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Facilities Committee Agenda

Date: September 7, 2022
Subject: NCPA Facilities Committee Meeting
Location: NCPA, 651 Commerce Drive, Roseville, California 95678 / Conference Call
Time: 9:00 am

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

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

ALAMEDA MUNICIPAL PWR 2000 Grand St., Alameda, CA	BAY AREA RAPID TRANSIT 300 Lakeside Drive, Oakland, CA	CITY OF BIGGS 3016 Sixth Street, Biggs, CA
CITY OF GRIDLEY 685 Kentucky Street, Gridley, CA	CITY OF HEALDSBURG 401 Grove Street, Healdsburg, CA	CITY OF LODI 1331 S. Ham Lane, Lodi, CA
CITY OF LOMPOC 100 Civic Ctr. Plaza, Lompoc, CA	CITY OF PALO ALTO 250 Hamilton Avenue, 3 rd Floor Palo Alto, CA	PORT OF OAKLAND 530 Water Street, Oakland, CA
PLUMAS-SIERRA REC 3524 Mulholland Way, Sacramento CA	CITY OF REDDING 3611 Avtech Pkwy., Redding, CA	CITY OF ROSEVILLE 2090 Hilltop Circle, Roseville, CA
CITY OF SHASTA LAKE 4332 Vallecito St., Shasta Lake, CA	SILICON VALLEY POWER 881 Martin Ave., Santa Clara, CA	TURLOCK IRRIGATION DISTRICT 333 E. Canal Drive, Turlock, CA
CITY OF UKIAH 300 Seminary Ave., Ukiah, CA		

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

Persons requiring accommodations in accordance with the Americans with Disabilities Act in order to attend or participate in this meeting are requested to contact the NCPA Secretary at (916)781-3636 in advance of the meeting to arrange for such accommodations.

REVIEW SAFETY PROCEDURES

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

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

OPEN SESSION

DISCUSSION / ACTION ITEMS

2. **Approval of Minutes** – Approve minutes from the August 3, 2022 Facilities Committee meeting.
3. **All NCPA Facilities, Members, SCPPA – Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. for motor maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Category: Consent; Sponsor: CTs*)
4. **All NCPA Facilities, Members, SCPPA – Nooter/Eriksen, Inc. MTGSA-EMS** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement and Agreement for Equipment, Materials and Supplies with Nooter/Eriksen, Inc. for heat recovery steam generator (HRSG) support services and parts, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; CTs*)
5. **All NCPA Facilities, Members, SCPPA – Unique Scaffold MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Unique Scaffold for scaffolding related services, with a not to exceed amount of \$4,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Geo*)
6. **All NCPA Facilities (Except LEC), Members, SCPPA – Ford Construction Company, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Ford Construction Company, Inc. for general maintenance services, with a not to exceed amount of \$3,000,000, for use at all facilities owned and/or operated by NCPA (except LEC), NCPA Members, by SCPPA, and SCPPA Members. All purchase orders will be issued following NCPA procurement policies and procedures. (*Commission Category: Consent; Sponsor: Hydro*)
7. **Casualty Insurance Program Extension to March 1, 2023** – Staff is seeking a recommendation for Commission approval to extend the current liability insurance program. (*Commission Category: Consent; Sponsor: Administrative Services*)

8. **NCPA Geothermal Facility – Rejection of All Original Bids Received on July 1, 2021 for the NCPA Geothermal Plants #1 & #2 Emergency Shower and Eyewash Stations Replacement Project** – Staff is seeking a recommendation for Commission approval delegating authority to the General Manager or his designee to reject all original bids received on July 1, 2021 for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project. *(Category: Consent; Sponsor: Geo)*
9. **NCPA Geothermal Facility – Geothermal Plants #1 & #2 Emergency Shower and Eyewash Stations Replacement Project** – Staff is seeking a recommendation for Commission approval of the Geothermal Plants #1 & #2 Emergency Shower and Eyewash Stations Replacement Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed \$915,000, and authorizing the use of \$558,000 from the FY 2023 Geothermal Facility Project Budget, \$117,000 from FY 2022 encumbered funds, \$140,000 from the Maintenance Reserve, and \$100,000 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund the project. *(Category: Discussion/Action; Sponsor: Geo)*
10. **NCPA Geothermal Facility – Geothermal H-Line Pipeline Repair Project** – Staff is seeking a recommendation for Commission approval of the Geothermal H-Line Pipeline Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$280,000 and authorizing the use of \$67,500 of encumbered funds from the FY 2022 budget and \$212,500 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund the project. *(Category: Discussion/Action; Sponsor: Geo)*
11. **NCPA Geothermal Facility – Geothermal Plant 2 Cooling Tower Basin Clean Out Project** – Staff is seeking a recommendation for Commission approval of the Geothermal Plant 2 Cooling Tower Basin Clean Out Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$620,024, and authorizing the use of \$150,024 from the Maintenance Reserve to fund this project. *(Category: Discussion/Action; Sponsor: Geo)*
12. **NCPA Hydro Facility – Stanislaus Weather Modification Program Request for Additional Funds** – Staff is seeking a recommendation for Commission approval to amend Resolution 18-68 authorizing the request for additional funds for the Stanislaus Weather Modification Program, increasing the total not-to-exceed amount of this Program from \$1,800,000 to \$2,100,000, and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the Program in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for the remaining term of the Program. *(Category: Discussion/Action; Sponsor: Hydro)*

INFORMATIONAL ITEMS

13. **New Business Opportunities** – Staff will provide an update regarding new business opportunities. *(Sponsor: Power Management)*
14. **Meter Maintenance Program Update** – Staff will provide an update regarding proposals received in response to NCPA's Request for Proposals for Meter Maintenance Program Services. *(Sponsor: Power Management)*

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

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

17. Next Meeting – The next Facilities Committee meeting is scheduled for October 5, 2022.

ADJOURNMENT

JC/cp



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Minutes – Draft

Date: August 10, 2022
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: August 3, 2022 Facilities Committee Meeting Minutes

1. **Call meeting to order & Roll Call** – The meeting was called to order by Committee Vice Chair Alan Harbottle (Alameda) at 9:04 am. Attending via teleconference and/or on-line presentation were Roger Yang (Alameda), Dennis Schmidt and Bo Sheppard (Biggs), Cliff Wagner (Gridley), Melissa Price (Lodi), Shiva Swaminathan (Palo Alto), Khaly Nguyen (Port of Oakland), Kamryn Hutson (Redding), and Basil Wong (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Healdsburg, Lompoc, Shasta Lake, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

OPEN SESSION

DISCUSSION / ACTION ITEMS

2. **Approval of Minutes form the July 6, 2022 Facilities Committee meeting.**

Motion: A motion was made by Basil Wong and seconded by Melissa Price recommending approval of the July 6, 2022 Facilities Committee meeting minutes. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Port of Oakland, Redding, Roseville, and Santa Clara. ABSTAIN = Biggs. The motion passed.

3. **All NCPA Facilities – EN Engineering, LLC First Amendment to MTPSA** – Staff presented background information and was seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task Professional Services Agreement with EN Engineering, LLC for engineering and testing services, modifying the Scope of Work to broaden services and include root cause analysis services, for continued use at all facilities owned and/or operated by NCPA.

NCPA entered into a five year Multi-Task Professional Services Agreement with EN Engineering, LLC for engineering and testing related services, including excitation system upgrade services, transmission/distribution services and NERC/WECC compliance testing/report services, effective March 7, 2022, for an amount not to exceed \$1,000,000, for use at all NCPA facilities.

NCPA now desires to enter into a First Amendment to the Multi-Task Professional Services Agreement modifying the Scope of Work to include root cause analysis services. NCPA currently has agreements in place for similar services with BBA USA, Inc., Nor-Cal Controls, ES, Inc. and Utility System Efficiencies. This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. A draft Commission Staff Report, original agreement, and draft First Amendment were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Melissa Price and seconded by Basil Wong recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task Professional Services Agreement with EN Engineering, LLC for engineering and testing related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, modifying the Scope of Work, for continued use at any facilities owned and/or operated by NCPA. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Biggs and Redding. The motion passed.

- Prior to the presentation of item # 4, Mike Brozo (Plumas-Sierra) joined the meeting via teleconference and online presentation.

4. All NCPA Facilities – Fremouw Environmental Services, Inc. First Amendment to MTGSA –

Staff presented background information and was seeking a recommendation for Commission approval of a First Amendment to the five-year Multi-Task General Services Agreement with Fremouw Environmental Services, Inc. for waste cleanup services, accepting assignment to Advanced Chemical Transport, Inc. dba ACTEnviro and modifying Exhibit B pricing, for continued use at all facilities owned and/or operated by NCPA.

NCPA entered into a five year Multi-Task General Services Agreement with Fremouw Environmental Services, Inc. effective March 28, 2019, for an amount not to exceed \$3,000,000 for use at all NCPA facilities. In February 2021, Fremouw Environmental Services, Inc. was acquired by Advanced Chemical Transport, Inc. dba ACTEnviro. NCPA now desires to enter into a First Amendment to the Multi-Task General Services Agreement accepting assignment to Advanced Chemical Transport, Inc. dba ACTEnviro. NCPA and Advanced Chemical Transport, Inc. dba ACTEnviro also wish to modify pricing listed in Exhibit B. NCPA has agreements in place for similar services with Patriot Environmental (pending) and Ponder Environmental Services, Inc.

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. A draft Commission Staff Report, original agreement, and draft First Amendment were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Cliff Wagner and seconded by Khaly Nguyen recommending Commission approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with Fremouw Environmental Services, Inc. for waste cleanup services, with any non-substantial changes recommended and approved by the NCPA General Counsel, accepting assignment to Advanced Chemical Transport, Inc. dba ACTEnviro and modifying Exhibit B pricing, for continued use at any facilities owned and/or operated by NCPA. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Biggs and Redding. The motion passed.

5. All NCPA Facilities, Members, SCPPA – Ascend Analytics, LLC MTCSA – Staff provided background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with Ascend Analytics, LLC for Integrated Resource Plan

(IRP) related consulting services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

NCPA recently issued a Request for Proposal (RFP) for development of an Inter-Agency Resource Plan (IARP). The objective of the IARP is to evaluate NCPA's current electricity generation resource portfolio, identify ways for NCPA to better optimize its current facilities, and study new opportunities for additional assets and/or resources, with the end goal of helping NCPA and its Members to prepare for sustainable growth into the future. The Scope of Work contained within the RFP included the ability for NCPA Members, SCPPA, and SCPPA Members to utilize the services of responding vendors for development of their own Integrated Resource Plans (IRP).

NCPA posted the RFP on several public sites, and also sent copies directly to several vendors. After evaluating the bids received, Ascend Analytics, LLC has been determined to be the responsive, winning bidder for this work. NCPA desires to enter into this agreement so established terms and conditions are in place with Ascend Analytics, LLC for this Scope of Work for use by NCPA, NCPA Members, SCPPA, and SCPPA Members. A draft Commission Staff Report, and draft agreement were available for review. It is recommended to place this item on the Commission Consent Calendar.

Motion: A motion was made by Melissa Price and seconded by Brian Schinstock recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Ascend Analytics, LLC for Integrated Resource Plan (IRP) related consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Biggs and Redding. The motion passed.

6. Approval of Second Amendment to the Antelope Expansion 1B, LLC Power Purchase Agreement – Staff presented background information and was seeking a recommendation for Commission approval of the Second Amendment to the Power Purchase Agreement between Northern California Power Agency and Antelope Expansion 1B, LLC.

NCPA purchased 17 MW of Solar PV on behalf of Participating Members through the Antelope Expansion 1B Power Purchase Agreement (PPA), dated June 25, 2018. The Seller has delivered certain Force Majeure notices to NCPA, claiming that due to the detention of solar modules the commercial operations date for the project completion has been delayed. The Seller also informed NCPA that in order to preserve the Seller's financing sources for the continued development and construction of the project, the Outside Commercial Operation Date in the PPA needs to be extended. In order to extend the Outside Commercial Operation, date the PPA must be amended. A First Amendment to the PPA has been executed to extend the Outside Commercial Operation Date to September 30, 2022. This Second Amendment to the PPA will extend the Outside Commercial Operation Date to December 31, 2022. Extending the Outside Commercial Operation date will improve the Seller's ability to acquire financing sources that are required to complete development of the project.

Motion: A motion was made by Melissa Price and seconded by Khaly Nguyen recommending Commission approval of the Second Amendment to the Power Purchase Agreement between NCPA and Antelope Expansion 1B, LLC (PPA), and to authorize the General Manager of NCPA to execute the Second Amendment to the PPA, including any non-substantive modifications to Second Amendment to the PPA approved by NCPA's General Counsel. A vote was taken by roll call: YES = Gridley, Lodi, Plumas-Sierra, and Port of Oakland. ABSTAIN = Alameda, Biggs, Palo Alto, Redding, Roseville, and Santa Clara. The motion passed.

7. NCPA 2023 Plant Outage Schedule – Staff reviewed the proposed outage schedule and was seeking Facilities Committee approval of the proposed 2023 NCPA Plant Outage Schedule.

The annual maintenance scope includes required regulatory compliance, electrical, mechanical, and civil type of work. Scheduling considerations include balancing multiple factors such as: cost, Mother Nature and her impact on weather and accessibility such as snow, the impact from the market, and grid sensitivity. Outages are generally avoided in June, July, August, and some of the winter heat load. Other considerations include contractor availability, as NCPA competes with many other power plant operators, and transmission outage coordination. Assumptions and opportunity costs were provided to help with an economic approach.

The CT1 Alameda Units 1 and 2, includes a dual unit outage for 31 days from March 1 – 31, 2023 for routine controls and excitation. Geo Plant 1 Units 1 and 2 are also in a dual outage for 16 days from March 1 – 16, 2023. This needs to be a dual outage due to clearance issues for annual yardwork, and both units need to shut down. Collierville Unit 1 and 2 is also in a dual outage on September 30, 2023, and October 1, 2023 for maintenance.

Motion: A motion was made by Brian Schinstock and seconded by Basil Wong recommending Facilities Committee approval of the NCPA 2023 Plant Outage Schedule as presented at the August 3, 2022 Facilities Committee meeting, for submission to the CAISO. A vote was taken by roll call: YES = Alameda, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Biggs and Redding. The motion passed.

8. NCPA Geothermal Facility – Geothermal Plant 1 Cooling Tower Refurbishment Project – Staff provided background information and was seeking a recommendation for Commission approval of the Geothermal Plant 1 Cooling Tower Refurbishment Project, including delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed of \$2,858,647.

The Geothermal Plant 1 Cooling Tower needs refurbishment and thermal upgrade services. NCPA staff have identified possible thermal performance deficiencies due to the aging structure and fill technology. The Geothermal facility is seeking to replace the existing aging cooling tower splash fill with a modern fill that will increase thermal performance, thus increasing net MW output to the grid. Pre-project work, including engineering, estimating, and RFP issuance, has already been completed.

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

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

Funds for this project will come from the FY23 and FY24 budget (including encumbered funds). Funds from the FY24 budget are contingent upon future approval of the FY24 budget, and no commitment of funds will be made until that date. No cash collection or budget augmentation is required. Purchase orders referencing the terms and conditions of any agreements executed for work related to this project will be issued following NCPA procurement policies and procedures.

The Plant 1 Cooling Tower Refurbishment Project cost breakdown is shown below.

- | | |
|---|-------------|
| • Phase 1 – Material Procurement & Delivery (FY23) | \$ 755,564 |
| • Contingency (~24%) | \$ 244,436 |
| • Phase 1 Total: | \$1,000,000 |
| • Phase 2 – Cooling Tower Refurbishment (FY24) | \$1,548,873 |

- Contingency (~20%) \$ 309,774
- Phase 2 Total: \$1,858,647

- **Total Plant 1 Cooling Tower Refurbishment Project Cost \$2,858,647**

In accordance with NCPA's procurement policies and procedures, a formal competitive bid process was followed. On March 16, 2022, a Request for Proposal for the Geothermal Plant 1 Cooling Tower Refurbishment Project was released, with final bids due May 26, 2022. A bid walk took place on March 29, 2022, and there were two attendees. Two vendors submitted bids: EvapTech, Inc. and SPX Cooling Technologies, Inc. The bids received are currently being evaluated by NCPA staff, and work for this project will be awarded to the most qualified bidder.

Motion: A motion was made by Basil Wong and seconded by Melissa Price recommending Commission approval authorizing the Geothermal Plant 1 Cooling Tower Refurbishment Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed of \$2,858,647. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Port of Oakland, Roseville, and Santa Clara. ABSTAIN = Biggs, Palo Alto, and Redding. The motion passed.

9. Approval of Special Conditions Agreement for Grant Administration between NCPA and Plumas-Sierra Rural Electric Cooperative – Staff presented background information and was seeking a recommendation for Commission approval of a Special Conditions Agreement for Grant Administration between NCPA and Plumas-Sierra Rural Electric Cooperative.

Plumas-Sierra seeks to reinforce its electric tie with a new transmission line to NV Energy's system. It proposes constructing the Fort Sage to Herlong Interconnect Project ("Project"), which would provide system reliability and access to additional markets for Plumas-Sierra. Plumas-Sierra is seeking partial funding for the Project through a United States Department of Defense, Defense Community Infatuation Pilot Program Grant ("Grant"). Only state and local agencies, including multijurisdictional entities like NCPA, can apply for the Grant.

NCPA will be acting as the applicant and pass-through entity for the Grant on behalf of Plumas Sierra. Plumas-Sierra would act as the Grant's sub-recipient and perform all of the work associated with the development and construction of the Project. As the applicant, NCPA's responsibilities would include oversight of the grant application, designation of Plumas-Sierra as the Grant sub-recipient and potentially, verification of compliance with Grant requirements. Plumas Sierra will be required to assume all other responsibilities of the Grant.

NCPA submitted the Grant application on behalf of Plumas-Sierra on July 18, 2022. The Office of Local Defense Community Cooperation (OLDCC) will notify NCPA/Plumas-Sierra of whether the Grant is awarded or not. OLDCC anticipated that it would notify applicants in mid-September. If awarded, the grant agreement will be sent for execution. NCPA/Plumas-Sierra has the opportunity to accept or reject the Grant at this juncture. If the Grant is awarded, the deadline for executing the grant agreement to accept the award and commit to the Project is September 23, 2022.

The Power Management Administrative Services Agreement (PMASA) provides for a number of agreements that sit under the PMASA structure including the Single Member Services Agreement and the Special Conditions Agreement. NCPA with input from Plumas-Sierra created the Special Conditions Agreement from the approved form of the Single Member Services Agreement. The Special Conditions Agreement establishes Plumas-Sierra as the party responsible for all costs associated with this activity, provides that Plumas-Sierra will indemnify NCPA for the costs and risks associated with the Grant, establishes the process for administering the Grant application and any funding awarded as part of the Grant, and provides a term consistent with the duration of the Grant.

If OLDCC awards the Grant to NCPA/Plumas-Sierra, all three parties will enter into a grant agreement. The grant agreement will establish NCPA as a pass-through entity for the Grant and Plumas Sierra will be designated as a sub-recipient. These roles are all allowed under the terms of this Grant. Plumas-Sierra will reimburse NCPA for its costs incurred under the Special Conditions Agreement. Therefore, there is no direct fiscal impact to NCPA.

Motion: A motion was made by Mike Brozo and seconded by Basil Wong recommending Commission approval of the Special Conditions Agreement for Grant Administration between NCPA and Plumas-Sierra REC ("Special Conditions Agreement"), and to authorize the General Manager of NCPA to (i) execute the Special Conditions Agreement and (ii) upon execution of the Special Conditions Agreement, execute the Grant Agreement if accepted, including any modifications to Special Conditions Agreement approved by NCPA's General Counsel. A vote was taken by roll call: YES = Alameda, Gridley, Lodi, Palo Alto, Plumas-Sierra, Port of Oakland, Redding, Roseville, and Santa Clara. ABSTAIN = Biggs. The motion passed.

INFORMATIONAL ITEMS

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

Calpine Geothermal Offer

- Term: 12 years commencing 1/1/2025
- Volume: 50 MW base 7x24; potentially up to an additional 50 MW
- Price: To Be Discussed
- All other terms per the term sheet
- Key Next Steps:
 - Transaction Confirmation Negotiations
 - RA Agreement
 - RPS Agreement
 - Member Project subscription
 - Third Phase Agreement process
 - Confirmation of level of interest

M-S-R Scheduling Coordinator RFP

- M-S-R Members: Modesto Irrigation District, Silicon Valley Power, Redding Electric Utility
- NCPA has been contacted to discuss possible Scheduling Coordinator services with M-S-R
- M-S-R currently has off-take contracts with two wind projects located in the NW
 - Big Horn I
 - Big Horn II
- Description of services requested
 - Tagging and tracking services
 - Settlement and reporting services

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

Geo – There were no safety incidents to report for the month of July. Safety training is 65% complete. The plant conducted hands on CPR/AED training. Vegetation management continued for the month. The average net generation level for the month was 90.5 MW. Total net generation was 67.3 GWh. Actual year 2022 net generation was 458.9 GWh YTD, 2.8% over forecasted. The year 2022 Net Generation Forecast was 446.3 GWh YTD. The Lakeville Transmission line was in an outage July 22 – 23, 2022. Preparation for the Plant 2 overhaul from November 1 – December 16,

2022, continued during the month. Maintenance activities included Unit 4 turbine rotor refurbishment, completion of Plant 1 and 2 yard repairs, and routine plant and steam field work.

CTs – CT1 had 18 actual starts, 16 in real time, of 76 forecasted. FYTD total is 18 starts. CT2 had 2 starts this month of 10 forecasted. FYTD total is 2 starts. CT1 Lodi was forced into an outage due to an oil leak repair at load gear to generating coupling. CT1 Alameda Unit 2 was in a forced outage due to AVR Relay replacement. CT1 Lodi has used 121.3 hours (60%) of 200 allowed based on a calendar year. CT1 Alameda Diesel Unit 1 has used 13.15 hours of 20, and Unit 2, 12.78 hours of 20, based on a rolling year. Staff reviewed the CAISO Commitment Runs for July 2022.

Hydro – Collierville (CV) Power House was 99% available during the month of July because of brushes and collector ring swap. New Spicer Meadows Power House was at 91% availability due to a PG&E forced outage because of the Electra Wildfire. New Spicer Meadows storage decreased by 7,701 acre feet at 6% month over month from 123,900 acre feet to 116,199 acre feet. Current operations are continuing in the water conservation mode. During the month FM Global conducted inspections and mitigations. Staff also gave a Member and NCPA Intern tour. Current regulatory activities include FERC and DSOD annual inspections next week, FERC review of QCIP for annual dam maintenance, the 2020-2021 water year reports have been completed and filed, conducting ongoing CAOES EAP consultations, Lake Alpine Dam stability analysis, and performed decennial McKays plunge pool inspection. Completed maintenance activities include replacing various lightning damaged devices at Beaver and McKays, completed annual vegetation management of 230 kV ROW, scoping for fall protection system at New Spicer Reservoir and campground water tank recoating, and preparing for Lake Alpine and Union Dam maintenance. Parts have been arriving for the CV transformer refurbishment.

12. Planning and Operations Update –

Summer of 2022 Readiness

- CAISO Credit Discussions – NCPA has worked with 5 NCPA Members to supplement their credit posting for CAISO EAL, and has increased the CAISO EAL credit posting by approximately \$21,000,000.
- CAISO Market Conditions – Temperatures have been consistent, forward curves are softening, and there has been no system emergencies or load shedding events to date.

Resource Integrations in Progress

- Antelope Solar (NCPA) – October 2022
- Deer Creek – TBD
- Sandborne Storage – Q1 2023
- Scarlet Solar / Storage – Q1 2023
- Dagget Solar / Storage – Q4 2022
- Proxima Solar / Storage – Q3 2023

Meter Maintenance Program Development

- CAISO Certified Meters must to certified and repaired in short order. NCPA staff have been experiencing a growing number of challenges without the Meter Maintenance Program. Staff propose developing a new Meter Maintenance Program to enable timely responses to issues. A RFP was created for these services. NCPA received proposals from Trimark Associates, Inc., and Ulteig Engineering, Inc. Staff is asking Members to reach out with questions regarding this agreement, and what type of services and needs Members interested the Meter Maintenance Program would need.

13. Next Meeting – The next Facilities Committee meeting is scheduled for September 7, 2022.

ADJOURNMENT

The meeting was adjourned at 11:37 am by the Committee Vice Chair.

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

[illegible]

**Northern California Power Agency
August 3, 2022 Facilities Committee Meeting
Attendance List**

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

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



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. – Five Year Multi-Task General Services Agreement for Motor Maintenance Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

Approve Resolution 22-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. for motor maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

BACKGROUND:

Various motor maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Caltrol, Inc., Custom Valve Solutions Koffler Electrical Mechanical Apparatus and Martech.

FISCAL IMPACT:

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

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On September 12, 2022 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 22-XX
- Multi-Task General Services Agreement with Modesto Industrial Electrical Co, Inc. dba Industrial Electrical Co., Inc.

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH MODESTO INDUSTRIAL ELECTRICAL CO., INC. DBA INDUSTRIAL ELECTRICAL CO., INC.

(reference Staff Report XXX:22)

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

WHEREAS, Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. is a provider of these services; and

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

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

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

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022 by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
MODESTO INDUSTRIAL ELECTRICAL CO., INC.
DBA INDUSTRIAL ELECTRICAL CO., INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc., a corporation with its office located at 1417 Coldwell Avenue, Modesto, CA 95350 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2022 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

- 4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** Not Applicable.
- 4.4 Pollution Insurance.** Not Applicable.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.5.5 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.6 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONTRACTOR.

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

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge

and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

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

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

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

- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

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

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

- 8.4.1** Immediately terminate the Agreement;

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

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

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

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

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

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

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

subcontractors who have a need to know in connection with this Agreement.

Section 10. PROJECT SITE.

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

Section 11. WARRANTY.

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

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

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

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

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

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

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

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

12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for

any Work performed when, Contractor is not in full compliance with this Section 12.

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

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2** **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 13.7 Contract Administrator.** This Agreement shall be administered by the Assistant General Manager, Generation Services, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:

Industrial Electrical Co., Inc.
Attention: Rich Hodge
1417 Coldwell Avenue
Modesto, CA 95350

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane E. Luckhardt
General Counsel

Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

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

(if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

MODESTO INDUSTRIAL ELECTRICAL
CO., INC DBA INDUSTRIAL ELECTRICAL
CO., INC.

Date_____

Date_____

RANDY S. HOWARD
General Manager

PAUL SWANSON,
COO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. ("Contractor") shall provide motor maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Motor Maintenance
- Motor Replacements

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

HOURLY LABOR SCHEDULE

(Revised 10/1/21)

MOTOR SHOP			
	Modesto	Fresno	
Mechanical Labor	98.00	98.00	HR.
Mechanical O.T.	147.00	147.00	HR.
Double Time	196.00	196.00	HR.
Service Call	135.00	135.00	HR.
Service Call O.T.	202.50	202.50	HR.
Service Call D.T.	270.00	270.00	HR.
WELDER - SMALL ENGINE - GENERATOR REPAIR			
All Others	98.00	98.00	HR.
Service Call	135.00	135.00	HR.
Advanced Welder & Robotics	135.00	135.00	HR.
Generator Service (In Shop)	98.00	98.00	HR.
Generator Service (In Shop) O.T.	147.00	147.00	HR.
Generator Service (In Shop) D.T.	196.00	196.00	HR.
Generator Service (Service Call)	135.00	135.00	HR.
Generator Service (Service Call) O.T.	202.50	202.50	HR.
Generator Service (Service Call) D.T.	270.00	270.00	HR.
EFS SHOP RATES			
In Shop Service	135.00	135.00	HR
On Site Service - M-F 8-4:30	135.00	135.00	HR
On Site Service - Emergency Call - M-F 8-4:30	270.00	270.00	HR
On Site Service - Emergency Call - After Hours	270.00	270.00	HR
FRESNO SHOP RATES			
	Fresno		
All Others	98.00		HR.
Service Call - Distributors	90.00		HR.
Service Call - All Others	135.00		HR.
Robinair	98.00		HR.
Robinair Service Call	135.00		HR.

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

Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Nooter Eriksen, Inc. – Five Year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies for Chemical Purchases; Applicable to the following: All Northern California Power Agency (NCPA) Facilities

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 22-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Nooter Eriksen, Inc. for heat recovery steam generator (HRSG) support services and parts, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years, for use at any facilities owned and/or operated by NCPA.

BACKGROUND:

Various heat recovery steam generator (HRSG) support services and parts are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA currently has agreements in place with HRST, Inc. and Tetra Engineering Group, Inc. for similar services.

FISCAL IMPACT:

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

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On September 12, 2022 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 22-XX
- Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Nooter Eriksen, Inc.

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT AND AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES WITH ARGO CHEMICAL, INC.

(reference Staff Report XXX:22)

WHEREAS, various heat recovery steam generator (HRSG) support services and parts are required from time to time for the operation and maintenance of facilities owned and/or operated by the Northern California Power Agency (NCPA); and

WHEREAS, Nooter Eriksen, Inc. is a provider of these services and parts; and

WHEREAS, the NCPA Commission has reviewed the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Nooter Eriksen, Inc. to provide such services and parts as needed at any facilities owned and/or operated by NCPA; and

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

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

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022 by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT AND AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NOOTER ERIKSEN, INC.**

This agreement for general services and purchase of equipment, materials, and supplies ("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 Nooter Eriksen, Inc., a Missouri corporation with its office located at 1509 Ocello Drive, Fenton, MO 63026 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2022 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or equipment, materials, and supplies ("Goods") described in the Scope of Work attached hereto as Exhibit A and incorporated herein (both services and Goods collectively referred to as "Work" herein). Contractor shall be responsible at its sole expense for delivering the Goods, as further specified herein, to the specified Project Site, DDP, and title shall not pass until the Agency accepts delivery at the Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. For Contractor personnel working at Agency's facilities, 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 working at Agency's facilities, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap or 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.

For Services: Contractor shall submit invoices, in accordance with any payment schedule identified in the Purchase Order, or 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, if billed by Contractor to Agency on a time and material basis, 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, if billed by Contractor to Agency on a time and material basis, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

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

All invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678

Attn: Accounts Payable
AcctsPayable@ncpa.com

- 2.2 Monthly Payment.** Unless there is a payment schedule provided for in the Purchase Order, Agency shall make payments, based on invoices received, for Work satisfactorily performed and for authorized reimbursable costs incurred, or for delivery of the Goods, per the delivery terms of this Agreement. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 Payment of Taxes.** Contractor is solely responsible for the payment of all applicable federal and state taxes, including employment taxes, incurred under this Agreement. Agency is responsible for the payment of all local sales, use, and excise 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 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 limit of \$2,000,000 per

occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 edition 4/13 on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$1,000,000.

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance form CA 0001 edition 10/13 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), used by Contractor in connection with Work under this Agreement, whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$1,000,000. 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 those stated.

4.3 [Intentionally omitted]

4.4 Pollution Insurance. Intentionally left blank.

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained , 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 cancellation of the policies referenced in Section 4.

4.5.3 [Intentionally omitted]

4.5.4 Additional Certificates and Endorsements. Not Applicable.

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all third party (for avoidance of doubt Agency employees are considered third parties for purposes of this paragraph 5.2) losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any negligent acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the active, sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under California 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 approval will not be unreasonably withheld taking into account Agency's status as a California public agency and any previous experience Agency has with proposed subcontractor. 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 performed at Agency's facilities is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 Registration with DIR.** During the term of this Agreement, in the event Contractor performs Work at Agency's facilities, 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 at Agency's facilities. 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.

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

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. 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 and any penalties assessed to Contractor or Agency for underpayment.

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.

Unless there is a termination schedule or payment provided for in the Purchase Order, in the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination including unreimbursed costs incurred in connection with fulfilling the Purchase Order and reasonable profit and overhead associated with those costs up to the date of termination; Agency, however, may condition payment of such compensation

upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof).

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

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

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

8.4.1 After a reasonable opportunity to cure, 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; provided, however, the underlying intellectual property rights in any documents (including any patent rights, trademarks, copyrights, trade secrets, know-how or other intellectual property rights) shall remain with Consultant. 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; provided, however, Contractor's financial and accounting books and records shall only be made available to verify cost billed to Agency on a time and material or cost plus basis as long as such limitation is consistent with California law. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.

9.4 Confidential Information and Disclosure.

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

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

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such

remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

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

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

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

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

Section 10. PROJECT SITE.

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

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, unless otherwise specified on the Purchase Order. 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, without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be

presumed to have been abandoned by the Contractor. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

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

- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the one (1) year period following completion of the Work, but in no event longer than eighteen (18) months from delivery, 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 reasonable satisfaction. In the event of a defect, Agency shall provide clear access to the Work at the installation site; provided, however, that Contractor shall be responsible for any cost related to uncovering, disassembly

or reassembly of parts or hardware required for Contractor to perform its warranty obligations.

Contractor's warranty does not include remedies for defects or damages caused by normal wear and tear, improper or insufficient operation, maintenance, or modifications performed by Agency or others retained by Agency, or abuse (including, but not limited to, any damage resulting from corrosion, erosion, water hammer, thermal shock, or drum water carryover, except for issues resulting from Contractor's design or Contractor's operating procedures).

ALL OTHER WARRANTIES, OTHER THAN THOSE WARRANTIES SET FORTH IN THIS SECTION ABOVE, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

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

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

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards commonly associated with HRSG(s) 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, to the extent necessary to protect Agency, payment due from Agency to Contractor under this Agreement may be withheld at any time when, or for any Work performed when,

Contractor is not in full compliance with this Section 12 until Contractor remedies said non-compliance.

- 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 generated or created by Contractor. 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** If generating or bringing Hazardous Material to the Project site, Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

Section 13 MISCELLANEOUS PROVISIONS.

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

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

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

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

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

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

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

Nooter Eriksen, Inc,
Attention: Jim Mahan
1509 Ocello Drive
Fenton, MO 63026

With a copy to:

General Counsel
Nooter Eriksen, Inc.
1509 Ocello Drive
Fenton, MO 63026

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative

dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 13.16 Waiver of Consequential Damages.** Notwithstanding anything contained herein to the contrary, the Contractor and Agency waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes 1) damages incurred by the Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and 2) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.
- 13.17 Limitation of Liability.** In recognition of the relative risks and benefits of the Work to both the Agency and the Contractor, the risks have been allocated such that the Agency agrees, to the fullest extent permitted by law, to limit the liability of the Contractor, whether arising from breach of contract, negligence, or other common law or statutory theory of recovery, or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of the Contractor shall not exceed: (i) one hundred percent (100%) of the Purchase Order Price where the Purchase Order price is greater than or equal to one hundred thousand dollars (\$100,000), or (ii) one hundred twenty-five percent (125%) of the Purchase Order price for the Purchase Order where the Purchase Order price is less than one hundred thousand dollars (\$100,000). It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited

by law, including but not limited to negligence, breach of contract, or any other claim whether in tort, contract, or equity, **except for (i) Contractor's insurance proceeds to the extent such proceeds result from a claim arising out of or related to this Agreement and is covered by the insurance policies required and set forth in Section 4; or (ii) indemnity obligations for claims being asserted by a nonaffiliated third party (expressly excluding Agency claims) concerning bodily injury, death, or property damage.**

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

NORTHERN CALIFORNIA POWER AGENCY

NOOTER ERIKSEN, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

JAMES W. MAHAN,
Aftermarket Account Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Nooter Eriksen, Inc. ("Contractor") shall provide heat recovery steam generator (HRSG) support services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency:

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

- Field technical assistance (FTA) on major HRSG related maintenance and modifications
- Engineering and Design
- Component (regular and routine component purchases)
 - Replacement Coils
 - Tube & Heater
 - SCR & CO Systems
 - Stack Dampers
 - Burners
 - Liner Systems
 - Drum

At the request of Agency, Contractor shall also supply:

- Parts as requested.

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Services will be quoted at the time they 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

Nooter Eriksen, Inc.

(Company name)

for contract work at

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE - EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE - EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Unique Scaffold – Five Year Multi-Task General Services Agreement for Scaffold Related Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 22-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Unique Scaffold for scaffold related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$4,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

BACKGROUND:

Various scaffolding related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with American Industrial Scaffolding, Inc., ASRC/D2 Industrial (pending), BrandSafway, LLC and Elevator, LLC.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$4,000,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

AFTER LEC PPC APPROVAL: On September 12, 2022 the Lodi Energy Center Project Participant Committee reviewed and approved the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 22-XX
- Multi-Task General Services Agreement with Unique Scaffold

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH UNIQUE SCAFFOLD

(reference Staff Report XXX:22)

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

WHEREAS, Unique Scaffold is a provider of these services; and

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

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$4,000,000 over five years, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022 by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
UNIQUE SCAFFOLD**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Unique Scaffold, an S-corporation with its office located at 2501 Annalisa Drive, Concord, CA 94520 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2022 ("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** FOUR MILLION dollars (\$4,000,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident. The alternate employer endorsement (WC 00 03 01 A) shall be attached showing Northern California Power Agency, in the schedule as the alternate employer.

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 or any it employs or subcontracts. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

- 4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Not Applicable

4.4 Pollution Insurance. Not Applicable

4.5 All Policies Requirements.

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

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

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONTRACTOR.

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

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge

and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

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

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

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

- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

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

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

- 8.4.1** Immediately terminate the Agreement;

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

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

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

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

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

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

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

subcontractors who have a need to know in connection with this Agreement.

Section 10. PROJECT SITE.

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

Section 11. WARRANTY.

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

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

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

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

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

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

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

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

12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for

any Work performed when, Contractor is not in full compliance with this Section 12.

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

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2** **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 13.7 Contract Administrator.** This Agreement shall be administered by Michael DeBortoli, 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:

John Soto
President
Unique Scaffold
2501 Annalisa Drive
Concord, CA 94520

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane E. Luckhardt

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

UNIQUE SCAFFOLD

Date_____

Date_____

RANDY S. HOWARD, General Manager

JOHN SOTO, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

As requested by the Agency, Unique Scaffold ("Contractor") shall provide routine, recurring, and usual scaffolding maintenance services for the preservation, protection, and keeping of any facilities owned and/or operated by Agency, its members, Southern California Public Power Authority ("SCPPA") or SCPPA members, in a safe and continually usable condition.

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

- Assemble, safety tag scaffold, inspect scaffold, modify scaffold structures, disassemble scaffold.
- Contractor is responsible for inspecting and tracking scaffold materials being stored and erected to ensure scaffold quality is within the Cal-OSHA requirements and Industry Standard Guidelines.

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

NCPA Lodi July/01/2022 Thru June/30/2023 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$110.13	\$138.41	\$170.38	\$70.00
NCPA Lodi July/01/2023 Thru June/30/2024 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$115.50	\$145.25	\$178.75	\$75.00
NCPA Lodi July/01/2024 Thru June/30/2025 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$121.25	\$152.50	\$187.50	\$80.00
NCPA Lodi July/01/2025 Thru June/30/2026 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$127.25	\$160.00	\$196.70	\$85.00
NCPA Lodi July/01/2026 Thru June/30/2027 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Tim</u>	<u>Driver Drive Time</u>
Per Hour	\$133.50	\$168.00	\$206.50	\$90.00
*Driver drive time (Round Trip) will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 1 hour each way. 2 total.				

NCPA Geysers July/01/2022 Thru June/30/2023 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$110.13	\$138.41	\$170.38	\$70.00
NCPA Geysers July/01/2023 Thru June/30/2024 Rates				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$115.50	\$145.25	\$178.75	\$75.00

NCPA Geysers July/01/2024 Thru June/30/2025 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$121.25	\$152.50	\$187.50	\$80.00

NCPA Geysers July/01/2025 Thru June/30/2026 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$127.25	\$160.00	\$196.75	\$85.00

NCPA Geysers July/01/2026 Thru June/30/2027 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$133.50	\$168.00	\$206.50	\$90.00

***Travel Time**

Will apply to all crew members one way only except the driver (see below for driver). 3 hours one way only.

***Driver drive time only (Round Trip)**

Will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 3 hours each way. 6 total.

NCPA Alameda July/01/2022 Thru June/30/2023 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$113.74	\$145.73	\$180.10	\$75.00 Round Trip

NCPA Alameda July/01/2023 Thru June/30/2024 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$119.25	\$153.00	\$189.00	\$80.00 Round Trip

NCPA Alameda July/01/2024 Thru June/30/2025 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$125.00	\$160.25	\$198.00	\$85.00 Round Trip

NCPA Alameda July/01/2025 Thru June/30/2026 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$131.00	\$168.00	\$207.75	\$90.00 Round Trip

NCPA Alameda July/01/2026 Thru June/30/2027 Rates

<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Tim</u>	<u>Driver Drive Time</u>
Per Hour	\$137.50	\$176.00	\$218.00	\$95.00 Round Trip

*Driver drive time (Round Trip) will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 1 hour each way. 2 total.

- **Daily use of Flatbed and Pickup Truck will be billed as follows.**
 - July/01/2022 thru June/30/2023. Pickup \$60.00 plus \$0.50 per mile. Flatbed \$80.00 plus \$1.00 per mile
 - July/01/2023 thru June/30/2024. Pickup \$70.00 plus \$0.50 per mile. Flatbed \$90.00 plus \$1.00 per mile
 - July/01/2024 thru June/30/2025. Pickup \$80.00 plus \$0.50 per mile. Flatbed \$100.00 plus \$1.00 per mile
 - July/01/2025 thru June/30/2026. Pickup \$90.00 plus \$0.50 per mile. Flatbed \$110.00 plus \$1.00 per mile
 - July/01/2026 thru June/30/2027. Pickup \$100.00 plus \$0.50 per mile. Flatbed \$120.00 plus \$1.00 per mile
- **Scaffold material rental for the initial 28 days are FREE. Rental there after will be billed as follows.**
 - July/01/2022 thru June/30/2023 rental will be billed at \$0.09 per piece, per day, plus tax.
 - July/01/2023 thru June/30/2024 rental will be billed at \$0.10 per piece, per day, plus tax.
 - July/01/2024 thru June/30/2025 rental will be billed at \$0.11 per piece, per day, plus tax.
 - July/01/2025 thru June/30/2026 rental will be billed at \$0.12 per piece, per day, plus tax.
 - July/01/2026 thru June/30/2027 rental will be billed at \$0.13 per piece, per day, plus tax.
- **Shrink wrap material/ accessories that are used per-request will be billed per (½ roll and or full roll) 12mil 30' x 100' as follows.**
 - July/01/2022 thru June/30/2023 \$700.00 per full roll and \$350.00 per half roll, plus tax.
 - July/01/2023 thru June/30/2024 \$710.00 per full roll and \$355.00 per half roll, plus tax.
 - July/01/2024 thru June/30/2025 \$720.00 per full roll and \$360.00 per half roll, plus tax.
 - July/01/2025 thru June/30/2026 \$730.00 per full roll and \$365.00 per half roll, plus tax.
 - July/01/2026 thru June/30/2027 \$740.00 per full roll and \$370.00 per half roll, plus tax.
- Consumables such as wire, nails, toe-board, and small tools are included in the pricing.
- Other consumables, i.e. full sheets of plywood, safety netting, I-beams or any other items uncommonly used for day to day scaffold use will be billed at cost plus 15%.
- Freight (Semi-Truck) will be billed at cost plus 15%.
- Engineering will be billed at cost plus 15%.
- Third Party rental equipment will be billed at cost plus 15%.
- Budget pricing will be provided for all projects prior to starting work, except for emergency call out work. Pricing for this work will provided in a timely manner.
- All work will be done in accordance with NCCRC Agreement.
- Unique Scaffold will coordinate directly with NCPA on work being performed and at the sole discretion of on-site Manager(s).
- Unique Scaffold's project manager's responsibilities shall include inspection and tracking of all scaffold materials being stored and erected to ensure scaffold quality is within the Cal – OSHA requirements and Industry Standard Guidelines.
- No back charge for work by others on or incidental to our work under this Agreement will be accepted by or paid by us unless we have entered into written agreement relative to said charges prior to the performance of such work.
- Bid assumes that a material stocking area will be provided near the area being erected or dismantle.
- Bid excludes cost of site-specific safety orientation or drug testing.
- Prices quoted are based on reasonable site access, allowed, and/or provided by Customer.
- Pricing is based on Union wages.

- Bid assumes that Unique Scaffold may operate a forklift which may be used to help load and unload truck and moving equipment around the jobsite.
- At your request, we shall make alterations and repairs at your expense. Unless otherwise specified herein, no alterations to our work shall be made by you without our written consent. Additional Labor and/or rental beyond the original scope of work will be performed on a Time & Material basis, with additional rental equipment charges to be charged at rates mentioned above.
- Any un-scheduled work/call outs will be a minimum of 4 hours per man & a 2 hour minimum per man (with travel time (if applicable) in the event job gets cancelled due to weather.
- T&M All – Inclusive Labor rates are effective 07/01/22 thru 06/30/2027.

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

Unique Scaffold

(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 established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Ford Construction Company, Inc. – Five Year Multi-Task General Services Agreement for General Maintenance Related Services; Applicable to the following: All Northern California Power Agency (NCPA) Facilities (except the Lodi Energy Center), NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

AGENDA CATEGORY: Consent

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

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

Approve Resolution 22-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Ford Construction Company, Inc. for general maintenance services, 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 any facilities owned and/or operated by NCPA (except the Lodi Energy Center), NCPA Members, by SCPA, and SCPA Members.

BACKGROUND:

General maintenance services, including superficial concrete patching maintenance, minor dam maintenance, minor road and drainage maintenance, and minor utility easement maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA (except the Lodi Energy Center), NCPA Members, by SCPA, and SCPA Members. The current agreement with Ford Construction Company, Inc. is expiring. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future projects. NCPA has agreements in place for similar services with K.W. Emerson, Inc. and Syblon Reid.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$3,000,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

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

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Pending Committee Review.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution 22-XX
- Multi-Task General Services Agreement with Ford Construction Company, Inc.

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH FORD CONSTRUCTION COMPANY, INC.

(reference Staff Report XXX:22)

WHEREAS, superficial concrete patching maintenance, minor dam maintenance, minor road and drainage maintenance and minor utility easement maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by the Northern California Power Agency (NCPA) (except the Lodi Energy Center), NCPA Members, by the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Ford Construction Company, Inc. is a provider of these services; and

WHEREAS, the NCPA Commission has reviewed the Multi-Task General Services Agreement with Ford Construction Company, Inc. to provide such services as needed at any facilities owned and/or operated by NCPA (except the Lodi Energy Center), NCPA Members, by SCPPA, and SCPPA Members; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement, with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$3,000,000 over five years, for use at any facilities owned and/or operated by NCPA (except the Lodi Energy Center), NCPA Members, by SCPPA, and SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022 by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
FORD CONSTRUCTION COMPANY, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Ford Construction Company, Inc., a corporation with its office located at 300 W. Pine Street, Lodi, CA 95240 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2022 ("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** THREE MILLION dollars (\$3,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 Pollution Insurance. Not Applicable.

4.5 All Policies Requirements.

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

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

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

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

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

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

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

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

- 8.4.3 Retain a different Contractor to complete the Work not finished by Contractor.

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 in good condition.

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

Section 11. WARRANTY.

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

11.2 Deficiencies in Work. In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the

Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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

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

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

conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.

- 12.7 Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8 Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10 If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

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

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

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

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

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

Ford Construction Company, Inc.
Attention: Nicholas B. Jones, President
300 W. Pine Street
Lodi, CA 95240

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

FORD CONSTRUCTION COMPANY, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

NICHOLAS B. JONES,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Ford Construction Company, Inc. ("Contractor") shall provide normal, usual and recurring maintenance related services as requested by Northern California Power Agency ("Agency") (except LEC), Agency Members, SCPPA, or SCPPA Members.

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

- Superficial concrete patching / maintenance
- Minor dam maintenance
- Minor road / drainage maintenance
- Minor utility easement maintenance

Ford Construction Company, Inc. is not a signatory to the Maintenance Labor Agreement for the Lodi Energy Center Project and therefore will not perform any such work at that NCPA facility.

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Description	Equipment	Labor	Labor	Labor
	Cost Bare	ST Cost	OT Cost	DT Cost
	\$/HR	\$/HR	\$/HR	\$/HR
-----BACKHOES-----				
Backhoe 430	73			
Backhoe 450	102			
Ripper	31			
Compaction Wheel	23			
4500# Breaker Attachment	65			
-----BLADES-----				
Blade 140M	130			
Blade 14M	175			
-----COMPACTORS-----				
Compactor 825	289			
Compactor CB214E Smooth, Paving	36			
Compactor 'CS583 Smooth/Pad	94			
Compactor CS76B w/shell kit	101			
Wacker	23			
VibPlate	23			
Rammex	43			
-----CRUSH & SCREEN PLANTS-----				
5'x16' Scalping Screen Track Mntd	202			
5'x18' Finishing Screen Track Mntd	202			
6'x18' High Frequency Screen	104			
Ashross Belt Unloader	225			
Dozer Trap	42			
Grizzly Static Screen	26			
Radial Stacker Belt 36"x80' Self Container	68			
Radial Belt 30"x100'	33			
Radial Belt 36"x60'	33			
-----DOZERS-----				
Dozer 834 Rubber Tire	209			
Dozer D6 K LGP	108			
Dozer D6R or T LGP	164			
Dozer D6T	160			
Dozer D8R or T	248			
Dozer D10R & T	447			
D6 Slope Board	16			
D8 Slope Board	16			
D6 Rock Rake	13			
4x4 Sheepsfoot	21			
5x5 Sheepsfoot	21			
-----EXCAVATORS-----				
Excavator 307	61			
Excavator 325	142			
Excavator 336	183			
Excavator 336 65' Long Reach	194			
Excavator 345	229			
Excavator 349	276			
Excavator 374	298			
Excavator 375	399			

JUL 1, 2022 - JUNE 27, 2023 CN600

Description	Equipment	Labor	Labor	Labor
	Cost Bare	ST Cost	OT Cost	DT Cost
	\$/HR	\$/HR	\$/HR	\$/HR
325-336 Ripper Shank	31			
345-349 Ripper Shank	31			
374-375 Ripper Shank	31			
325 Compaction Wheel	23			
336 Compaction Wheel	26			
345/349 Compaction Wheel	29			
375 Compaction Wheel	31			
Slope Roller	31			
325 Grapple	31			
375 Grapple/Clam Bucket	78			
325 Rotary Mower	43			
5,000 lb Breaker	78			
12,000 lb Breaker	150			
52,000 lb Surestrike breaker	94			
Felco Bedding Conveyor	78			
-----FORK & BOOM LIFTS-----				
Forklift 5,000 lb	41			
Forklift 25,000 lb	108			
Forklift 36,000 lb	147			
ForkLift Telescopic 10,000 lb	73			
Boomlift 4x4 60 ft	70			
-----FUEL MISC,-----				
Truck F550 (Fuel and Lube)	44			
Truck-(700 gal Fuel & Lube)	59			
Truck-(2000 gal Fuel & Lube)	68			
Fuel Tank, 10-12,000 Gal	7			
Fuel Trailer 5-10,000 Gal	16			
Fuel Cube 4,900 Gal	7			
Fuel & Lube Skid	7			
-----GENERATORS, WELDERS & AIR COMP-----				
GenSet 3500 w	20			
GenSet 25-Kw	49			
GenSet 56 Kw	86			
GenSet 74 Kw	115			
GenSet 84 Kw	133			
Light Plant	51			
Fusion Machine HDPE 1"-4"	12			
Fusion Machine HDPE 6"-18"	48			
Extrusion HDPE Welder	33			
Aircompressor 185 cfm	40			
-----GRADE CONTROL-----				
GPS Base Station	9			
GPS Rover Back Pack	11			
GPS Equipment Unit	25			
GPS Repeater Radio	2			
Laser	13			

JUL 1, 2022 - JUNE 27, 2023 CN600

Description	Equipment	Labor	Labor	Labor
	Cost Bare	ST Cost	OT Cost	DT Cost
	\$/HR	\$/HR	\$/HR	\$/HR
-----LOADERS-----				
Loader 210K Skip	44			
Loader 299 Track Skid Steer	73			
Loader 246 Rubber Tire Skid Steer	55			
Loader 248 Rubber Tire Skid Steer	47			
Loader 950	89			
Loader 972	145			
Loader 982	189			
Loader MT52 Walk Behind Skid Steer	33			
Loader IT 28	74			
210K Baker Olsen 5'-10' Spreader	26			
SS Forks	9			
SS 4 in 1 Bucket	9			
SS Picking Boom	9			
SS 6 Way Dozer	14			
SS Snow Plow Box	11			
SS 3" trencher	22			
SS Auger	7			
SS Broom	18			
SS Brush Grapple	24			
SS Hammer	35			
SS Mower	25			
SS Mulcher/Masticater	70			
950-972 Picking Boom	17			
950-972 Forks	17			
950-972 4 in 1 Bucket	20			
950/972 Side Dump Bucket	26			
-----MISC EQUIPMENT-----				
Straw Blower	172			
Chipper	114			
Steam Cleaner	36			
Magnet Tow Behind	55			
Concrete Mixer	29			
Bedding Box w/ Wheels 40cy	13			
Scraper Bridge 22'x37'	7			
Rail Car Bridge 9'4"x89'	14			
-----OFFICE AND SUPPORT-----				
Office Cube 10'	9			
Connex Office 20'	11			
Office Trailer Fully Self Contained 53'	51			
Connex Storage 20'	1			
Connex Storage 40'	3			
Soils Lab 20'	34			
-----SCRAPERS-----				
Scraper 627	407			
Scraper 657	602			
E-Ject Pull Scraper	33			

JUL 1, 2022 - JUNE 27, 2023 CN600

Description	Equipment	Labor	Labor	Labor
	Cost Bare	ST Cost	OT Cost	DT Cost
	\$/HR	\$/HR	\$/HR	\$/HR
-----TRACTORS, FARMING-----				
John Deere 5525N	70			
Challenger MT 965	223			
Mower 15' Schulte Batwing	81			
Mower 8' Flale	26			
BG 14'/16'/18' tow behind	7			
Disc, 10' Rome w/o Tires	39			
Disc 17'	59			
Plow 5 Gang	39			
-----TRUCKS & TRAILERS-----				
Truck 740 40 ton	237			
Mule	26			
SUV	22			
Truck F150	22			
Truck F250	28			
Truck F450/550 (w/Tools)	49			
Truck-(Mechanic)	58			
Truck-Fuel & Lube	86			
Flatbed 20' (Bare)	43			
Transport 5 axle incls trailer	128			
Trailer 15 ft Tilt	16			
Trailer 20 ft Tilt	17			
Trailer 16 ft Low Deck	13			
Trailer 20 ft High Deck	14			
Trailer 7x14 Dump	16			
Trailer 5x10 Dump	14			
Trailer Enclosed Cargo	13			
Trailer 500 gal Vacuum/Pothole	102			
-----WATER MISC-----				
Water Truck 2,000 gal	59			
Water Truck 740 8,000 gal	181			
Water Pull 637 8,000 gal	222			
Water Trailer 500 gal	16			
Water 500 Gal Fire Trailer	13			
Water 500 Gal Fire Skid	13			
Trailer 500 gal Vacuum/Pothole	102			
Water Stand 6 in	5			
Water Tower 12,000 gal	16			
Pump 3" Submersible	8			
Pump 4" Submersible	11			
Pump 6" Submersible	26			
Pump 10" Submersible-Electric	41			
Pump 3" -Trash	20			
Pump 4" -Trash	36			
Pump 6' Diesel	98			

JUL 1, 2022 - JUNE 27, 2023 CN600

Description	Equipment	Labor	Labor	Labor
	Cost Bare	ST Cost	OT Cost	DT Cost
	\$/HR	\$/HR	\$/HR	\$/HR
-----LABOR-----				
Project Manager/Superintendent		169	254	338
Project Engineer/Secretary		104	156	208
Transport Driver		80	120	160
Lab-Ford Foreman		117	157	198
Lab-General		98	129	160
Lab-Pipe		99	129	160
Lab-Pressure Pipe		100	131	163
Lab - Apprentice 1		57	78	98
Lab - Apprentice 2		81	103	126
Lab - Apprentice 3		87	112	137
Lab - Apprentice 4		92	120	148
Op-Foreman		141	189	237
Op-Group 2		138	185	232
Op-Group 3		136	182	227
Op-Group 4		134	178	223
Op-Group 5		132	175	218
Op-Group 6		129	172	214
Op-Group 7		128	169	210
Op-Group 8		126	166	206
Op-Group 8A		122	161	199
Op-Appr #1		94	119	144
Op-Appr #2		98	125	153
Op-Appr #3		102	132	161
Op-Appr #4		106	138	170
Op-Appr #5		119	157	195
Op-Entry Level 1		91	118	145
Op-Entry Level 2		99	131	163
Op-Entry Level 3		108	144	180
Op-Entry Level 4		116	157	197

Outside Equipment is Cost plus 15%

Outside Trucking is Cost plus 15%

Mobization In/Out is Cost plus 15%

Materials is Cost plus 15%

Work requiring a Subcontractor is Cost plus 15%

If Bonds are required for the project 1% will be added for all extra work

Contractor will provide 30 days' prior written notice of any rate changes to Agency.

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.

NOT APPLICABLE

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report

COMMISSION MEETING DATE:

SUBJECT: Approval of Northern California Power Agency's (NCPA) Casualty Insurance Program Extension

AGENDA CATEGORY: Consent

FROM:	Monty Hanks	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Administrative Services	<i>If other, please describe:</i>
Department:	Risk Management	

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

RECOMMENDATION:

Approve Resolution 22-XX authorizing the General Manager to extend the expiration of the Agency's Casualty insurance coverage from 12/31/2022 to 2/28/2023 at a not-to-exceed premium of \$347,000.

BACKGROUND:

The Northern California Power Agency (NCPA) utilizes Alliant Insurance Services, Inc. as the Agency's broker to procure Casualty insurance, including Liability, Workers Comp, and Auto coverages. Over the last several years, the renewal process has been increasingly challenging because of higher premiums and broker delays. The leading cause for this delay is the Liability program being presented and negotiated during the height of the wildfire season. Despite having a robust Wildfire Mitigation Plan and our vegetation management practice, the media coverage of California wildfires seems to suggest that our plants are in constant and imminent danger.

One of the goals identified in the 2021-2026 Strategic Plan was to develop a long-term, cost-effective insurance coverage strategy. The current casualty insurance coverage expires on December 31, 2022. After a thorough discussion with Alliant, they suggested moving the renewal outside the typical wildfire season by extending our current coverage by two months. In addition, after meeting with the Chief AEGIS underwriter in July 2022, they corroborated Alliant's recommendation stating that moving the renewal date was in the best interest of NCPA.

NCPA directed Alliant to approach the markets requesting if an extension to the current Casualty programs were an option they would consider. After a few months of negotiations, the markets agreed. A summary of the premiums is detailed in the table below:

	NCPA		
Program	Carrier	Current Premium	Extension NTE
Excess Liability	AEGIS	1,091,244	209,000
Excess Liability	EIM	179,460	34,000
Excess Liability	Ironshore	77,437	15,000
Workers Comp	Liberty Mutual	229,089	44,000
Auto	Liberty Mutual	60,185	12,000
		Total	314,000
	LEC		
Program	Carrier	Current Premium	Extension
Excess Liability	AEGIS	170,836	33,000
		Total	33,000
		Grand Total	347,000

Moving the renewal date of the liability insurance program will have no impact on the coverages or limits provided by the current program. Furthermore, moving the renewal date will not interfere with or change anything associated with the property insurance program provided by FM Global.

FISCAL IMPACT:

The total cost to extend the current liability insurance program is estimated not-to-exceed \$347,000. This cost is equal to the current pricing of the 2022 premium prorated for the two-month extension plus a small contingency for unexpected expenses.

ENVIRONMENTAL ANALYSIS:

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

COMMITTEE REVIEW:

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 22-XX

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING THE EXTENSION OF THE AGENCY'S CASUALTY INSURANCE PROGRAM

(reference Staff Report #XXX:22)

WHEREAS, the Agency utilizes the insurance brokerage services of Alliant Insurance Services, Inc. to market and place the Agency's Casualty insurance, including Liability, Workers Comp, and Auto coverages; and

WHEREAS, the renewal process has been increasingly challenging because of higher premiums and broker delays due to being negotiated during the height of the wildfire season; and

WHEREAS, the current casualty insurance coverage expires on December 31, 2022, and after a thorough discussion with Alliant, they suggested moving the renewal outside the typical wildfire season by extending our current coverage by two months; and

WHEREAS, after a few months of negotiations, the markets agreed to the two-month extension maintaining the same limits and levels of coverage; and

WHEREAS, underwriters have provided premium indications for the Casualty program; and

WHEREAS, in order to negotiate the extension of the policies, this action grants the authority to the General Manager to extend the expiration of the Agency's Casualty insurance coverage from 12/31/2022 to 2/28/2023 at a not-to-exceed premium of \$347,000; and

WHEREAS, the Facilities Committee reviewed and recommended on September 7, 2022 and LEC PPC reviewed and approved on September 12, 2022; and

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

NOW, THEREFORE BE IT RESOLVED that the Commission of the Northern California Power Agency approves granting the authority to the General Manager to extend the expiration of the Agency's Casualty insurance coverage from 12/31/2022 to 2/28/2023 at a not-to-exceed premium of \$347,000.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022
by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Rejection of All Original Bids Received on July 1, 2021 for the NCPA Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project; Applicable to the following: NCPA Geothermal Facility

AGENDA CATEGORY: Consent

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

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

RECOMMENDATION:

Approve Resolution 22-XX delegating authority to the General Manager or his designee to reject all original bids received on July 1, 2021 for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project.

BACKGROUND:

The emergency showers and eyewash stations at NCPA's Geothermal Plants #1 and #2 are in disrepair and out of compliance with current OSHA standards and must be replaced. An outside engineering firm was hired to provide an estimate for replacement of the thirteen emergency showers and eyewash stations. The engineering firm estimated this project would cost approximately \$200,000.

In accordance with the NCPA procurement policies and procedures, NCPA followed a formal Public Works Bid process for this project. On May 24 2021, NCPA posted a Notice Inviting Bids for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project (GEO376), with proposals due by July 1, 2021. Bid walks took place on June 8, 2021 and June 10, 2021, and there were three attendees. Staff received bids from two vendors, as shown below:

Vendor	Bid
Hudson Mechanical	\$829,480.00
Northern Industrial Construction	\$561,035.35

The bids received were substantially higher than the amount available for this project in the FY 2022 budget. The Contract Documents for this project allow the Agency to exercise its discretion and request the NCPA Commission to reject all bids. Geothermal project staff determined it would be prudent to delay this project until FY 2023 to allow time for additional funds to be allocated to perform this work. As a result of rejecting these bids, staff will be seeking approval of new bids that will be presented in a subsequent Staff Report.

FISCAL IMPACT:

At the time of original bidding, there was \$200,000 allocated for this work in the FY 2022 budget. Thus, there were not sufficient funds available for NCPA to move forward with this project based on the bids received. Geothermal project staff determined that delaying the project until the next fiscal year would allow time for additional funds to be allocated to perform this work.

ENVIRONMENTAL ANALYSIS:

The Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (b) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11) which exempts publicly owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacing and upgrading thirteen emergency shower and eyewash stations at NCPA's Geothermal Plants #1 and #2. This project will not change the function, size or operation of the Plants. Thus, this project conforms to these exemptions.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 22-XX

RESOLUTION 22-XX

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
AUTHORIZING REJECTION OF ALL ORIGINAL BIDS RECEIVED ON JULY 1, 2021 FOR THE
GEOTHERMAL PLANTS #1 AND #2 EMERGENCY SHOWER AND EYEWASH STATIONS
REPLACEMENT PROJECT**

(reference Staff Report #XXX:22)

WHEREAS, the emergency showers and eyewash stations at NCPA's Geothermal Plants #1 and #2 are in disrepair and out of compliance with current OSHA standards and must be replaced; and

WHEREAS, on May 24, 2021, NCPA posted a Notice Inviting Bids for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project (GEO376), with bids due by July 1, 2021; and

WHEREAS, bids were received from two bidders: Hudson Mechanical, \$829,480.00 and Northern Industrial Construction, \$561,035.35; and

WHEREAS, the original estimated cost for this project provided by an outside engineering firm was \$200,000; and

WHEREAS, the bids received were substantially higher than the amount available for this project in the FY 2022 budget and staff determined it would be prudent to delay the project until FY 2023 to allow time for additional funds to be allocated to perform this work. As a result of rejecting these bids, staff will be seeking approval of new bids that will be presented in a subsequent Staff Report; and

WHEREAS, the Contract Documents allow the Agency to exercise its discretion and request the NCPA Commission to reject all bids; and

WHEREAS, the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (b) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11) which exempts publicly owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacing and upgrading thirteen emergency shower and eyewash stations at NCPA's Geothermal Plants #1 and #2. This project will not change the function, size or operation of the Plants. Thus, this project conforms to these exemptions; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency delegates authority to the General Manager or his designee to reject all original bids received on July 1, 2021 for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022, by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: NCPA Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project; Applicable to the following: NCPA Geothermal Facility

AGENDA CATEGORY: Discussion/Action

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

IMPACTED MEMBERS:		
All Members	<input type="checkbox"/>	City of Lodi <input checked="" type="checkbox"/>
Alameda Municipal Power	<input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Biggs	<input checked="" type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Gridley	<input checked="" type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>
City of Healdsburg	<input checked="" type="checkbox"/>	City of Santa Clara <input checked="" type="checkbox"/>
	<i>If other, please specify</i>	Other <input checked="" type="checkbox"/>
		Turlock

RECOMMENDATION:

Approve Resolution 22-XX authorizing the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$915,000, and authorizing the use of \$558,000 from the FY 2023 Geothermal Facility Project Budget, \$117,000 from FY 2022 encumbered funds, \$140,000 from the Maintenance Reserve, and \$100,000 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund the project.

BACKGROUND:

The emergency shower and eyewash stations at NCPA's Geothermal Plants #1 and #2 are in disrepair and out of compliance with current OSHA standards. The scope of the project is to replace a total thirteen emergency showers and eyewash stations at both plants, and ensure that the stations are upgraded to OSHA standards.

FISCAL IMPACT:

Total cost of this project is not to exceed \$915,000. This amount includes \$142,186.86, or approximately 18%, in contingency funds. No cash collection or budget augmentation is required for this work. Additional Maintenance Reserve collections are not anticipated in future budget years to refund the Reserve. Purchase orders referencing the terms and conditions of any agreements executed for work related to this project will be issued following NCPA procurement policies and procedures.

A breakdown of funding sources is shown in the table below.

Description	Amount
FY 2023 Budget – Plants #1 & #2 Emergency Shower & Eyewash Stations	\$558,000
FY 2022 Budget – Plants #1 & #2 Emergency Shower & Eyewash Stations (Encumbered)	\$117,000
Maintenance Reserve – Deferred Well Workovers (\$500,000)	\$140,000
FY2023 Geothermal Facility O&M Budget	\$100,000
Total	\$915,000

SELECTION PROCESS:

In accordance with NCPA's procurement policies and procedures, Geothermal project staff followed a Public Works Bid process for this project. On May 24, 2021, NCPA posted a Notice Inviting Bids for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project (GEO376), with proposals due by July 1, 2021. Bid walks took place on June 6 and June 8, 2021, with two attendees at each bid walk. Two vendors submitted bids: Hudson Mechanical and Northern Industrial Construction. The bids received were higher than the amount available for this project in the FY 2022 budget. Geothermal project staff determined it would be prudent to delay this project until the next fiscal year to allow time for additional funds to be allocated to perform this work.

On June 27, 2022, NCPA posted an updated Notice Inviting Bids for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project (GEO376), with proposals due by August 11, 2022. Bid walks took place on July 12, 2022 and July 14, 2022, and there were two attendees at each bid walk. Staff received bids from two vendors, as shown below:

Vendor	Bid
Hudson Mechanical	\$948,555.00
Northern Industrial Construction	\$772,813.14

Geothermal project staff have evaluated the bids received and have determined Northern Industrial Construction to be the responsive, responsible bidder. If approved by the NCPA Commission, work will be awarded to Northern Industrial Construction.

ENVIRONMENTAL ANALYSIS:

The Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (b) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11) which exempts publicly owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacing and upgrading thirteen emergency shower and eyewash stations at NCPA's Geothermal Plants #1 and #2, with no change to the function, size or operation of the Plants. Thus, this project conforms to these exemptions.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022, the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 22-XX

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE NCPA GEOTHERMAL
PLANTS #1 AND #2 EMERGENCY SHOWER AND EYEWASH STATIONS REPLACEMENT PROJECT

(reference Staff Report #xxx:22)

WHEREAS, NCPA's Geothermal project staff have determined that the emergency shower and eyewash stations at Plants #1 and #2 are in disrepair and out of compliance with OSHA standards and must be replaced; and

WHEREAS, on June 27, 2022, NCPA put out a Notice Inviting Bids for the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project (GEO376), with proposals due by August 11, 2022. Two bid walks took place on July 12 and 14, 2022 with two attendees at each bid walk. Two vendors submitted bids: Hudson Mechanical and Northern Industrial Construction; and

WHEREAS, Geothermal project staff have evaluated the bids received and have determined Northern Industrial Construction to be the responsive, responsible bidder with a bid of \$772,813.14. If approved by the NCPA Commission, work will be awarded to Northern Industrial Construction; and

WHEREAS, on September 7, 2022 the Facilities Committee reviewed and endorsed this project for Commission approval; and

WHEREAS, the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Rebid Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (b) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11, as applied to electric utility systems). This project consists of replacing and upgrading thirteen emergency shower and eyewash stations at NCPA's Geothermal Plants #1 and #2, with no change to the function, size or operation of the Plants. Thus, this project conforms to these exemptions; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the Geothermal Plants #1 and #2 Emergency Shower and Eyewash Stations Replacement Project and delegates authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$915,000, and authorizing the use of \$558,000 from the FY 2023 Geothermal Facility Project Budget, \$117,000 from FY 2022 encumbered funds, \$140,000 from the Maintenance Reserve, and \$100,000 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund the project.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022, by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETAR



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: NCPA Geothermal H-Line Pipeline Repairs Project; Applicable to the following:
NCPA Geothermal Facility

AGENDA CATEGORY: Discussion/Action

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

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

RECOMMENDATION:

Approve Resolution 22-XX authorizing the Geothermal H-Line Pipeline Repairs Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$280,000 and authorizing the use of \$67,500 of encumbered funds from the FY 2022 budget and \$212,500 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund the project.

BACKGROUND:

NCPA Geothermal staff have determined a 500-foot section of the H-Line Steam Pipeline at NCPA's Geothermal Facility is being undermined by erosion. To prevent further damage to the H-Line Steam Pipeline and avoid a possible environmental incident with the pipeline, staff is proposing repairs to the damaged portions.

The scope of work for the proposed Geothermal H-Line Pipeline Repairs Project will include the following activities:

- Convert a pipe support into a pipe anchor
- Repair three additional pipe supports
- Modify five water drop pots or knockout pots
- Repair several conduit pipe supports
- Repair 500 ft of eroded area to prevent further damage
- Repair pipe insulation and paint all affected pipeline sections

FISCAL IMPACT:

The total cost of this project is not to exceed \$280,000. This amount includes \$36,446, or approximately 15%, in contingency funds. Funds for this project were included in the approved FY2023 Geothermal Facility Budget as Steam Field Pipe Supports – Engineering. \$67,500 of encumbered funds from the FY 2022 budget and \$212,500 from the FY 2023 Geothermal Facility Operations and Maintenance Budget will be used to fund this project. No cash collection or budget augmentation is required for this work. Purchase orders referencing the terms and conditions of any agreements executed for work related to this project will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

In accordance with NCPA's procurement policies and procedures, Geothermal project staff followed a formal Public Works Bid process. On July 5, 2022, NCPA issued a Notice Inviting Bids for the Geothermal H-Line Pipeline Repairs Project (GEO395), with proposals due by August 25, 2022. A bid walk took place on July 19, 2022 and July 21, 2022, and there were four attendees. NCPA received bids from two vendors: Hudson Mechanical, and Northern Industrial Construction. Staff have evaluated the bids received and have determined Northern Industrial Construction to be the responsive, responsible bidder with a bid of \$243,554. If approved by the NCPA Commission, work will be awarded to Northern Industrial Construction.

ENVIRONMENTAL ANALYSIS:

The Geothermal H-Line Pipeline Repairs Project is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15301 (b) (c) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11 as applied to electric utility systems). The proposal consists of repairing the H-Line pipeline supports and eroded areas along the pipeline route. This project will not change the function, size, or operation of the pipeline. Thus, the project conforms to these exemptions.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022, the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 22-XX

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE H-LINE PIPELINE REPAIRS PROJECT

(reference Staff Report #XXX:22)

WHEREAS, NCPA Geothermal staff have determined a 500-foot section of the H-Line Steam Pipeline at NCPA's Geothermal Facility is being undermined by erosion and in danger of being damaged; and

WHEREAS, NCPA proposes to repair the H-Line Pipeline pipe supports and eroded areas to prevent further damage and possible failure of the pipeline; and

WHEREAS, funds of \$200,000 for the Steam field Pipe Support – Engineering were approved in the FY 2022 Geothermal Facility Budget to evaluate and recommend repairs to the pipeline; and

WHEREAS, on July 5, 2022, NCPA issued a Notice Inviting Bids for the Geothermal H-Line Pipeline Repairs Project (GEO395), with proposals due by August 25, 2022. Two proposals were received. NCPA staff evaluated the proposals and is planning to award this work to Northern Industrial Construction, pending project approval by the NCPA Commission; and

WHEREAS, the Facilities Committee met on September 7, 2022 and recommended approval of the H-Line Pipeline Repairs Project; and

WHEREAS, The Geothermal H-Line Pipeline Repairs Project is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15301 (b) (c) (d) and 15302 (c) of the CEQA Guidelines (Classes 1, 2, 3, 4, and 11 as applied to electric utility systems). The proposal consists of repairing the H-Line pipeline supports and eroded areas along the pipeline route. This project will not change the function, size, or operation of the pipeline. Thus, the project conforms to these exemptions; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the Geothermal H-Line Pipeline Repairs Project and delegates authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$280,000, and authorizing the use of \$67,500 of encumbered funds from the FY 2022 Geothermal Facility Budget and \$212,500 from the FY 2023 Geothermal Facility Operations and Maintenance Budget to fund this project.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022, by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: NCPA Geothermal Plant #2 Cooling Tower Basin Clean Out Project; Applicable to the following: NCPA Geothermal Facility

AGENDA CATEGORY: Discussion/Action

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

IMPACTED MEMBERS:		
All Members	<input type="checkbox"/>	City of Lodi <input checked="" type="checkbox"/>
Alameda Municipal Power	<input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Biggs	<input checked="" type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Gridley	<input checked="" type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>
City of Healdsburg	<input checked="" type="checkbox"/>	City of Santa Clara <input checked="" type="checkbox"/>
	<i>If other, please specify</i>	Other <input checked="" type="checkbox"/>
		Turlock

RECOMMENDATION:

Approve Resolution 22-XX authorizing the Geothermal Plant #2 Cooling Tower Basin Clean Out Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$620,024, and authorizing the use of \$150,024 from the Maintenance Reserve to fund this project.

BACKGROUND:

The Unit #3 and Unit #4 cooling tower basins at NCPA's Geothermal Plant #2 need to be cleaned of sediment. NCPA Geothermal Plant #2 is due for a six-week overhaul starting on November 1, 2022. Geothermal project staff would like to complete the cleaning of the Unit #3 and Unit #4 cooling tower basins during the upcoming overhaul.

In April 2010, the Unit #3 cooling tower was shut down and left in cold standby. Non-operation of the cooling tower presented a fire hazard and the tower was demolished in May 2014, leaving the basin intact. Since that time, the Unit #3 basin has been used for the disposal of liquid sedimentary waste. Staff has determined that the Unit #3 basin can be utilized as storage for additional make up water to offset evaporation in the Unit #4 cooling tower, thus avoiding a possible loss in efficiency and the potential for curtailment of the unit during the summer months. The scope of work for this project will include the removal and disposal of sedimentation in the Unit #3 basin, which will allow it to be used for water storage going forward.

The Unit #4 cooling tower continues to be in use, but has not been cleaned since the 2016 Plant #2 overhaul. Cleaning of this type is customary during major overhauls. The scope of work for this project will also include draining the Unit #4 cooling tower basin, and removing and disposing of any sediment buildup.

FISCAL IMPACT:

The total cost of this project is not to exceed \$620,024. This amount includes \$103,337, or approximately 20%, in contingency funds and \$10,600 for a performance bond. \$470,000 for the Geothermal Plant 2 Cooling Tower Basin Clean Out Project was approved in the FY 2023 budget. An additional \$150,024 will come from the Maintenance Reserve to fund this project. No cash collection or budget augmentation are required for this work. Purchase orders referencing the terms and conditions of any agreements executed for work related to this project will be issued following NCPA procurement policies and procedures.

A breakdown of the project costs is shown in the table below.

Geothermal Plant #2 Cooling Tower Basin Clean Out Project	Cost
Unit #4 Basin Clean Out	\$ 158,047
Unit #3 Basin Clean Out	\$ 348,040
Performance Bond	\$ 10,600
Sub-Total (Bid Amount)	\$ 516,687

Contingency (~20%)	\$ 103,337
Total Project Cost	\$ 620,024

SELECTION PROCESS:

In accordance with NCPA's procurement policies and procedures, Geothermal project staff followed a formal Public Works Bid process. On July 12, 2022, NCPA issued a Notice Inviting Bids for the Geothermal Plant #2 Cooling Tower Basin Clean Out Project (GEO397), with proposals due by August 4, 2022. A bid walk took place on July 26, 2022, and there were three attendees. NCPA received one bid from MP Environmental Services, Inc. Staff evaluated the bid received and plans to award this work to MP Environmental Services, Inc. pending project approval by the NCPA Commission.

ENVIRONMENTAL ANALYSIS:

The Geothermal Plant 2 Cooling Tower Basin Clean Out Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (b) (c) and 15302 (c) of the CEQA Guidelines (Class 1 and 2 as applied to electric utility systems). The proposed project is to clean out the Unit #4 basin and clean out and convert the Unit #3 basin to a water storage basin, as well as remove obsolete concrete pillars from the Unit #3 cooling tower area and perform any necessary patching or repairs after the pillars are removed. This project will not change the function, size or operation of the cooling towers. Thus, this project conforms to these exemptions.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments:

- Resolution 22-XX

RESOLUTION 22-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING THE GEOTHERMAL PLANT #2 COOLING TOWER BASIN CLEAN OUT PROJECT

(reference Staff Report #XXX:22)

WHEREAS, the Unit #3 and Unit #4 cooling tower basins at NCPA's Geothermal Plant #2 need to be cleaned of sediment. Geothermal project staff would like to complete the customary cleaning of the Unit #3 and Unit #4 cooling tower basins during the upcoming Geothermal Plant #2 overhaul, scheduled to begin on November 1, 2022; and

WHEREAS, the Unit #3 cooling tower basin has been used for the disposal of sediment since May 2014. Geothermal project staff have determined that the Unit #3 basin can be utilized as storage for additional make up water to offset evaporation in the Unit #4 cooling tower, thus avoiding a possible loss in efficiency and the potential for curtailment of the unit during the summer months; and

WHEREAS, the scope of work for this project will include the removal and disposal of sediment from the Unit #3 cooling tower basin to allow it to be used for water storage going forward, and the removal and disposal of sediment buildup in the Unit #4 cooling tower basin; and

WHEREAS, on July 12, 2022, NCPA issued a Public Works Notice Inviting Bids for the Geothermal Plant #2 Cooling Tower Basin Clean Out Project (GEO397), with proposals due by August 4, 2022. A bid walk took place on July 26, 2022, with three vendors in attendance. NCPA received one bid from MP Environmental Services, Inc. Geothermal plant staff have evaluated the bid received and plans to award this work to MP Environmental Services, Inc. pending project approval by the NCPA Commission; and

WHEREAS, on September 7, 2022 the Facilities Committee reviewed and endorsed this project for Commission approval; and

WHEREAS, The Geothermal Plant #2 Cooling Tower Basin Clean Out Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (b) (c) and 15302 (c) of the CEQA Guidelines (Class 1 and 2 as applied to electric utility systems). The proposed project is to clean out the Unit #4 basin and clean out and convert the Unit #3 basin to a water storage basin. This project will not change the function, size or operation of the cooling towers. Thus, this project conforms to these exemptions; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the Geothermal Plant #2 Cooling Tower Basin Clean Out Project and delegates authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed \$620,024, and authorizing the use of \$150,024 from the Maintenance Reserve to fund this project.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022, by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



Commission Staff Report – *DRAFT*

COMMISSION MEETING DATE: September 23, 2022

SUBJECT: Stanislaus Weather Modification Program Request for Additional Funds;
Applicable to the following: Northern California Power Agency (NCPA) Hydroelectric Facility

AGENDA CATEGORY: Discussion/Action

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

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

Approval of Amendment to Resolution 18-68 authorizing the request for additional funds for the Stanislaus Weather Modification Program, increasing the total not-to-exceed amount of this Program from \$1,800,000 to \$2,100,000, and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the Program in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for the remaining term of the Program.

BACKGROUND:

The Stanislaus Weather Modification Program was originally approved in the August 23, 2018 Commission meeting (SR 186:18; Reso: 18-68) with a budget not-to-exceed \$1,800,000.

NCPA started the Program with RHS Consulting Ltd. and spent \$205,591.21 of the Program funds in the Winter 2018-2019. NCPA and RHS mutually agreed, after the completion of the 2018-2019 season, to discontinue working together for the remainder of the term. NCPA elected to move forward with the second, and only other responsive bidder, Weather Modification LLC for the remainder of the Program.

The overall Program estimate of \$1,800,000 was structured with the cost estimates consistent with the lower bidder RHS as well as actual costs experienced during each season which are contractually comprised of both fixed and variable costs. The requested budget augmentation reflects the higher costs of the original Weather Modification LLC bid as well as increases to contractual variable costs associated with flight hours, fuel, and materials. This has resulted in the need to increase the total Program authorization amount by an additional \$300,000 for a total not-to-exceed cost of \$2,100,000.

FISCAL IMPACT:

Total initial estimated cost of the Program for a five (5) year period was not-to-exceed \$1,800,000. This was based on unit / quantity assumptions provided to contractors, the price proposal recommended for acceptance for (\$274,793) for the winter period beginning November 1, 2018 through April 30, 2019. Additional costs could be incurred if services are requested for an additional month, or if actual costs (airplane flight time and consumables) are more than anticipated.

Winter Year	Original Estimate	Actual	Water Year Type
2018-2019	\$274,793	\$205,591	Wet
2019-2020	\$291,637	\$453,438	Dry
2020-2021	\$301,399	\$398,013	Dry
2021-2022	\$311,979	\$410,851	Dry
Program To Date	\$1,179,808	\$1,467,893	
2022-2023	\$322,956	\$423,080	
Subtotal	\$1,502,764	\$1,890,975	
Contingency	20%	11%	
PROGRAM TOTAL	\$1,800,000	\$2,100,000	

Total cost will not exceed \$2,100,000 over the five year term of the Program (ending August 2023). Purchase orders associated with agreements executed for this Program will utilize approved Hydroelectric budget funds.

Scientific experts in the field of weather modification estimate the snow pack can be increased from 2% to more than 10% percent by a well-managed weather modification Program. An increase of 2% would result in approximately ten thousand (10,000) MWh per year for the NCPA Hydroelectric Project during an average snow pack year. The value of an additional 10,000 MWh's for 2023 is on the order of \$700,000 (assuming a weighted price of \$70/MWh). Cost allocation will be based on project participation percentages.

SELECTION PROCESS:

A formal Request for Proposal was released on June 18, 2018 and sent to the three (3) vendors that were known to provide cloud seeding services in California. Two (2) responsive proposals were received. In accordance with NCPA's procurement policies and procedures, these responses were evaluated and RHS Consulting Ltd. was initially selected based on qualifications of the bidder's proposed Project Team, recent and relevant cloud seeding experience, proposed project approach, compliance with CEQA, willingness to sign NCPA's General Services Agreement, and corresponding fees. NCPA and RHS mutually agreed, after the completion of the 2018-2019 season, to discontinue working together for the remainder of the term. NCPA elected to move forward with the second, and only other responsive bidder, Weather Modification LLC, for the remainder of the Program.

ENVIRONMENTAL ANALYSIS:

Environmental impact considerations were previously analyzed by and are covered by an Initial Study and Negative Declaration ("IS/ND") adopted by the Commission on January 12, 2006. In anticipation of extending the Program by an additional five (5) years, NCPA prepared an Addendum to the IS/ND which was approved in the August 23, 2018 Commission Meeting (SR 168:18; Reso: 18-52). The Addendum shows that the continuation of the Program will not result in any new or previously unidentified significant impacts.

COMMITTEE REVIEW:

Pending Committee review and approval.

AFTER FACILITIES APPROVAL: On September 7, 2022 the Facilities Committee reviewed and endorsed the recommendation above for Commission approval.

Respectfully submitted,

Assistant General Manager
General Manager

Attachments (1):

- Amended Resolution 18-68

AMENDED RESOLUTION 18-68

**AMEND RESOLUTION 18-68 OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A REQUEST FOR ADDITIONAL FUNDS FOR THE STANISLAUS WEATHER
MODIFICATION PROGRAM**

(reference Staff Report #186:18 and XXX:22)

WHEREAS, Stanislaus Weather Modification Program services are required at the Northern California Power Agency (NCPA) Hydroelectric facility; and

WHEREAS, the Stanislaus Weather Modification Program was approved by the Commission at the August 23, 2018 Commission Meeting (SR 186:18; Reso: 18-68), with a budget of not-to-exceed \$1,800,000; and

WHEREAS, NCPA started the Program with RHS Consulting Ltd. and spent \$205,591.21 of the Program funds in the Winter 2018-2019; and

WHEREAS, NCPA and RHS mutually agreed, after the completion of the 2018-2019 season, to discontinue working together for the remainder of the term; and

WHEREAS, NCPA elected to move forward with the second, and only other responsive bidder, Weather Modification LLC, for the remainder of the Program; and

WHEREAS, NCPA seeks approval to increase the not-to-exceed Program authorization amount from \$1,800,000 to \$2,100,000; and

WHEREAS, Environmental impact considerations were previously analyzed by and are covered by an Initial Study and Negative Declaration ("IS/ND") adopted by the Commission on January 12, 2006. In anticipation of extending the Program by an additional five (5) years, NCPA prepared an Addendum to the IS/ND which was approved in the August 23, 2018 Commission Meeting (SR 168:18; Reso: 18-52). The Addendum shows that the continuation of the Program will not result in any new or previously unidentified significant impacts; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency approves the Amendment to Resolution 18-68 authorizing the request for additional funds for the Stanislaus Weather Modification Program, increasing the total not-to-exceed amount of this Program from \$1,800,000 to \$2,100,000, and delegating authority to the General Manager or his designee to awards bids, execute agreements, and to issue purchase orders for the Program in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for the remaining term of the Program.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2022 by the following vote on roll call:

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

DAVID HAGELE
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY