



Commission Staff Report - *DRAFT*

November 29, 2016

COMMISSION MEETING DATE: January 19, 2017

SUBJECT: CellMark USA, LLC – First Amendment to the Existing Five Year Multi-Task Agreement for Stretford System Chemicals; Applicable to the Geothermal Facility.

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	
Department:	Geothermal	

IMPACTED MEMBERS:		
All Members	<input type="checkbox"/>	
Alameda Municipal Power	<input checked="" type="checkbox"/>	
Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input checked="" type="checkbox"/>	
City of Gridley	<input checked="" type="checkbox"/>	
City of Healdsburg	<input checked="" type="checkbox"/>	
City of Lodi	<input checked="" type="checkbox"/>	
City of Lompoc	<input checked="" type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<input type="checkbox"/>	
City of Roseville	<input checked="" type="checkbox"/>	
City of Santa Clara	<input checked="" 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>
		TID

RECOMMENDATION:

Approve a First Amendment to the existing five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies for chemicals, increasing the not to exceed amount from \$95,000 to \$500,000 over five years for use at the Geothermal facility.

BACKGROUND:

On April 10, 2015 NCPA entered into a five year Multi-Task Agreement with CellMark USA, LLC for the purchase of chemicals including Vanadium and Sulfa-Ban EF (ADA liquid) which is used in the Geothermal Stretford abatement process. This amendment will increase the not to exceed amount from \$95,000 to \$500,000.

FISCAL IMPACT:

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

SELECTION PROCESS:

This five year agreement does not commit NCPA to any expenditure of funds. NCPA has completed an extensive search for other vendors that provide Vanadium and Sulfa-Ban EF, however, no other vendors were found. NCPA will continue to search for other providers when an additional chemical purchase is required. If additional vendors can be found at the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

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.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments: (3)

- Resolution
- First Amendment with CellMark USA, LLC
- Multi-Task Agreement For Purchase of Equipment, Materials and Supplies with CellMark USA, LLC

RESOLUTION 17-XX - DRAFT

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES WITH CELLMARK USA, LLC**

(reference Staff Report #xxx:17)

WHEREAS, Northern California Power Agency (NCPA) purchases chemicals utilized in the Stretford abatement process at its Geothermal Facility; and

WHEREAS, CellMark USA, LLC is a provider of these chemicals; and

WHEREAS, on April 10, 2015, NCPA and CellMark USA, LLC entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; and

WHEREAS, NCPA seeks to amend the agreement to add additional funds, increasing the not to exceed amount from \$95,000 to \$500,000; and

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

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to the existing Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with CellMark USA, LLC, with any non-substantial changes as approved by the NCPA General Counsel, increasing the not to exceed amount from \$95,000 to \$500,000 over the term of the contract.

PASSED, ADOPTED and APPROVED this ____ day of _____ 2017, by the following vote on roll call:

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

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**FIRST AMENDMENT TO MULTI-TASK AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS
AND SUPPLIES BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND CELLMARK USA, LLC**

This First Amendment ("Amendment") to Multi-Task Agreement For Purchase Of Equipment, Materials And Supplies is entered into by and between the Northern California Power Agency ("Agency") and CellMark USA, LLC ("Supplier") (collectively referred to as "the Parties") as of _____, 2016.

WHEREAS, the Parties entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies dated effective April 10, 2015, (the "Agreement") for Supplier to provide chemicals for the Stretford systems services at the Geothermal Facility; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$95,000.00 to a 'NOT TO EXCEED' amount of \$500,000.00; and

WHEREAS, the Agency now desires to amend the Agreement to add the requirement for Pollution Insurance as may be necessary; and

WHEREAS, the Agency now desires to amend the Agreement to add additional Miscellaneous provisions; and

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

WHEREAS, in accordance with Section 9.1 all changes to the Agreement must be in writing and signed by all the Parties; and

NOW, THEREFORE, the Parties agree as follows:

1. **Section 4—Compensation** of the Agreement is amended and restated to read as follows:

Agency hereby agrees to pay Supplier for the Goods an amount **NOT TO EXCEED** Five Hundred Thousand and 00/100 dollars (\$500,000.00) as total compensation under this Agreement, which shall include all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 4 of the Agreement is unchanged.

2. **Section 5-Insurance Requirements** of the Agreement is amended to add the following provision:

5.6 **Pollution Insurance.** If Supplier's Work involves its transporting hazardous materials, then Supplier shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. In addition, Supplier shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

The remainder of Section 5 of the Agreement is unchanged.

3. **Section 9-Miscellaneous Provisions** of the Agreement is amended to add the following provisions:

9.8 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

9.9 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

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

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

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

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

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

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

CellMark USA, LLC
2 Corporate Drive
Shelton, CT 06484

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

9.15.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

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

- 9.15.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 9.15.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

The remainder of Section 9 of the Agreement is unchanged.

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

Date: _____

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

CELLMARK USA, LLC

RANDY S. HOWARD, General Manager

Hugo Galletta, President & CEO

Attest:

 Assistant Secretary of the Commission

Approved as to Form:

 Assistant General Counsel



**MULTI-TASK
AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
CELLMARK USA, LLC**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is entered into on 4/10/, 2015 (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, ("Agency"), a public joint powers agency, with offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 and CellMark USA, LLC., ("Supplier"), whose principal office is located at 333 Ludlow Street, Stamford, CT 06902 (together sometimes referred to as the "Parties").

Section 1. SCOPE. In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein, to Agency's Project Site, DDP (Incoterms 2010), located at 12000 Ridge Road, Middletown, CA 95461, when requested by the Agency. Supplier shall be responsible at its sole expense for delivering the Goods to Agency's Project Site and title shall not pass until the Agency accepts delivery at this Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

Section 2. TERM OF AGREEMENT. This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A.

Section 3. REQUEST FOR GOODS. At such time that Agency determines to have Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"); may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods shall be delivered.

Section 4. COMPENSATION. Agency hereby agrees to pay Supplier for the Goods an amount not to exceed NINETY-FIVE THOUSAND DOLLARS (\$95,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges.

4.1 Invoices. Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the Goods for which Supplier is seeking payment. In the event Supplier fails to invoice Agency for all amounts due within such ninety (90) day period, Supplier waives its right to collect payment from Agency for such amounts. All invoices shall be submitted to:

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

Multi-Task Agreement for Purchase of Equipment, Materials and Supplies
NORTHERN CALIFORNIA POWER AGENCY and CELLMARK USA, LLC.

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

Section 5. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Supplier, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 5.1 **Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 5.2 **Automobile Liability.** Supplier and its Subcontractors (specifically identified in Exhibit A) shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier or Subcontractors, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with \$2,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 5.3 **Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$1,000,000/\$2,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.
- 5.4 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 5.5 **All Policies Requirements.**
- 5.5.1 **Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power

Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

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

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

5.5.4 Self-Insured Retention. Supplier shall declare the amount of the self-insured retention to the Agency; the amount shall be not more than \$100,000.

Section 6. WARRANTY. In addition to any and all warranties provided or implied by law or public policy, or any other warranties provided by Supplier, Supplier warrants for sixty (60) days after delivery of any Goods that such 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; and are suitably safe and sufficient for the purpose for which they are normally used; and are not subject to any liens or encumbrances. Supplier shall provide all Goods in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature. Moreover, if within sixty (60) days after delivery, any Goods provided by Supplier under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Supplier shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

The remedies available under this Section 6 for breach of warranty constitute the sole remedies available to Agency in the event of any breach of warranty by Supplier.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, OR FOR ANY INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM INTERRUPTION OF BUSINESS OR LOSS OF PROFITS, OR EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY OBLIGATION RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FORM (E.G., CONTRACT, BREACH OF WARRANTY, TORT, OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT AGAINST SUCH PARTY.

Section 7. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.

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

7.2 Scope. Supplier shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any claim of any third party for personal injury or death or damage to property arising out of or in connection with any acts or omissions by Supplier, its officers, officials, agents, and employees, except as caused by the sole 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. For clarity, any employee of Agency who has a claim, in his or her personal capacity, that arises from any act or omission of Supplier is a "third party" for purposes of this Section 7.2.

7.3 Transfer of Title. Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications. Should Supplier be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

Section 8. Subcontracting. Supplier shall be responsible for delivery of the Goods, notwithstanding Supplier's use of any Subcontractor, as identified in Exhibit A, including any costs or fees relating to such Subcontractor.

Section 9. MISCELLANEOUS PROVISIONS.

9.1 Integration; Incorporation. This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and

supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein. No pre-printed terms of any Purchase Order, invoice, or any other form of either Party shall be considered to be part of this Agreement. Any other terms of any Purchase Order, invoice, or other form of either Party issued and exchanged hereunder shall be considered to be a part of this Agreement only to the extent that such terms supplement and do not contradict or limit the terms of this Agreement or its attached Exhibits; provided, however, that if the supplemental term is proposed by Supplier, written notice of the supplemental term shall be separately and affirmatively provided to Agency's Facility Manager, and shall be subject to his or her acceptance or rejection. This Agreement cannot be amended except by a written document that is signed by both Parties.

- 9.2 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 **Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 **Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 **Supplier's Status.** Supplier and its Subcontractors are independent contractors and not employees or agents of NCPA.
- 9.6 **Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 **Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.

SIGNATURES ON FOLLOWING PAGE



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

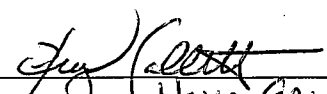
NORTHERN CALIFORNIA POWER AGENCY

CELLMARK USA, LLC


Date 4-18-15

Date 9 APRIL 2015

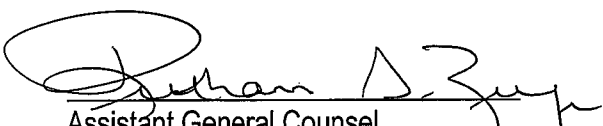

KEN SPEER, Assistant General Manager


NAME: HUGO GALLETTA
TITLE: PRESIDENT & CEO

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Assistant General Counsel

**EXHIBIT A
PURCHASE LIST**

Supplier shall provide the following list of Goods to Agency, upon request. Any such request by Agency shall be made by the delivery by Agency to Supplier of Agency's Purchase Order in accordance with the terms of Section 3 of this Agreement. Any Goods ordered hereunder shall be delivered to Agency within twenty-one (21) calendar days after the date of Buyer's Purchase Order in accordance with the terms of Section 3 of this Agreement.

Supplier is to provide Agency's Geothermal Facility with, but not limited to, the following chemicals for the Plants 1 and 2 Stretford systems:

- Totes of Vanasol (Vanadium liquid) to be used in the Stretford system at a price of \$6,500.00/each
- Totes of Sulfa-Ban EF (ADA liquid) to be used in the Stretford system at a price of \$9,100.00/each.
- Pails of Sodium Ammonium Vanadate powder to be used in the Stretford system at a price of \$800.00/25 kg pail (\$32.00/kg).

Supplier shall not charge Agency sales tax and Agency shall be responsible for payment of state use tax directly to the state.

Prices identified above include the full cost of loading, transport and delivery of Goods to Agency's Project Site using the Subcontractors identified in this Exhibit A.

Prices remain firm, and are subject to change only with thirty (30) days' advance written notice of such change to Agency.

SUBCONTRACTORS

for loading, transport, and delivery of goods to Agency's Project Site

Precision Crane Service, Inc.
Budd A. Elliff, Owner
P.O. Box 11276
Santa Rosa, CA 95406

Reynolds Truck & Crane, Inc.
Rick Reynolds, Owner
11735 Socrates Mine Road
Middletown, CA 95461

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