26341 - FNMA - Callable on 6/30/17 only.



Northern California Power Agency
Treasurer's Report
06/30/2016

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		71,214	0.463	07/01/2013	71,214		1	0.463	71,214	SYS70046	70046	71,214
Fund Total and Average		\$ 71,214	0.463		\$ 71,214		1	0.463	\$ 71,214			\$ 71,214
GRAND TOTALS:		\$ 71,214	0.463		\$ 71,214		1	0.463	\$ 71,214			\$ 71,214

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.
Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016



Northern California Power Agency
Treasurer's Report
06/30/2016

LEC Construction Revolving

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1	0.254	07/01/2013	1	1	1	0.254	1	SYS70040	70040	1
Fund Total and Average		\$ 1	0.254		\$ 1	1	1	0.254	\$ 1	1		\$ 1
GRAND TOTALS:		\$ 1	0.254		\$ 1	1	1	0.254	\$ 1.	1.		\$ 1

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.
Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 06/30/2016



651 Commerce Drive
Roseville, CA 95678

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

LEC Financial Reports

AGENDA ITEM NO: 8

Date: July 11, 2016

Subject: June 30, 2016 Financial Reports (Unaudited)

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

	June	
	2016	2015
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 71,214	\$ 70,959
Interest receivable	33,896	11,799
Inventory and supplies - at average cost	1,823,750	1,474,440
Prepaid insurance	205,714	253,836
Due from (to) Agency, net	14,359,106	14,476,596
TOTAL CURRENT ASSETS	16,493,680	16,287,630
RESTRICTED ASSETS		
Cash and cash equivalents	10,489,101	11,762,796
Investments	15,012,940	14,447,079
Interest receivable	50,252	17,781
TOTAL RESTRICTED ASSETS	25,552,293	26,227,656
ELECTRIC PLANT		
Electric plant in service	423,459,198	423,409,539
Less: accumulated depreciation	(52,334,424)	(37,733,613)
	371,124,774	385,675,926
Construction work-in-progress	100,721	43,623
TOTAL ELECTRIC PLANT	371,225,495	385,719,549
OTHER ASSETS		
Regulatory assets	18,927,236	16,390,715
TOTAL OTHER ASSETS	18,927,236	16,390,715
TOTAL ASSETS	\$ 432,198,704	\$ 444,625,550

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

	June	
	2016	2015
LIABILITIES & NET POSITION		
CURRENT LIABILITIES		
Accounts and retentions payable	\$ 1,482,410	\$ 3,462,993
Operating reserves	10,186,217	13,177,383
Current portion of long-term debt	9,950,000	9,480,000
Accrued interest payable	1,371,714	1,414,002
TOTAL CURRENT LIABILITIES	22,990,341	27,534,378
NON-CURRENT LIABILITIES		
Operating reserves and other deposits	5,755,119	5,491,035
Long-term debt, net	351,790,305	362,431,879
TOTAL NON-CURRENT LIABILITIES	357,545,424	367,922,914
TOTAL LIABILITIES	380,535,765	395,457,292
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	47,710,466	44,636,269
NET POSITION		
Invested in capital assets, net of related debt	(13,877,951)	(13,469,930)
Restricted	7,206,998	8,671,828
Unrestricted	10,623,426	9,330,091
TOTAL NET POSITION	3,952,473	4,531,989
TOTAL LIABILITIES AND NET POSITION	\$ 432,198,704	\$ 444,625,550

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

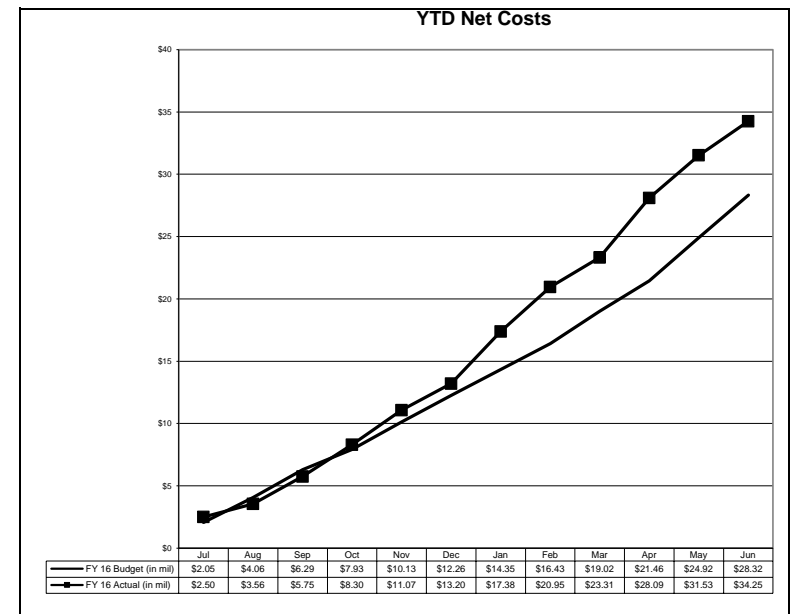
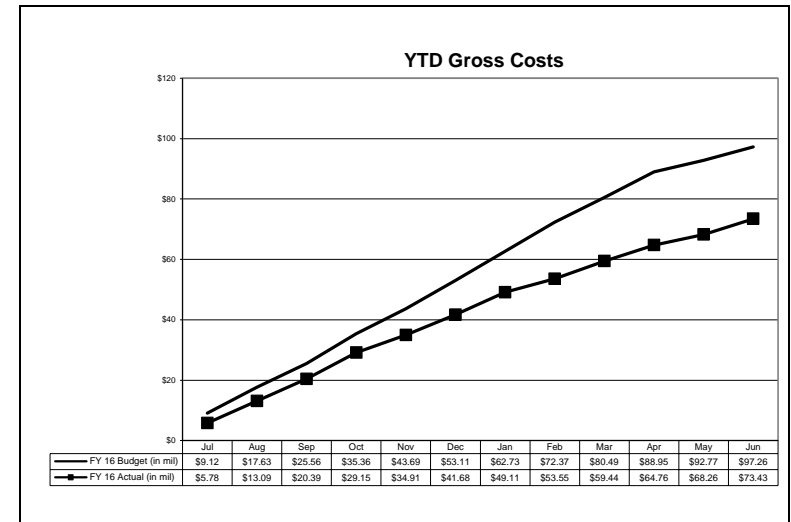
	Years Ended June	
	2016	2015
SALES FOR RESALE		
Participants	\$ 29,220,486	\$ 20,611,751
Other	38,979,953	71,197,994
TOTAL SALES FOR RESALE	68,200,439	91,809,745
OPERATING EXPENSES		
Operations	29,657,338	54,029,128
Depreciation	14,600,811	14,599,258
Purchased power	4,827,040	7,176,723
Maintenance	7,368,615	8,546,194
Administrative and general	4,184,130	4,112,746
Transmission	499,838	138,213
Intercompany (sales) purchases	241,667	432,278
TOTAL OPERATING EXPENSES	61,379,439	89,034,540
NET OPERATING REVENUES	6,821,000	2,775,205
OTHER REVENUES (EXPENSES)		
Interest expense	(16,200,699)	(16,476,088)
Interest income	325,966	178,876
Other	4,523,175	4,215,494
TOTAL OTHER REVENUES (EXPENSES)	(11,351,558)	(12,081,718)
FUTURE RECOVERABLE AMOUNTS	2,536,521	3,772,567
REFUNDS TO PARTICIPANTS	1,414,519	458,147
INCREASE IN NET POSITION	(579,518)	(5,075,799)
NET POSITION		
Beginning of year	4,531,991	9,607,788
End of period	\$ 3,952,473	\$ 4,531,989

**Lodi Energy Center
FY 2016 Operating Costs
As of June 30, 2016**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
Routine O&M Costs					
Variable	\$ 4,844,523	\$ 3,850,529	\$ 993,994	21%	B
Fixed	1,780,003	2,595,553	(815,550)	-46%	
Administration	1,316,163	1,180,017	136,146	10%	
Mandatory Costs	235,000	193,075	41,925	18%	
Inventory Stock	400,000	349,310	50,690	13%	
Routine O&M Costs without Labor	8,575,689	8,168,484	407,205	5%	
Labor	4,381,034	4,311,324	69,710	2%	
Total Routine O&M Cost	12,956,723	12,479,808	476,915	4%	
Other Costs					
Fuel	49,851,536	23,270,691	26,580,845	53%	C
CA ISO Charges	657,289	499,838	157,451	24%	
CA ISO Purchased Energy	-	4,827,040	(4,827,040)	N/A	A
Debt Service	26,440,994	26,411,441	29,553	0%	
Insurance	820,000	686,105	133,895	16%	
Other Costs	56,875	55,080	1,795	3%	
Generation Services Shared	388,592	233,233	155,359	40%	
Administrative & General (Allocated)	1,905,508	1,677,242	228,266	12%	
Power Management Allocated Costs	1,228,543	1,228,543	-	0%	
Total O&M Cost	94,306,060	71,369,021	22,937,039	24%	
Projects					
Operations & Maintenance	371,740	204,755	166,985	45%	C
Capital	782,849	60,156	722,693	92%	
Maintenance Reserve	1,800,000	1,800,000	-	0%	
Total Projects	2,954,589	2,064,911	889,678	30%	
Annual Cost	97,260,649	73,433,932	23,826,717	24%	
Less: Third Party Revenue					
Interest Income	44,489	198,608	(154,119)	-346%	C
ISO Energy Sales	67,279,734	36,930,043	30,349,691	45%	
Ancillary Services Sales	1,616,222	2,049,910	(433,688)	-27%	
Other Income	-	1,731	(1,731)	N/A	
	68,940,445	39,180,292	29,760,153	43%	
Net Annual Cost to Participants	\$ 28,320,204	\$ 34,253,640	\$ (5,933,436)	-21%	
Total Variable Costs	55,353,348	27,621,058	27,732,290		
Total Fixed Costs	41,907,301	45,812,874	(3,905,573)		
	\$ 97,260,649	\$ 73,433,932	\$ 23,826,717		
Net Cumulative Generation (MWh)	1,605,494	1,076,925			
Total O&M Cost Per MWh	\$ 58.74	\$ 66.27			
Net Annual Cost Per MWh	\$ 17.64	\$ 31.81			

Footnotes:

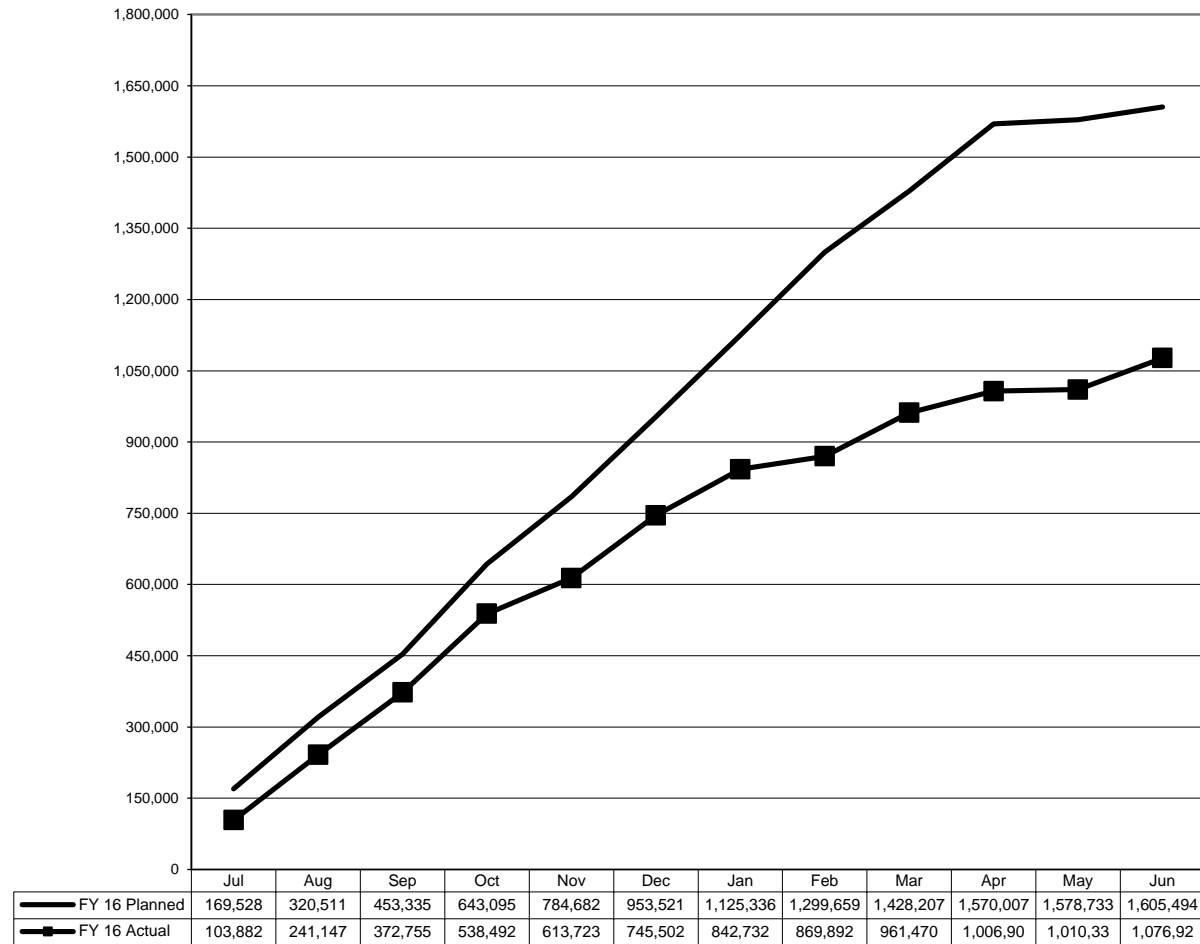
- A** - Non-budgeted costs due to CA ISO calls for regulation down resulting in additional market purchases and Participants purchasing energy from CA ISO using LEC as the SC.
- B** - Higher costs due to maintenance and clean out of water treatment system and maintenance of HRSG/boilers.
- C** - Lower energy generation, energy sales and fuel purchases primarily due to emergency outage to repair belly band and turbine blades.



Annual Budget LEC Generation Analysis Planned vs. Actual FY 2016

In MWh

Lodi Energy Center





651 Commerce Drive
Roseville, CA 95678

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

LEC GHG Reports

AGENDA ITEM NO.: 9

Date: July 11, 2016

Subject: GHG Reports (excerpted from monthly ARB)

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

IDENTIFIER	Actual													Compliance Year 2013
	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	0	82,787	101,925	128,167	134,284	32,545	80,153	122,492	94,615	92,091	98,739	105,078	138,068	1,210,944
Gas Schedule (MMBtu)	0	593,484	723,038	894,657	952,529	229,724	579,650	870,331	673,965	650,250	692,396	738,008	965,292	8,563,324
Emissions Factor (MT/MMBtu)	0	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	
HVAC/Water Heater (MT)													86,000	
Monthly MT Emissions (MT)	0	32,027	39,019	48,280	51,403	12,397	31,281	46,967	36,371	35,091	37,365	39,827	52,178	462,206
Cumulative MT Obligation (MT)	0	32,027	71,046	119,326	170,730	183,127	214,407	261,375	297,745	332,836	370,201	410,028	462,206	462,206
Compliance Instrument Participant Transfers (to LEC)														
Auction Allowances	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	460,633
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	460,633
NCPA Compliance Instrument Purchases (for LEC)														
Auction Purchases	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Monthly Activity (MT)	139,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	507,633
Cumulative MT Account Balance [MTA] (MT)	139,695	145,045	145,045	158,689	263,689	314,321	344,949	346,549	448,749	461,343	461,343	461,343	507,633	507,633
MTA Shortfall (MT)	(139,695)	(113,018)	(73,999)	(39,363)	(92,959)	(131,194)	(130,542)	(85,174)	(151,004)	(128,507)	(91,142)	(51,315)	(45,427)	(45,427)

	2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												
	Actual												Compliance Year 2014
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	136,604	156,089	120,489	55,378	71,210	51,037	118,473	69,006	178,831	197,715	51,636	106,338	1,312,806
Gas Schedule (MMBtu)	951,700	1,092,730	858,805	391,272	512,068	371,695	836,762	496,327	1,251,547	1,371,546	372,826	759,691	9,266,969
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	
HVAC/Water Heater (MT)												173,000	
Monthly MT Emissions (MT)	51,358	58,969	46,345	21,115	27,634	20,059	45,156	26,784	67,540	74,015	20,120	41,170	500,265
Cumulative MT Obligation (MT)	513,564	572,533	618,879	639,994	667,628	687,686	732,842	759,626	827,166	901,181	782,385	823,555	823,555
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	102,347	50,000	48,066	25,000	1,290	138,448	0	0	13,586	50,520	100,350	350	529,957
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	102,347	50,000	48,066	25,000	1,290	138,448	0	0	13,586	50,520	100,350	350	529,957
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	138,916	0	138,916
Total Monthly Activity (MT)	102,347	50,000	48,066	25,000	1,290	138,448	0	0	13,586	50,520	100,350	350	529,957
Cumulative MT Account Balance [MTA] (MT)	609,980	659,980	708,046	733,046	734,336	872,784	872,784	872,784	886,370	936,890	898,324	898,674	898,674
MTA Shortfall (MT)	(96,416)	(87,447)	(89,167)	(93,052)	(66,708)	(185,098)	(139,942)	(113,158)	(59,204)	(35,709)	(115,939)	(75,119)	(75,119)

	2015 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												
	Actual												Compliance Year 2015
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	196,019	151,600	184,507	181,244	91,067	142,275	103,883	137,266	131,608	165,737	75,231	131,779	1,692,216
Gas Schedule (MMBtu)	1,368,474	1,073,330	1,299,294	1,269,481	646,027	1,009,450	740,553	971,283	927,730	1,171,129	541,136	940,340	11,958,227
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	
HVAC/Water Heater (MT)													
Monthly MT Emissions (MT)	73,850	57,922	70,116	68,508	34,863	54,475	39,964	52,415	50,065	63,200	29,202	50,745	645,326
Cumulative MT Obligation (MT)	897,404	955,327	1,025,443	1,093,951	1,128,814	1,183,288	1,223,252	1,275,668	1,325,733	1,388,933	592,071	642,816	642,816
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	41,342	250	250,100	15,000	86,000	107,327	104,000	0	0	58,201	375	200	662,795
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	41,342	250	250,100	15,000	86,000	107,327	104,000	0	0	58,201	375	200	662,795
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	826,064	0	826,064
Total Monthly Activity (MT)	41,342	250	250,100	15,000	86,000	107,327	104,000	0	0	58,201	375	200	662,795
Cumulative MT Account Balance [MTA] (MT)	940,016	940,266	1,190,366	1,205,366	1,291,366	1,398,693	1,502,693	1,502,693	1,502,693	1,560,894	735,205	735,405	735,405
MTA Shortfall (MT)	(42,612)	15,061	(164,923)	(111,415)	(162,552)	(215,405)	(279,441)	(227,025)	(176,960)	(171,961)	(143,134)	(92,589)	(92,589)

	2016 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center																
	Actual					Estimated								Compliance Year 2016 Total	Cumulative Totals Total		
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total	Total	Charge Code	Source	
Energy (MWh)	97,230	27,160	91,578	45,437	3,423	53,386	117,450	117,762	125,569	147,191	100,989	167,038	1,094,214	5,310,181		Forecast/Meter	
Gas Schedule (MMBtu)	695,120	194,179	678,033	339,504	27,754	384,382	845,641	847,883	904,099	1,059,774	727,123	1,202,676	7,906,168	37,694,688		Forecast/Meter	
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054				MARS	
HVAC/Water Heater (MT)																	
Monthly MT Emissions (MT)	37,512	10,479	36,590	18,321	1,498	20,743	45,635	45,756	48,790	57,191	39,239	64,902	426,656	2,034,453		derived	
Cumulative MT Obligation (MT)	680,329	690,807	727,398	745,719	747,217	767,960	813,595	859,351	908,141	965,331	1,004,570	1,069,473	1,069,473	1,069,473		derived	
Compliance Instrument Participant Transfers (to LEC)																	
Auction Allowances	211,481	0	2,500	31,000	0	41,000	0	0	0	0	0	0	285,981	1,939,366		CITSS	
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Total Compliance Instrument Participant Transfers (MT)	211,481	0	2,500	31,000	0	41,000	0	0	0	0	0	0	285,981	1,939,366			
NCPA Compliance Instrument Purchases (for LEC)																	
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000		CITSS	
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS	
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000			
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	964,980		CITSS	
Total Monthly Activity (MT)	211,481	0	2,500	31,000	0	41,000	0	0	0	0	0	0	285,981	1,986,366		derived	
Cumulative MT Account Balance [MTA] (MT)	946,886	946,886	944,386	913,386	913,386	872,386	872,386	872,386	872,386	872,386	872,386	872,386	872,386	872,386		derived	
MTA Shortfall (MT)	(266,557)	(256,079)	(216,988)	(167,667)	(166,169)	(104,426)	(58,791)	(13,035)	35,755	92,945	132,184	197,087	197,087	197,087	MTA SHORTFALL	derived	

Forecast has been updated through December 2016

NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) July 2016																
IDENTIFIER	AZUSA	BART	BIGGS	CDWR	GRI	HEA	LOD	LOM	MID	PLU	PWRPA	SNCL	UKI	TOTAL	Charge Code	Source
Allocation Percentages																
Generation Entitlement Share %	2.7857%	6.6000%	0.2679%	33.5000%	1.9643%	1.6428%	9.5000%	2.0357%	10.7143%	0.7857%	2.6679%	25.7500%	1.7857%	100%		MARS
Obligation Accounts																
Current MT Compliance Obligation (MTO) Balance (MT)	22,727	53,845	2,186	273,308	16,026	13,403	76,515	16,559	87,412	6,409	21,766	210,080	17,049	817,285		derived
Current MT Compliance Instrument Account (MTA) Balance (MT)	29,969	56,754	3,643	333,572	24,694	20,383	112,691	32,078	114,878	7,182	22,609	224,215	22,990	1,005,658		derived
MTA Shortfall (MT)	(7,242)	(2,908)	(1,457)	(60,264)	(8,669)	(6,980)	(36,176)	(15,519)	(27,466)	(773)	(843)	(14,135)	(5,941)	(188,373)	MTA SHORTFALL	Derived
Monthly GHG Price \$/MT	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	12.59	MTA SHORTFALL	ICE Index
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	MTA SHORTFALL	Derived
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	4,780	755	0	0	0	0	0	2,652	70,424	CCA BALANCE	Accounting
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	NET GHG OBLIG	Derived

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



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 10

Date: July 7, 2016
To: Lodi Energy Center Project Participant Committee
Subject: Cisco Air Systems, Inc. – Five Year Multi-Task General Services Agreement;
Applicable to the following projects: All NCPA locations, Member, SCPPA and
SCPPA Member facilities

Recommendation

NCPA staff recommends that the PPC approve the Multi-Task General Services Agreement with Cisco Air Systems, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for air compressor services at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Background

Air compressor services are needed at various NCPA locations as well as member facilities for the operation of the plants. Cisco Air Systems, Inc. is a supplier of these services.

Selection Process

This five year contract does not commit NCPA to any purchases. NCPA does not have similar enabling agreements with other vendors at this time. At the time services are needed, NCPA will bid the scope of work and issue purchase orders based on cost and availability of the service(s) needed at the time.

Fiscal Impact

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

Environmental Analysis

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

Prepared by:
KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Cisco Air Systems, Inc.



**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 _____, 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

CISCO AIR SYSTEMS, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

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	AI1704258	30	2005	4,000	10
Atlas Copco	CD60	AI1811770		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	R160i	V1535U12158	200 HP	2012	4,000
2	Atlas Copco	ZT145	APF162045	200 HP	2012	6,000
3	Atlas Copco	ZT145	APF164682	200 HP	2012	6,000
4	Atlas Copco	DD390P (4)	N/A	Inline Filters	2012	6,000
5	Atlas Copco	PD390 (4)	N/A	Inline Filters	2012	6,000
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,

(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.

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E - NOT APPLICABLE

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

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

The undersigned hereby certifies and agrees that:

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



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 11

Date: July 7, 2016
To: Lodi Energy Center Project Participant Committee
Subject: 3D Technical Services – Five Year Multi-Task General Services Agreement;
Applicable to the following projects: All NCPA locations, Member, SCPPA and
SCPPA Member facilities

Recommendation

NCPA staff recommends that the PPC approve the Multi-Task General Services Agreement with 3D Technical Services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for air compressor services at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Background

Electrical and instrumentation services are needed at various NCPA locations as well as member facilities for the operation of the plants. 3D Technical Services is a provider of these services.

Selection Process

This five year contract does not commit NCPA to any purchases. NCPA has similar enabling agreements with other vendors for these services. At the time services are needed, NCPA will bid the scope of work and issue purchase orders based on cost and availability of the service(s) needed at the time.

Fiscal Impact

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

Environmental Analysis

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

Prepared by:
KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with 3D Technical Services



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
3D TECHNICAL SERVICES, 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 3D Technical Services, Inc., a corporation with its office located at 2270 Curry Canyon Road, Clayton, CA 94517 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 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.** Not applicable.
- 4.5 **All Policies Requirements.**
- 4.5.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 **Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, 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:

3D Technical Services, Inc.
Attention: Daniel T. Farley, President
P.O. Box 176
Clayton, CA 94517

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

3D TECHNICAL SERVICES, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

DANIEL T. FARLEY,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A

SCOPE OF WORK

3D Technical Services, Inc. ("Contractor") shall provide electrical and instrumentation services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members:

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

- Calibration
- Maintenance
- Automation
- Support Services

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:

	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>OT Premium</u>	<u>DT Premium</u>
Process Engineer	\$120	\$160	\$200	\$40	\$80
Lead Technician / Foreman	\$108	\$149	\$190	\$41	\$82
Instrument Technician	\$98	\$135	\$171	\$36	\$72
Instrument Fitter	\$98	\$135	\$171	\$36	\$72
Electrician Foreman	\$108	\$149	\$190	\$41	\$82
Electrician	\$98	\$135	\$171	\$36	\$72

Definition Of Hours

Straight Time:

All hours worked during a normal eight (8)-hour work day, Monday through Friday.

Time-and-One-Half:

All hours worked over eight (8) hours and up to ten (10) hours on a normal work day.

All hours up to ten (10) worked on Saturday.

Double Time:

All hours worked over ten (10) on normal work days and Saturdays and all hours worked on Sundays and on legal holidays (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the day after, Christmas Eve and Christmas Day

Emergency Call-Out:

A four (4)-hour minimum at the applicable rate defined above.

Billing hours are portal to portal

Contractor Markups

Materials: cost plus 20%

Consumables: cost plus 20%

Equipment rental: cost plus 15%

Specialized Equipment

Reference the Calibration and Installation Equipment Rate Schedule

Travel and Subsistence Expenses

on a per job basis with prior customer approval

Expiration of current rates

12/31/2016

Equipment Description

		price per unit		
		monthly	weekly	daily
<i>Calibration Equipment</i>				
Current Driver (4-20 ma)	Transmation 1028 or equal	\$250	\$75	\$40
Thermocouple Simulator	Transmation 1064 or equal	\$250	\$75	\$40
RTD Simulator	Transmation 1074 or equal	\$250	\$75	\$40
Pressure Calibrator	Transmation 1091 w/ modules or equal	\$325	\$85	\$50
Frequency Calibrator	Transmation 1171 or equal	\$325	\$85	\$50
Smart Communicator		\$325	\$85	\$50
Precision Multimeter	Fluke 87 or equal	\$250	\$75	\$40
Temperature Bath	Dry Block temp Calibrator	\$550	\$150	\$80

<i>Construction Equipment</i>				
Truck (Pickup)		\$1,400	\$500	\$150
Pipe Threading Machine - 1/2" to 2"	Rigid 535 or equal	\$1,000	\$350	\$100
Conduit Bender	Greenlee 555 or equal	\$1,000	\$350	\$100
Welding Machine		\$1,000	\$350	\$100
Calibration Trailer	mob / demob not included	\$1,000	\$350	\$100

Equipment rates include all maintenance and fuel. All equipment is quoted without operator.

Rates for equipment will be charged as noted:

Daily Any use within a twenty-four (24) hour period.
Cumulative use per day never will exceed weekly rate

Weekly Five (5) days or more of eight (8) hours each.
Cumulative use per week never will exceed monthly rate

Monthly Two (2) full weeks or more of consecutive equipment usage.

Expiration of current rates

12/31/2016

Agency acknowledges that Contractor's pricing is subject to change. Contractor shall provide thirty (30) days advance written notice to Agency of any price changes.

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

3D Technical Services, 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.

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 12

Date: July 7, 2016
To: Lodi Energy Center Project Participant Committee
Subject: GHD, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations, Member, SCPPA and SCPPA Member facilities

Recommendation

NCPA staff recommends that the PPC approve the Multi-Task Professional Services Agreement with GHD, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years for engineering consulting services related to project support and plant operations at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

Background

Professional and engineering services, such as civil, environmental, geotechnical and structural engineering, mapping and land surveying, construction observation and testing, and other miscellaneous engineering tasks are needed at NCPA locations as well as member facilities for project support and plant operations. GHD, Inc. is a provider of these services.

Selection Process

This five year contract does not commit NCPA to any purchases. NCPA has similar enabling agreements with other vendors for these services. At the time services are needed, NCPA will bid the scope of work and issue purchase orders based on cost and availability of the service(s) needed at the time.

Fiscal Impact

Total cost of the agreement is not-to-exceed \$2,500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Prepared by:
KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task Professional Services Agreement with GHD, Inc.



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND GHD INC.

This agreement for professional 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 GHD Inc., a corporation with its office located at 4080 Plaza Goldorado Circle, Suite B, Cameron Park, CA 95682 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2016 ("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 Work attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

- 4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$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.** 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 \$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. 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 (\$1,000,000.00) 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 "an occurrence" basis, except that Consultant may maintain such insurance on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

4.4 All Policies Requirements.

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

4.4.2 Notice of Reduction in or Cancellation of Coverage. 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, Agency shall have the right to require the Consultant to provide certificates of insurance and/or 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.

- 4.5 **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. 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.
- 4.6 **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 they arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that directly arise out of, pertain to, or relate to such claims, ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence or willful misconduct of the Agency.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state,

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

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

Consultant 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.

Consultant shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Consultant 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 Consultant or by any subcontractor under Consultant 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 Consultant.

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

Alan Carlton, Senior Project Manager
GHD Inc.
4080 Plaza Goldorado Circle, Suite B
Cameron Park, CA 95682
(530)677-5515

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

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

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

GHD INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

ALAN CARLTON, Senior Project Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

As requested by NCPA, GHD Inc., ("Consultant") shall provide engineering consulting services to the Northern California Power Agency ("Agency"), Agency members, SCPPA or SCPPA members, including, without limitation:

- Engineering Consulting;
- Civil, Environmental, Geotechnical and Structural Engineering;
- Engineering Geology;
- Mapping / Land Surveying / GIS;
- Development of Construction Drawings, Plans, Specifications, Technical Documents, Reports and Presentations;
- Construction Observation and Testing;
- Special Inspection; and
- Other Miscellaneous Engineering Tasks.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

US WEST FEE SCHEDULE* CAMERON PARK OFFICE (Effective March 2016)

Hourly Rates

Bruce, Jim	Professional	\$160.00
Burkhart, Thomas	Senior Professional	\$210.00
Carlton, Alan	Principal Professional	\$240.00
Codioli, Marjorie	Administrative Officer	\$88.00
Ferguson, Paul	Senior Professional	\$185.00
Francis, Shelise	Administrative Officer	\$88.00
Iseger, Bryon	Inspector	\$120.00
Jermstad, David	Senior Professional	\$210.00
Jermstad, Kyle	Professional	\$115.00
Moore, Carl	Senior Professional	\$195.00
Ronco, Mike	Professional	\$110.00
Thompson, Sue	Administrative Officer	\$95.00
Trumbull, Christopher	Senior Professional	\$205.00
Vander Dussen, Matthew	Survey	\$120.00
One Man Survey Crew		\$180.00
Two Man Survey Crew		\$275.00
Three Man Survey Crew		\$360.00

Employee time will be billed in accordance with the fees listed above. For other than professional employees, time spent over 8 hours per day, and time spent on Saturdays will be charged at 1.5 times the hourly billing rate. Work on Sundays will be charged at 2.0 times the hourly billing rate and holiday work will be charged at 2.5 times the hourly billing rate. All field personnel charges are portal to portal. Salaried professional employees will not be charged at premium charge rates for overtime work.

*These rates do not apply to forensic-related services or to work for which Prevailing Wage obligations exist.

Estimated Prevailing Wage rates are as follows:

One Man Survey Crew (PW high)	\$210.00
One Man Survey Crew (PW low)	\$165.00
Two Man Survey Crew (PW high)	\$245.00
Two Man Survey Crew (PW low)	\$210.00
Three Man Survey Crew (PW high)	\$343.00
Three Man Survey Crew (PW low)	\$276.00
Senior Special Inspector with Equipment (PW)	\$132.00
Senior Special Inspector Tower Climb (PW)	\$175.00
Senior Special Inspector (PW)	\$118.00
Staff Special Inspector with Equipment (PW)	\$115.00
Staff Special Inspector (PW)	\$107.00
Senior Geotechnical Engineering Technician (PW)	\$105.00
Geotechnical Engineering Technician (PW)	\$103.00

LABORATORY FEE SCHEDULE
CAMERON PARK OFFICE
(Effective October 2015)

<u>Test</u>	<u>Unit Rate</u>
Compaction Curve – 4 inch mold (ASTM D698 or D1557)	\$200.00
Compaction Curve – 6 inch mold (ASTM D698 or D1557)	\$250.00
Cal Impact (CTM-216)	\$265.00
Sieve Analysis Including Wash (ASTM C136, C117, and CTM-202)	\$122.00
Sieve Analysis Wash Only (Passing #200 Sieve) (ASTM C117, and CTM-202)	\$70.00
Hydrometer, including sieve (ASTM D422, C136, C117, and CTM-202)	\$175.00
Hydrometer, without sieve (ASTM D422)	\$125.00
Atterberg Limits (ASTM D4318)	\$155.00
Moisture Content and Unit Weight (ASTM D2216, D2937, D4643)	\$32.00
Moisture Content (ASTM D2937, D4643)	\$22.00
Sand Equivalent (CTM-217)	\$83.00
R-Value (CTM-301)	\$300.00

Direct Shear, 3 point, includes remolding (ASTM D3080)	\$400.00
Unconfined Compressive Strength – Soil (ASTM D2166)	\$92.00
Unconfined Compressive Strength – Rock (ASTM D238)	\$112.00
Unconfined Compressive Strength – Concrete Cylinder (ASTM C39)	\$30.00
Unconfined Compressive Strength – Gunitite or Shotcrete (ACI 301)	\$162.00
Unconfined Compressive Strength – Cores (ASTM C42)	\$162.00
Unconfined Compressive Strength – Grout or Mortar (ASTM C579, C1019, C780)	\$30.00
Unconfined Compressive Strength – Masonry Block (ASTM C140)	\$151.00
Corrosion Suite: pH, Res, Chl, Sul, Redox (CTM-643, -422, -417, ASTM D1498)	\$205.00
TDA Sieve analysis (ASTM D6270)	\$385.00
TDA Compaction (ASTM D6270)	\$250.00

Expenses

Expenses and other similar project related costs are billed out at cost plus 15%. The cost of using equipment and specialized supplies is billed on the basis of employee hours dedicated to projects. Our rates are as follows:

Office Consumables	\$ 6.00/hour
Environmental Dept/Construction Inspection consumables	\$11.00/hour
Survey Field consumables	\$15.00/hour
Various Environmental, Construction, and Land Survey Equipment	At market
Mileage	\$0.60/mile

General Terms

The hourly rates set forth above are valid from January 1, 2016 and may be subject to an annual escalation of up to 5% per year, effective upon 30 days' prior written notice to NCPA. Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(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.

2672171.2



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 13

Date: July 7, 2016
To: Lodi Energy Center Project Participant Committee
Subject: Pengo Wireline of California, Inc. – First Amendment to Existing Three Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations, Member, SCPPA and SCPPA Member facilities

Recommendation

NCPA staff recommends that the PPC approve the First Amendment to the existing three year Multi-Task General Services Agreement with Pengo Wireline of California, Inc. for downhole wireline services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$180,000 to \$500,000 and amending the scope of work for use at all NCPA Generation Services plant locations.

Background

Pengo Wireline of California, Inc. provides downhole wireline ‘hoisting’ services which allow completion of casing calipers, BLM mandated pressure temperature surveys, high temperature camera runs, gauge ring runs, and several other services that are vital to continuing operation of various plant facilities. Pengo is often the low cost provider of these services and for this reason an increase in the authorized funds in the agreement is necessary.

Selection Process

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

Fiscal Impact

If approved, the total cost of the agreement will not exceed \$500,000 over the existing three year term to be used out of NCPA approved budgets as services are rendered. NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Prepared by:
KEN SPEER
Assistant General Manager
Generation Services

Attachments: (2)

- First Amendment to Multi-Task General Services Agreement with Pengo Wireline of California, Inc.
- Multi-Task General Services Agreement with Pengo Wireline of California, Inc.



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND PENGOWIRELINE OF CALIFORNIA, INC.**

This First Amendment ("Amendment") to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Pengowireline of California, Inc. ("Contractor") (collectively referred to as "the Parties") as of _____, 2016.

WHEREAS, the Parties entered into a three (3) year Multi-Task General Services Agreement dated effective July 10, 2015, (the "Agreement") for Contractor to provide downhole wireline services on wells at all NCPA facilities; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$180,000 to a 'NOT TO EXCEED' amount of \$500,000; and

WHEREAS, the Agency now desires to amend the Scope of Work set forth in Exhibit A to the Agreement, and

WHEREAS, the Agency now desire to amend the Scope of Work set forth in Exhibit B to the Agreement; and

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

NOW, THEREFORE, the Parties agree as follows:

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

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

The remainder of Section 2 of the Agreement is unchanged.

2. **Exhibit A – SCOPE OF WORK** is amended and restated to read in full as set forth in the attached Exhibit A.
3. **Exhibit B – COMPENSATION SCHEDULE AND HOURLY FEES** is amended to read in full as set forth in the attached Exhibit B.

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

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

Date: _____

PENGO WIRELINE OF CALIFORNIA, INC.

RANDY S. HOWARD, General Manager

DAVID E. WARREN, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A

SCOPE OF WORK

As requested by NCPA, Pengo Wireline of California, Inc. to provide labor and equipment for downhole wireline services on wells for work including, but not limited to:

- Pressure, temperature, and spinner surveys
- Casing caliper surveys
- Downhole video services
- Miscellaneous wireline work in support of drilling operations

None of the above listed services shall include any work that would qualify as a Public Works Project under the guidelines established by the State of California.

Pengo Wireline of California may perform these services at all NCPA facilities.

EXHIBIT B
COMPENSATION SCHEDULE AND HOURLY FEES

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

DAILY SERVICE COST ESTIMATE:	\$ / UNIT
Daily Operation Charge - hoist service including pressure control Equipment and 3 Runs	\$ 5,500.00
Additional runs per day after 3 runs for hoist only	\$ 400.00
Daily travel cost per vehicle (2 vehicles used per day)	\$ 500.00
Mileage Charge per mile per vehicle (2 vehicles x 700 miles round trip)	\$ 2.25
Per hour charge after 12 hours	\$ 150.00
 Daily Service Charge	 \$ 1,000.00
Well Pressure Control device Charge	\$ 330.00
 Pressure / Temp Survey High Temp Operation Charge – Minimum \$600.00	 \$ 0.30
Pressure/ Temp Survey High Temp Depth Charge – Minimum \$880.00	\$ 0.44
 Gamma ray/Neutron Operating Charge – Minimum \$540.00	 \$ 0.30
Gamma ray/Neutron Depth Charge – Minimum \$600.00	\$ 0.32

For services not specified here, compensation shall be as mutually agreed in writing by Contractor and NCPA.

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.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PENGOWIRELINE OF CALIFORNIA, 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 Pengowireline of California, Inc., a corporation, with its office located at 3529 Standard Street, Bakersfield, CA 93308 ("Contractor") (together sometimes referred to as the "Parties") as of 07-10, 2015 ("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 three (3) 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 ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000)** for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 All Policies Requirements.

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

4.3.2 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.

4.3.3 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 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.

4.5 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 ensues 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.

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

obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

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

8.4.1 Immediately terminate the Agreement;

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

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

9.4.4 Handling of Confidential Information. Conclusion of Agreement. Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof) upon termination of this Agreement, if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain

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

Section 10. PROJECT SITE.

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

Section 11. WARRANTY.

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

other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

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

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

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

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

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

Section 13 MISCELLANEOUS PROVISIONS.

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

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

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

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

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

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

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

Pengo Wireline of California, Inc.
3529 Standard Street
Bakersfield CA, 93308

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 prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's Proposal, the Exhibits shall control.

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

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

13.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

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

NORTHERN CALIFORNIA POWER AGENCY

PENGO WIRELINE OF CALIFORNIA, INC.

Date

7/14/15


Date

07-10-2015


RANDY S. HOWARD, General Manager


DAVID E. WARREN, General Manager

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Asst. General Counsel

EXHIBIT A

SCOPE OF WORK

As requested by NCPA, Pengo Wireline of California, Inc. to provide labor and equipment for downhole wireline services on wells for work including, but not limited to:

- Pressure, temperature, and spinner surveys
- Casing caliper surveys
- Wireline wellbore plugs
- Downhole video services
- Miscellaneous wireline work in support of drilling operations

Pengo Wireline of California may perform these services at all NCPA facilities.

EXHIBIT B
COMPENSATION SCHEDULE AND HOURLY FEES

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

DAILY SERVICE COST ESTIMATE:	\$ / UNIT
Daily Operation Charge including mining crane hoist service, pressure control Equipment and 3 Runs	\$ 5,500.00
Additional runs per day after 3 runs for hoist only	\$ 400.00
Daily travel cost per vehicle (2 vehicles used per day)	\$ 500.00
Mileage Charge per mile per vehicle (2 vehicles x 700 miles round trip)	\$ 2.25
Per hour charge after 12 hours	\$ 150.00
Daily Service Charge	\$ 1,000.00
Well Pressure Control device Charge	\$ 330.00
Pressure / Temp Survey High Temp Operation Charge – Minimum \$600.00	\$ 0.30
Pressure/ Temp Survey High Temp Depth Charge – Minimum \$880.00	\$ 0.44
Gamma ray/Neutron Operating Charge – Minimum \$540.00	\$ 0.30
Gamma ray/Neutron Depth Charge – Minimum \$600.00	\$ 0.32
Setting Bridge Plug Wireline Charge from Surface to setting depth - Minimum \$510.00	\$ 0.20
Setting Tool Charge with HiTemp Power Charge	\$ 270.00

For services not specified here, compensation shall be as mutually agreed in writing by Contractor and NCPA.

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, David E. Warren

(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

Pengo Wireline

(Company name)

for contract work at

NCPA facilities

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this 10th day of July, 20 05.

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.



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 14

Date: July 7, 2016
To: Lodi Energy Center Project Participant Committee
Subject: Flynn Resources Consultants, Inc. – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations, Member, SCPPA and SCPPA Member facilities

Recommendation

NCPA staff recommends that the PPC approve the Multi-Task Consulting Services Agreement with Flynn Resource Consultants, Inc., (Flynn RCI) for services related to electric transmission, power generation, regulatory support, contracts, compliance, and electric market issues, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$3,000,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA members.

Background

Ever changing and evolving electric transmission, generation, regulatory, contracts, compliance and market issues impact NCPA, SCPPA, and our members. Flynn RCI offers a host of these services to assist NCPA, SCPPA, and our members with issues resulting from said changes.

Selection Process

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

Fiscal Impact

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

Environmental Analysis

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

Prepared by:
MARTY HOSTLER
Reliability Compliance Manager

Generation Services

Attachments: (1)

- Multi-Task Consulting Services Agreement with Flynn Resources Consultants, Inc.



**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY
AND FLYNN RESOURCES CONSULTANTS, INC.**

This agreement for consulting 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 Flynn Resources Consultants, Inc. a California corporation with its office located at 5440 Edgeview Drive, Discovery Bay, CA 94505 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2016 ("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 Work 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, at any time during the term of this Agreement, has concerns about the assignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency, work with Agency to address Agency's concerns.
- 1.4 **Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day period

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

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** three million dollars (\$3,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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 \$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.** If Consultant owns any automobile, 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) owned by the Consultant, on or off Agency premises. 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) of any vehicle not owned by the Consultant, 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.** 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 (\$1,000,000.00) covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least two (2) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within two (2) 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 two (2) 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 pursuant to this Agreement, Agency shall have the right to require Consultant to provide certificates of

insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPA or SCPA member.

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

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 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, 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 Marty Hostler, P.E. NCPA Reliability Compliance 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:

Doug Boccignone
Flynn Resources Consultants Inc.
5440 Edgeview Drive
Discovery Bay, CA 94505

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

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

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

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

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

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

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

SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

FLYNN RESOURCES CONSULTANTS INC.

Date_____

Date_____

Randy S. Howard, General Manager

**Douglas A. Boccignone, Chief Financial
Officer**

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

FLYNN RCI SCOPE OF SERVICES TO NCPA, SCPPA, AND THEIR MEMBERS

NCPA is entering into this agreement with Flynn Resource Consultants Inc. ("Consultant") so that NCPA, SCPPA, and their members may secure professional consulting services related to electric transmission, power generation, regulatory support, contracts, compliance and electric market issues affecting Electrical Power Utilities and/or entities' large electrical power consumers.

The Consultant may be requested to perform the activities listed below during the term of this Agreement for NCPA, a member, and/or SCPPA if NCPA, member(s), and/or SCPPA agree to terms, condition, and compensation for said detailed scope services. Such activities may also include monitoring, meeting participation, coordinating with affected or other participating parties, and, as necessary, preparing and submitting formal position paper and other documentation.

1. Grid Planning Activities and Transmission Studies
 - California and regional transmission planning activities
 - Power flow, short circuit and dynamic modeling
2. Regionalization Activities
 - CAISO Regionalization Process, Transmission Access Charge, Governance and Resource Adequacy
 - Coordination with the California Municipal Utilities Association and Northern California Power Agency on these activities
3. State Regulatory Matters
 - CEC, CPUC and other western region state commission proceedings
4. Federal Regulatory Matters
 - Interconnection Agreement and Metered Subsystems Agreement Support
5. Electricity Market Issues
6. NERC/WECC Compliance Support
7. Litigation Support and Other Services related to electric transmission, power generation, regulatory support, contracts, compliance and electric markets

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks under this agreement, including hourly fees and expenses, shall not exceed three million dollars (\$3,000,000). The hourly rates and/or compensation break down and an estimated amount of expenses is as follows:

Consultant hourly rates for the professional services are listed below.

<u>Labor Category</u>	<u>Hourly Rate (FY16-17)</u>
Principal	\$300 per hour
Managing Consultant	\$280 per hour
Senior Consultant – Power Engineer	\$270 per hour
Senior Consultant	\$245 per hour
Consultant	\$210 per hour
Associate Consultant	\$190 per hour
Analyst	\$135 per hour
Support Services	\$65 per hour

Each year, effective July 1, the applicable hourly rates for each labor category shall increase by 3%, rounded to the nearest \$5.

Travel (at coach rates), food, and miscellaneous expenses, except automobile mileage, associated with the provision of services hereunder shall be billed at cost. Automobile mileage will be billed at the rate approved by the Internal Revenue Service.

For any month in which specialized modeling software is used to perform services under this agreement, the following charges shall apply:

Power flow modeling -	\$ 225/month
Short circuit modeling –	\$ 650 /month
OASIS Data -	\$ 950 /month
Market modeling -	\$ 3,000/month

Each year, effective July 1, the specialized modeling software costs shall increase by 3%, rounded to the nearest \$5.

Specialized software costs that exceed the above amounts may be billed with the prior approval of the Agency.

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.

2673446.1

**NORTHERN CALIFORNIA POWER AGENCY
CALENDAR YEAR 2017
PLANNED MAINTENANCE OUTAGE SCHEDULE**

Facility	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Collierville Unit 1										14-27		
Collierville Unit 2										14-15	6-17	
Spicer Unit 1									11-14			
Spicer Unit 2									18-21			
Spicer Unit 3									25-28			
CT1 Alameda Project	9-27											
CT1 Lodi Project			6-17									
CT2 STIG Project					1-14							
Lodi Energy Center					1-28							
Geothermal Plant 1 Unit 1			20-22									
Geothermal Plant 1 Unit 2			20-22									
Geothermal Plant 2 Unit 4				17-26								

Proposed 7-6-2016

