



12745 N. Thornton Road  
Lodi, CA 95242

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

## LEC PPC Agenda

---

**Subject: January 8, 2024 Lodi Energy Center Project Participant Committee Meeting**

**Location: 12745 N. Thornton Road, Lodi, CA and/or Posted Teleconference Locations**

**Time: 10:00 am Pacific Standard Time**

---

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

.....

NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 2150 Webster Street, 1 <sup>st</sup> Floor Oakland, CA 94612	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948	CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438
CITY OF BIGGS 465 "C" Street Biggs, CA 95917	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122	POWER & WATER RESOURCES POOLING AUTHORITY 1002 Cooper Ave Glenwood Springs, CO 81601
CALIFORNIA DEPARTMENT OF WATER RESOURCES 1425 River Park Dr. Suite 300. Sacramento, CA 95815	SILICON VALLEY POWER/CITY OF SANTA CLARA 881 Martin Avenue Santa Clara, CA 95050	CITY OF UKIAH 300 Seminary Avenue Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702		

*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.*

*The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or [www.ncpa.com](http://www.ncpa.com)*

**1. Review Safety Procedures**

**2. Call Meeting to Order and Roll Call**

**PUBLIC FORUM**

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

**3. Meeting Minutes – Approval of December 11, 2023 Regular Meeting Minutes**

**MONTHLY REPORTS**

**4. Operational Report for December 2023**

**5. Market Data Report for December 2023**

**6. Monthly Asset Report for November 2023**

**7. Bidding Strategies Report**

**CONSENT CALENDAR**

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

**8. Treasurer's Report for November 2023 – Accept by all Participants**

**9. Financial Report for November 2023 – Approve by all Participants**

**10. GHG Reports (excerpted from Monthly ARB) – Accept by all Participants**

*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.*

- 11. Univar Solutions, Inc. MTEMS** – Staff is seeking a recommendation for approval of a five-year Multi-Task Agreement for Purchase of Chemicals with Univar Solutions, Inc. for the purchase of specialty chemicals, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA.
- 12. Irani Engineering, Inc. MTCSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Consulting Services Agreement with Irani Engineering, Inc. for injection well related consulting services, with a not to exceed amount of \$2,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 13. Quantum Spatial, Inc. dba NV5 Geospatial, Inc. First Amendment to MTGSA** – Staff is seeking a recommendation for approval of a First Amendment to the five-year Multi-Task General Services Agreement with Quantum Spatial, Inc. dba NV5 Geospatial, Inc. for transmission and distribution line and other modeling and mapping services, accepting assignment of the agreement to NV5 Geospatial, Inc., with no change to the not to exceed amount of \$2,000,000 or contract term, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 14. Western Hydrologics, LLP MTCSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Consulting Services Agreement with Western Hydrologics, LLP for hydrological modeling services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 15. Advanced Chemical Transport, Inc. dba ACTEnviro MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Advanced Chemical Transport, Inc. dba ACTEnviro for waste removal services, with a not to exceed amount of \$3,000,000, for use at all facilities owned and/or operated by NCPA.
- 16. Process Cooling International, Inc. dba Applied Process Cooling Corp dba APCCO MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Process Cooling International, Inc. dba Applied Processing Cooling Corp dba APCCO for insulation 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, SCPPA, and SCPPA Members.
- 17. Eaton Corporation MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Eaton Corporation for electrical related services, with a not to exceed amount of \$2,000,000, for use at all facilities owned and/or operated by NCPA.
- 18. PMOA Schedule 1.00, Exhibit 5 Updates** – Staff is seeking a recommendation for approval of revisions to PMOA Exhibit 5 of Schedule 1.00 for revised 2024 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge and System Operations Charge.

Consent Items pulled for discussion: \_\_\_\_\_

### **INFORMATIONAL/ DISCUSSION ITEMS**

*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.*

**19. Lodi Energy Center Hydrogen Upgrade Project** – Staff will provide an update regarding the potential hydrogen upgrade project at the Lodi Energy Center.

**20. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

**ADJOURNMENT**

Next Regular Meeting: February 12, 2024 at 10:00 am Pacific Standard Time.

*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.*





651 Commerce Drive  
Roseville, CA 95678

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

# LEC PPC Meeting Minutes

---

**Date:** Monday, December 11, 2023

**Time:** 10:00 am Pacific Standard Time

**Location:** Lodi Energy Center – 12745 N. Thornton Rd, Lodi, CA 95242 and by teleconference

**Subject:** Lodi Energy Center Project Participant Committee Meeting

---

## 1. Review Safety Procedures

The PPC reviewed the NCPA Safety Procedures and assigned safety roles.

## 2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:02 am by Chairman Brock Costapules. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Schmidt	Present	6.6000%
Biggs - Sorensen	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Wong	Present	25.7500%
Ukiah -	Present	1.7857%
<b>Summary</b>		
Present	8	92.6714%
Absent	5	7.3286%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	December 11, 2023	

## **Public Forum**

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

### **3. Meeting Minutes**

The draft minutes from the November 6, 2023 Regular Meeting. The LEC PPC considered the following motion:

**Date:** 12/11/2023

**Motion:** The PPC approves the minutes from the November 6, 2023 Regular Meeting.

**Moved by:** Lodi

**Seconded by:** MID

**Discussion:** There was no further discussion

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Abstain	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Abstain	1.7857%
<b>Vote Summary</b>		
Total Ayes	6	88.8500%
Total Noes	0	0.0000%
Total Abstain	2	3.8214%
Total Absent	5	7.3286%
Result: Motion Passed		

## **MONTHLY REPORTS**

### **4. Operational Report for November 2023**

Ryan Johnson and Gordon Loyd presented the Operational Report for November. There were no OSHA recordable or non-recordable incidents. There were no NERC/WECC or permit violations.

There was one outage due to cooling tower blow down filter replacement. 2024 planned outage is scheduled for April 1-30 for annual maintenance and steam turbine excitation upgrade.

The operational report reflected monthly production of 109,220 MWH, 395 service hours, and equivalent operating availability of 70.0%. The report set for the Capacity Factor @ 302MW Pmax of 50.2%. There were no hot starts, no warm starts and 3 cold starts during the month.

Gordon discussed the calculations and the significance of the numbers provided to the members. It was requested that the definitions page continue to be included as part of the operational report going forward.

## **5. Market Data Report for November 2023**

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 17 out of 21 available days. There were three starts in the month of November. There were four days where LEC was uneconomic and nine days that LEC was in a forced outage. LEC had fifteen days of uninterrupted operations.

## **6. Monthly Asset Report**

Gordon Loyd presented the monthly asset report for October 2023, showing that net costs are over budget. Gordon reported that the margin is up due to strong market conditions. Gordon reviewed the monthly historical comparisons as well as the 12-month history.

## **7. Bidding Strategies Report**

Ken Goeke presented the Bidding Strategies Report for November 2023. Ken reviewed bidding and calculated net start-up costs. Ken reviewed DA and RT net revenues over the month with the Committee.

## **Consent Calendar (Items # 8 – # 12)**

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

**Date:** 12/11/2023

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for October 2023; **9.** Financial Report for October 2023; **10.** GHG Reports (excerpted from the Monthly ARB); **11.** Millennium Power Services, Inc. 5-year MTGSA-EMS for valve maintenance services and parts, not to exceed \$1,000,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **12.** Energy Options, Inc. 5-year MTGSA for cooling tower maintenance services, not to exceed \$500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA.

**Moved by:**  
**Seconded by:**

**SVP**  
**Lodi**

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Abstain	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Abstain	1.7857%
Vote Summary		
Total Ayes	6	88.8500%
Total Noes	0	0.0000%
Total Abstain	2	3.8214%
Total Absent	5	7.3286%
Result:	Motion Passed	

## **BUSINESS ACTION ITEMS / INFORMATIONAL ITEMS**

**13. Lodi Energy Center Hydrogen Upgrade Project** – Gordon Loyd provided the Phase 2 draft agreement, schedule and budget for review. Members requested a separate website where they can access all the information for the project in one place. Gordon is working on the site and placing all the documents there so members have easy access to review all documentation.

### **Additional Operational Updates**

**14. Additional Operational Updates** – Ryan Johnson presented information regarding the reason for LEC's forced outage in November. New UF Filters were installed due to fouling and plugging from build-up caused by the SRB bacteria in the water obtained from the City of Lodi Water treatment Plant. All water in the tower was removed and disposed. A used filter was sent out for autopsy.

### **Adjournment**

The next regular meeting of the PPC is scheduled for Monday, January 8, 2024.

The meeting was adjourned at 12:01 pm.

Submitted by: Julie Kenkel

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 4**

---

**Date:** 01/08/2024

**To:** Lodi Energy Center Project Participant Committee

---

### **Safety**

- OSHA Recordable/Reportable: 0 incidents
- Non-Recordable/Reportable: 0 incidents

### **Notice of Violations**

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

### **Outage Summaries:**

- Normal Operation.

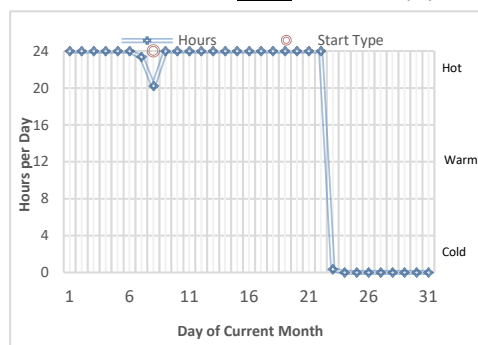
### **Planned Outage Summaries:**

- April 1-30, 2024; Steam turbine excitation upgrade, annual maintenance outage

**LEC Generating Unit Statistics:****Date:** 12/1/2023

1. Monthly Production 146,103 MWh
2. Productivity Factor
- a. Service Hours 524 Hours
- b. Service Factor 70.4 %
- c. Capacity Factor @ 302MW Pmax 65.0 %

3. Equivalent Operating Availability (EOA) 100.0 %
4. Forced Outage Rate (FOR) 0.0 %



5. Heat Rate Deviation
- a. Fuel Cost (Not Current Market Price) 4.00 \$/mmBTU

MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	6,945	1.38%	13,567	\$5,147
Seg. 2 284 - 296	6870	6,965	1.39%	70,325	\$26,777
Seg. 3 275 - 284	6971	6,966	-0.07%	27,739	-\$522
Seg. 4 250 - 275	7081	6,995	-1.22%	23,304	-\$8,038
Seg. 5 225 - 250	7130	7,048	-1.15%	6,466	-\$2,120
Seg. 6 200 - 225	7200	7,134	-0.92%	2,330	-\$619
Seg. 7 175 - 225	7450	7,311	-1.86%	630	-\$350
Seg. 8 165 - 175	7760	7,821	0.78%	36	\$9
	7,164	6,976	-2.62%	144,398	\$20,284

## 6. AGC Control Deviation

MW Range	High Dev MWh	Low Dev MWh	Total Dev MWh	Cost \$
Seg. 1 296 +	0	0	0	\$0
Seg. 2 284 - 296	0	0	0	\$5
Seg. 3 275 - 284	0	0	1	\$16
Seg. 4 250 - 275	1	0	1	\$18
Seg. 5 225 - 250	1	0	1	\$16
Seg. 6 200 - 225	0	0	0	\$12
Seg. 7 175 - 225	0	0	0	\$3
Seg. 8 165 - 175	0	0	0	\$0
	2	-1	2	\$69

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	1	0	0
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	17	0	0
Start Time Deviation (%)	-15%	0%	0%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	199	0	0
Fuel Deviation (%)	-20%	0%	0%
Costs of Fuel Deviations (\$)	-\$204	\$0	\$0

**Definitions:**

1. Monthly Production = Plant Net MWh's
2. Capacity Factor
  - a. Service Hours (SH) = In-Production or In-Service State, i.e. "Plant On"
  - b. Service Factor =  $SH / HIM \times 100\%$ ; (HIM = hours in month, aka possible hours)
  - c. Capacity Factor =  $Production / 302MW \times HIM$
3. Equivalent Operating Availability (EOA) =  $(HIM - FOH - POH) / HIM \times 100\%$ ; (FOH = Forced Outage Hours, POH = Planned Outage Hours)
4. Forced Outage Rate (FOR) =  $FOH / (FOH + SH) \times 100\%$
5. Heat Rate Deviation (HRD)
  - a. Fuel Cost = Standard Cost of Fuel in \$/mmBTU
  - b. Average Heat Rate (HR) = Average heat rate for the given Segment; weighted total average at bottom
  - c. Heat Rate Deviation =  $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
  - d. Production = Sum of production for the given Segment
  - e. Costs of Heat Rate Deviations =  $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
  - a. MWh's = AGC Set Point Generation - LEC Actual Generation
  - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
  - a. Number of Starts = Start Count for Hot, Warm, and Cold
    - i. Hot = Time between plant shutdown and startup < 6 hours
    - ii. Warm = Time between plant shutdown and startup 6 - 20 hours
    - iii. Cold = Time between plant shutdown and startup > 20 hours
  - b. Start Time = Average Time from 0 Fuel Flow to Pmin (Pmin = 100 MW)
  - c. Start Fuel = Average Fuel Consumption to Pmin
  - d. Cost of Fuel Deviation =  $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$



# **LEC PPC Meeting**

**January 8, 2024**

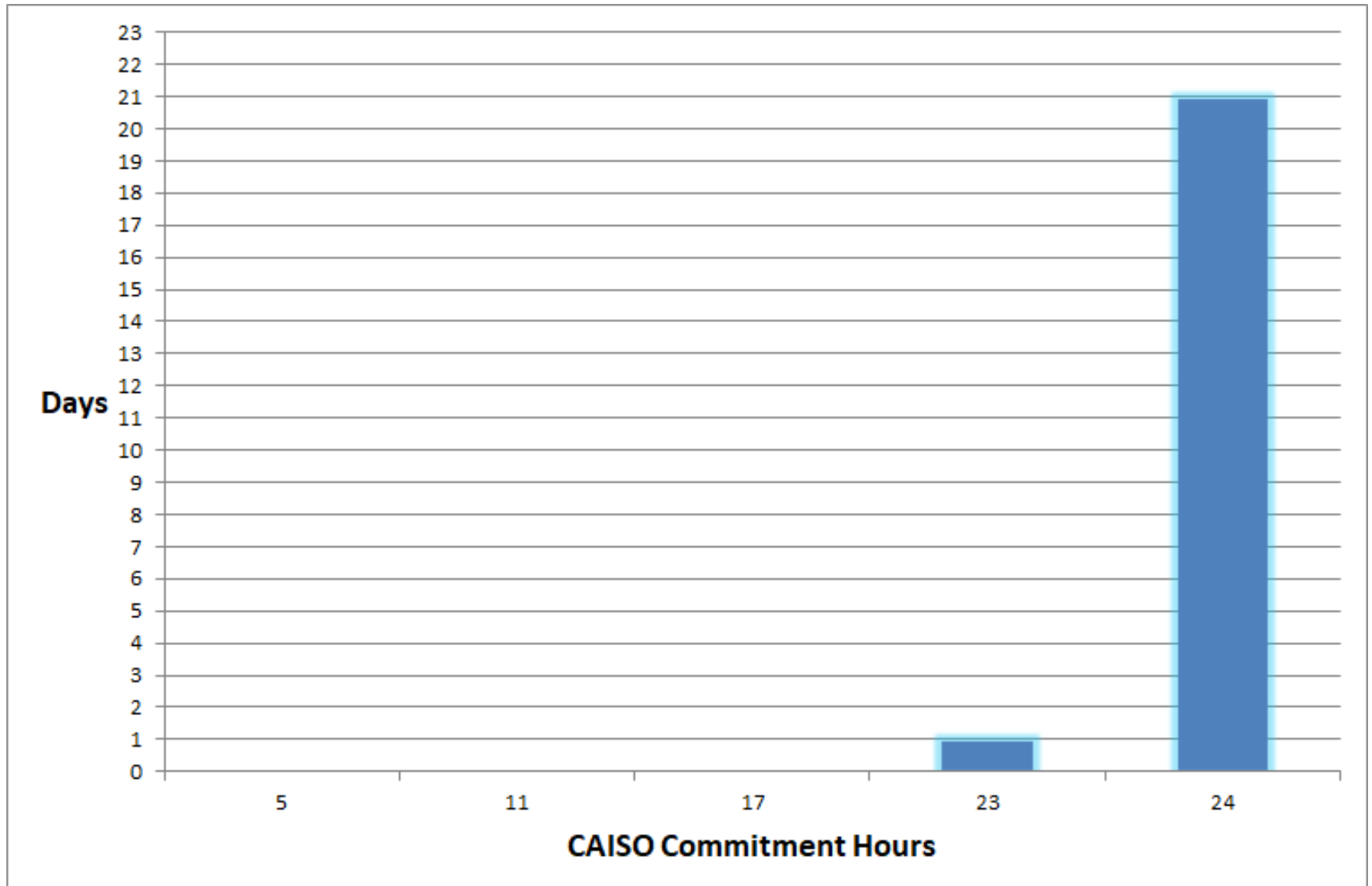
**December 2023 Market Financial Results**

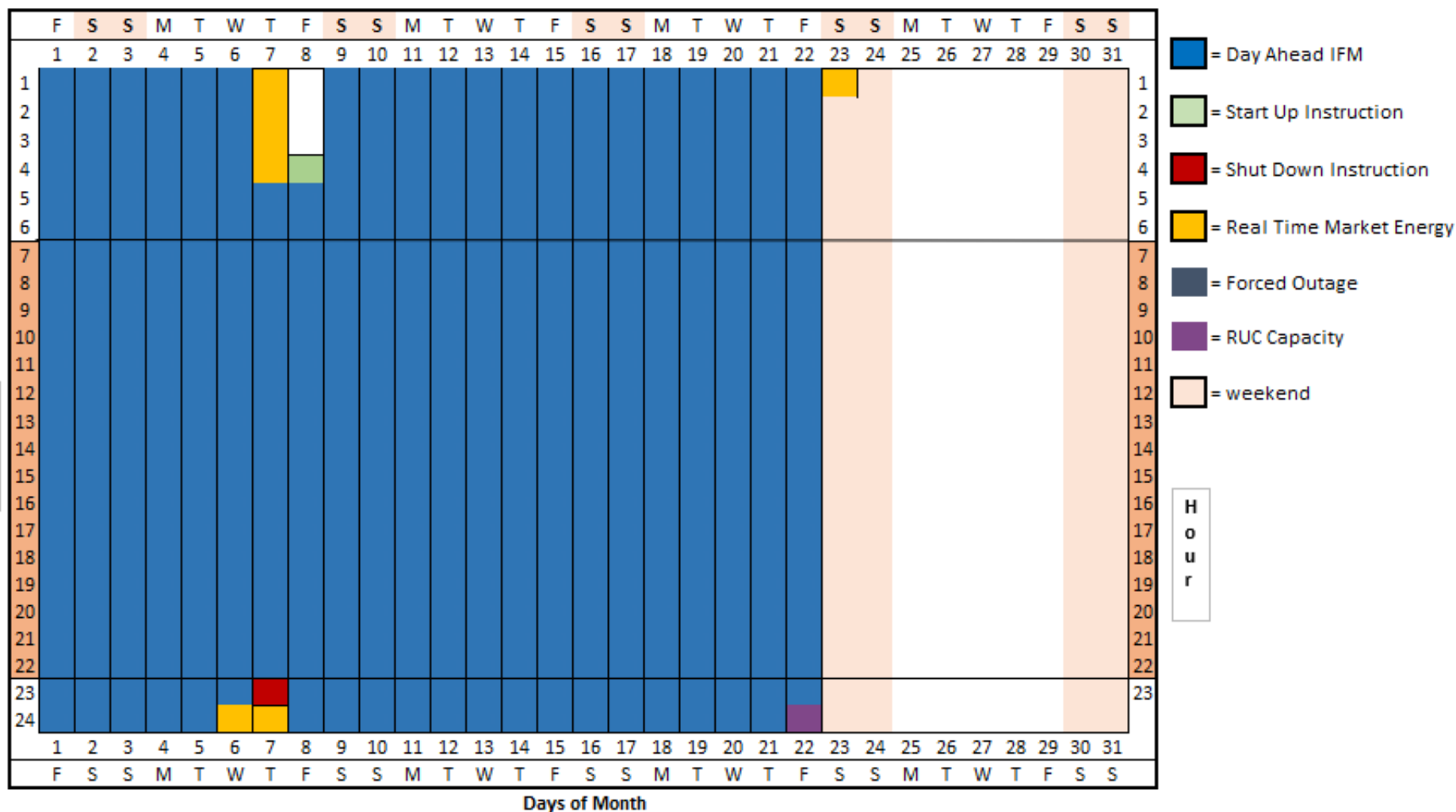


## LEC Operational Results for December 2023

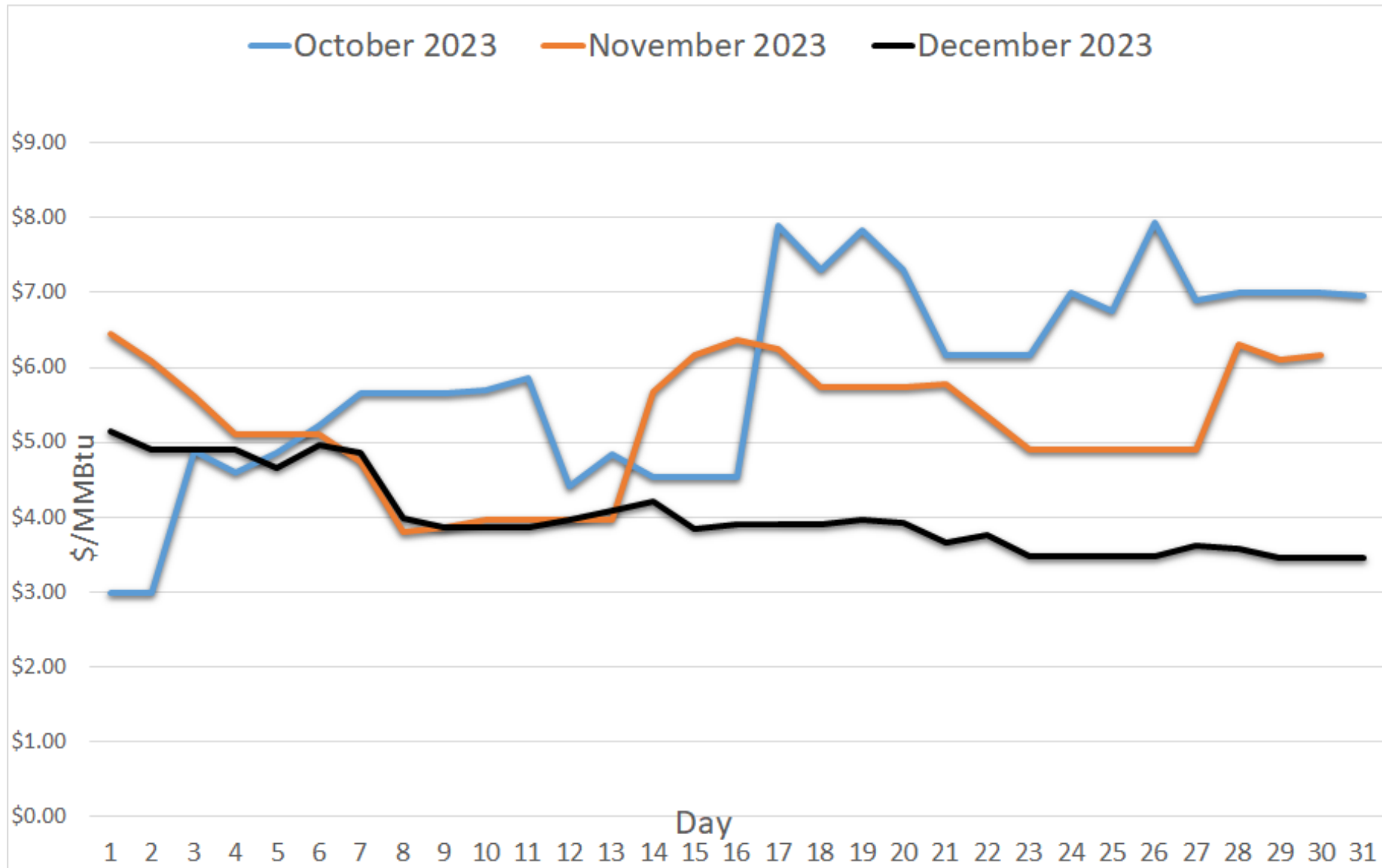
- Resource Adequacy Availability Metrics:
  - 100% - Monthly Assessment Generic Performance
  - 100% - Monthly Assessment Flexible Performance   Vs
  - 96.5% Availability Standard
- Estimated RAAIM Incentive Payment:
  - \$2,700 for Generic RA based on claimed 48.59 MW
  - \$5,200 for Flexible RA based on claimed 92.22 MW
- LEC was committed by CAISO for Market energy 22 days of 31 available days
  - LEC was considered uneconomic the last nine (9) days of the month
  - There was one (1) start during the month
  - Twenty-one (21) days of uninterrupted daily operations

## Frequency Tabulation of Daily CAISO commitment hours for December 2023



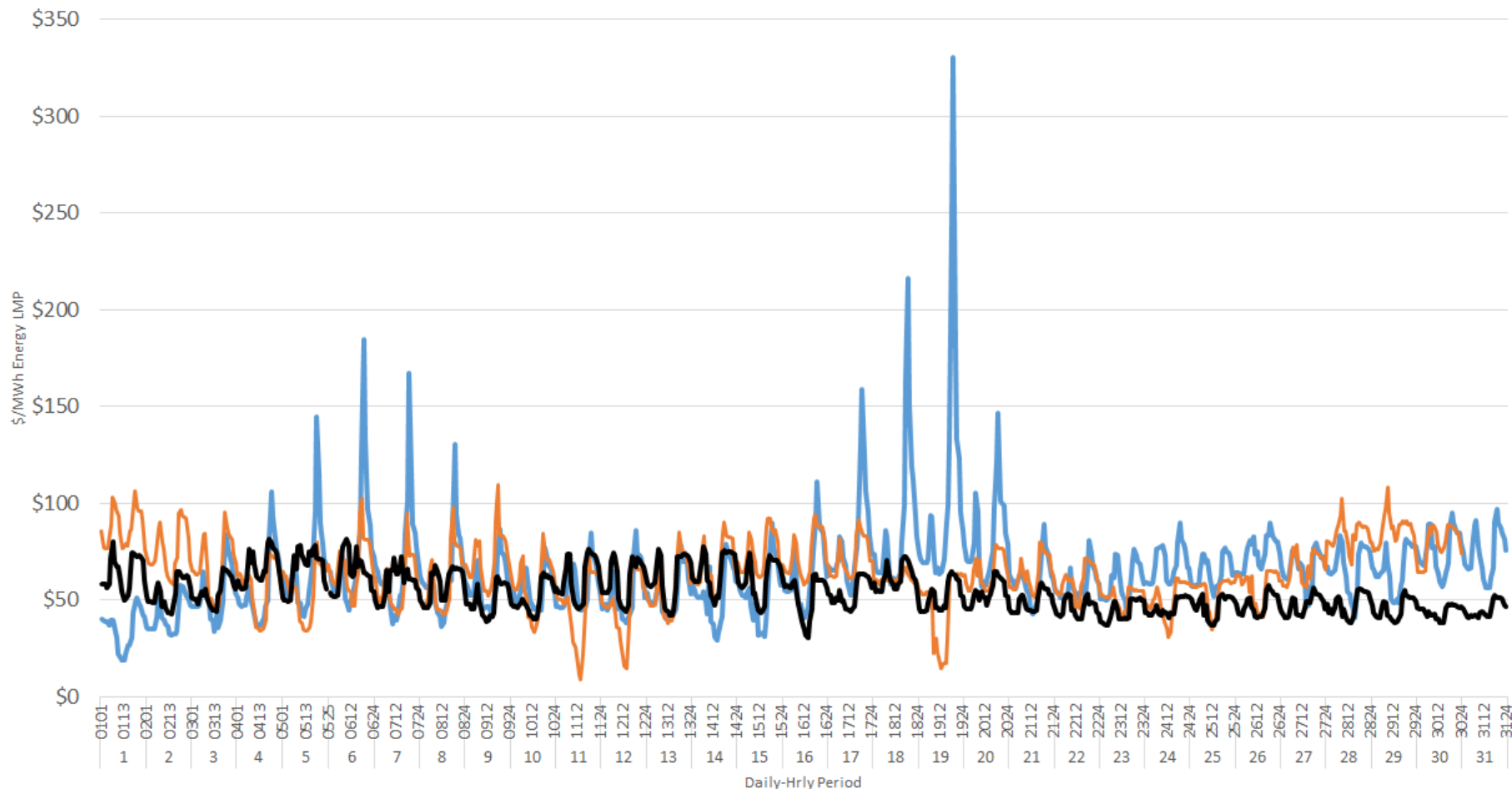


# December 2023 Daily PG&E City Gate Gas Index



# DA Energy LMP values by Month

—October 2023 —November 2023 —December 2023



[illegible]

## December 2023 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$	8,672,100	
Regulation Up Capacity	\$	-	
Regulation Down Capacity	\$	156,100	
Spinning Reserve	\$	100	
<b>Total Gross LEC Revenue</b>			<b>\$ 8,828,300</b>
LEC CAISO GMC Costs	\$	(53,200)	
CAISO Energy & Capacity Buyback Costs	\$	(222,000)	
Total Monthly LEC Fuel Cost	\$	(4,594,100)	
Total Monthly GHG Obligation	\$	(2,149,000)	
Variable Operations & Maintenance Cost	\$	(177,200)	
<b>Total Gross Costs</b>			<b>\$ (7,195,500)</b>
<b>Cumulative Monthly Margin</b>			<b>\$ 1,632,800</b>
<b>21 Days of Accrued LT Maintenance Costs</b>	\$	(318,795)	
<b>Net Cumulative Monthly Margin</b>			<b>\$ 1,314,005</b>
<b>Average Net Margin \$/MWh</b>	\$		<b>8.99</b>

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

December 2023 Cost of Congestion Component

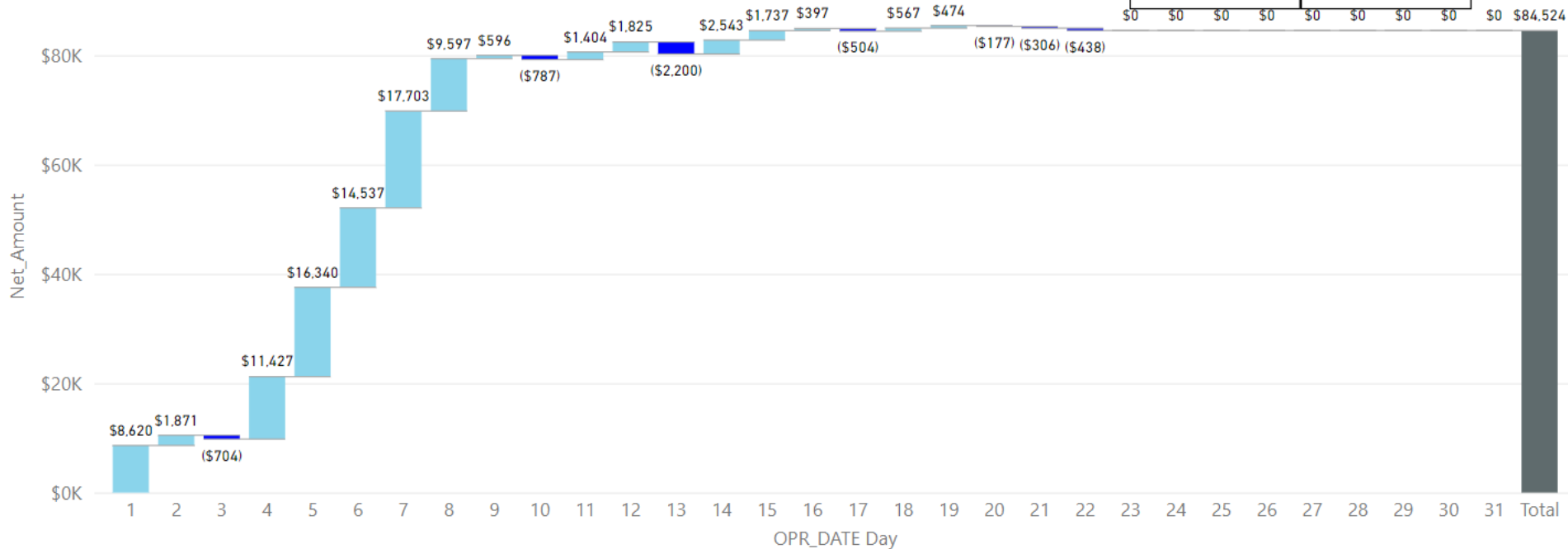
**\$84,524**

**\$0.58**

Net\_Amount

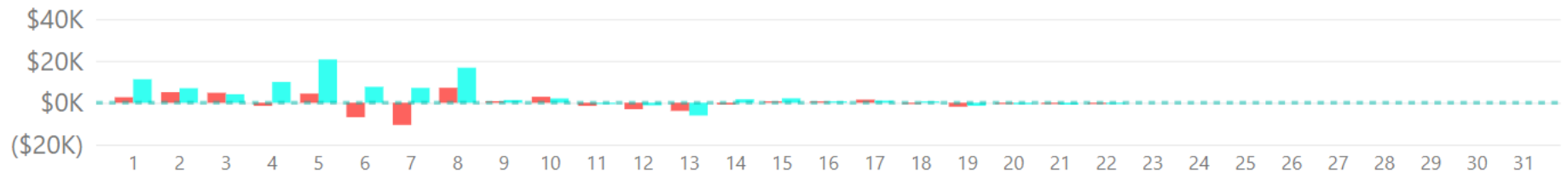
\$ / MWh

● Increase ● Decrease ● Total



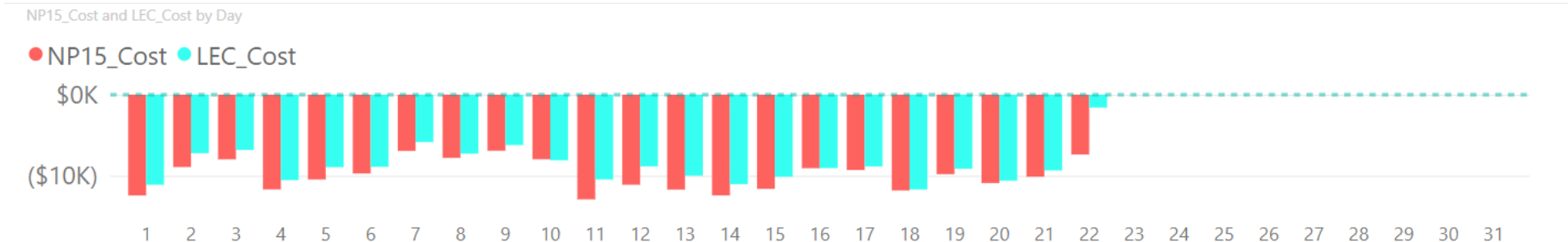
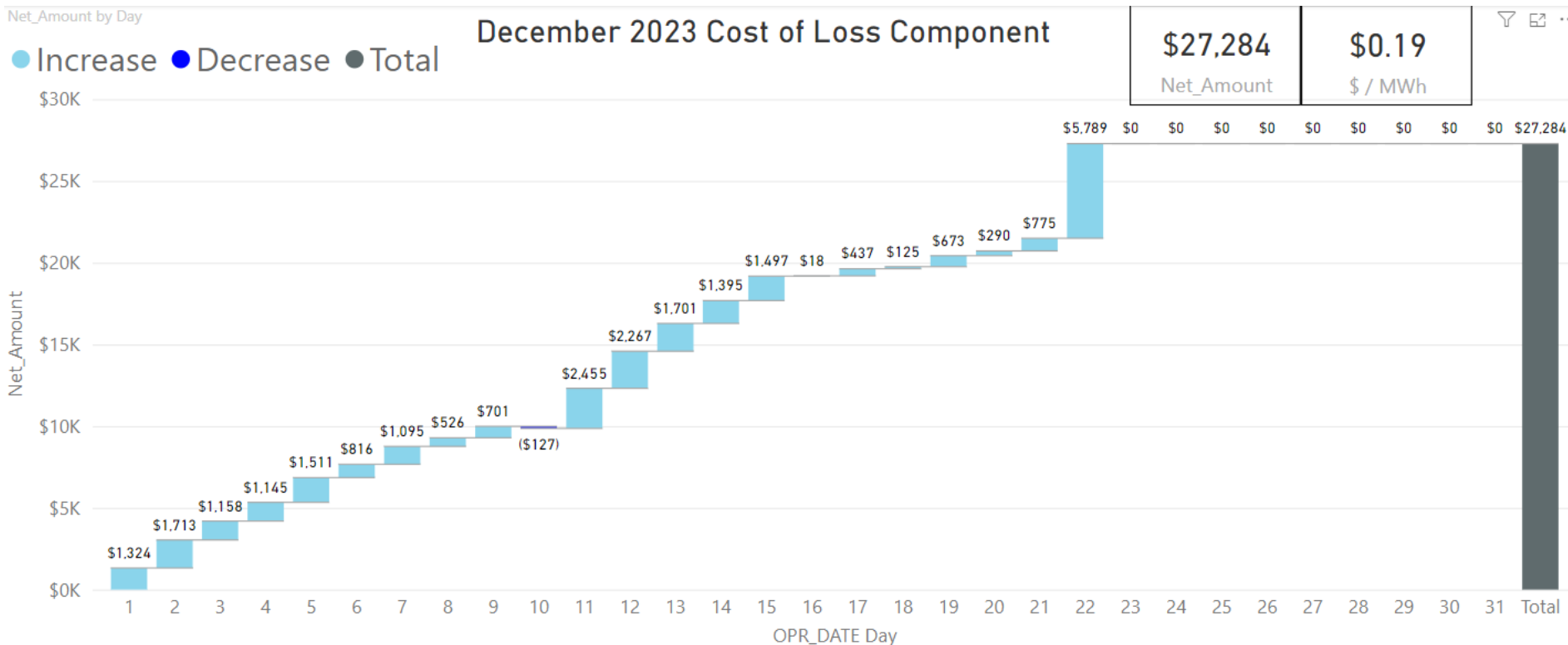
NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost





# Comparison of Day Ahead Loss Component LEC vs NP15 Trade Hub

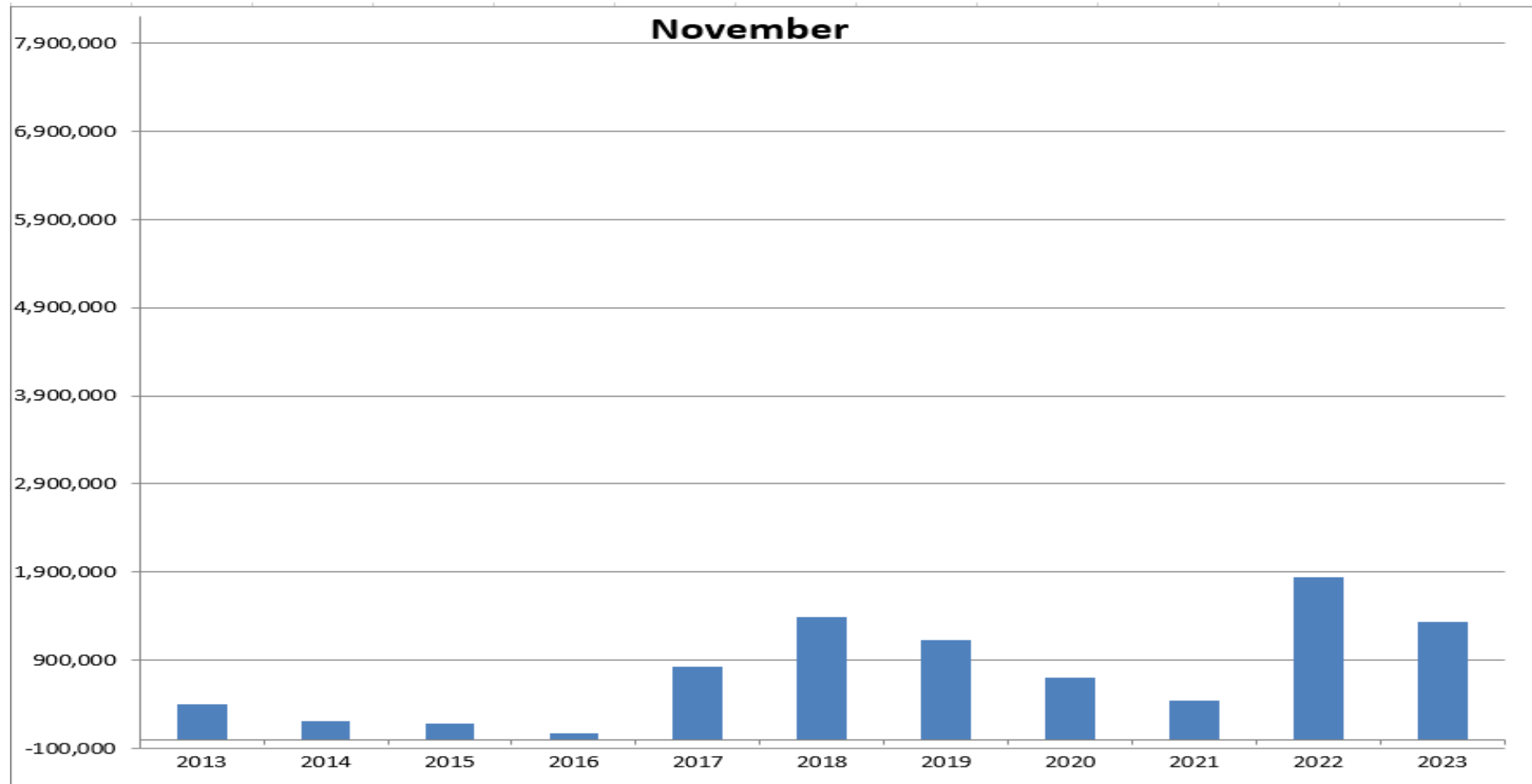




# November Asset Report

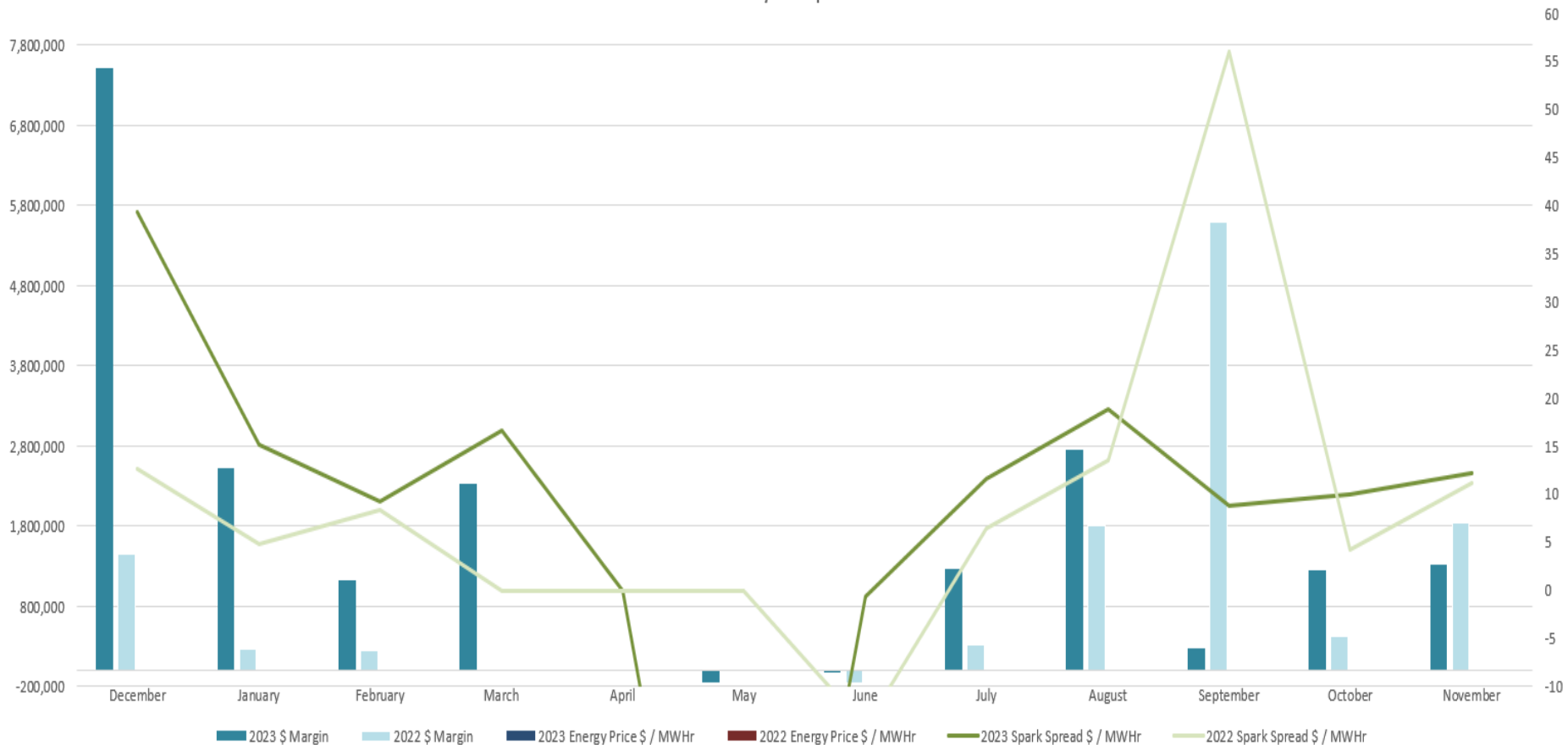
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	8,322,394	10,149,289	6,524,659	(1,826,895)	-18%	ISO Energy Sales below Forecast by 19%. Forced Outage.
VOM	6,634,438	10,312,161	5,331,574	(3,677,724)	-36%	CF above Forecast by 5%. Power Produced above Forecast by 6%. Power Prices Lower by 23% vs. Forecast.
Fixed	1,265,418	1,006,722	1,156,722	258,697	26%	Labor up by 10%. Fixed Cost up by 38%. Purchased UF's & Rental Equipment Cost to Support Forced Outage.
Projects	258,846	258,846	270,755	(0)	0%	
A&G	223,194	223,280	223,280	(86)	0%	
Debt	2,166,020	2,166,350	2,166,019	(330)	-0.02%	
Net Cost	(2,225,522)	(3,818,070)	(2,623,690)	1,592,548	-42%	
Net Annual Cost		(19,896,381)	(12,122,418)	(\$7,773,963)		
				Above budget by 64.13%		

# Historical Margins

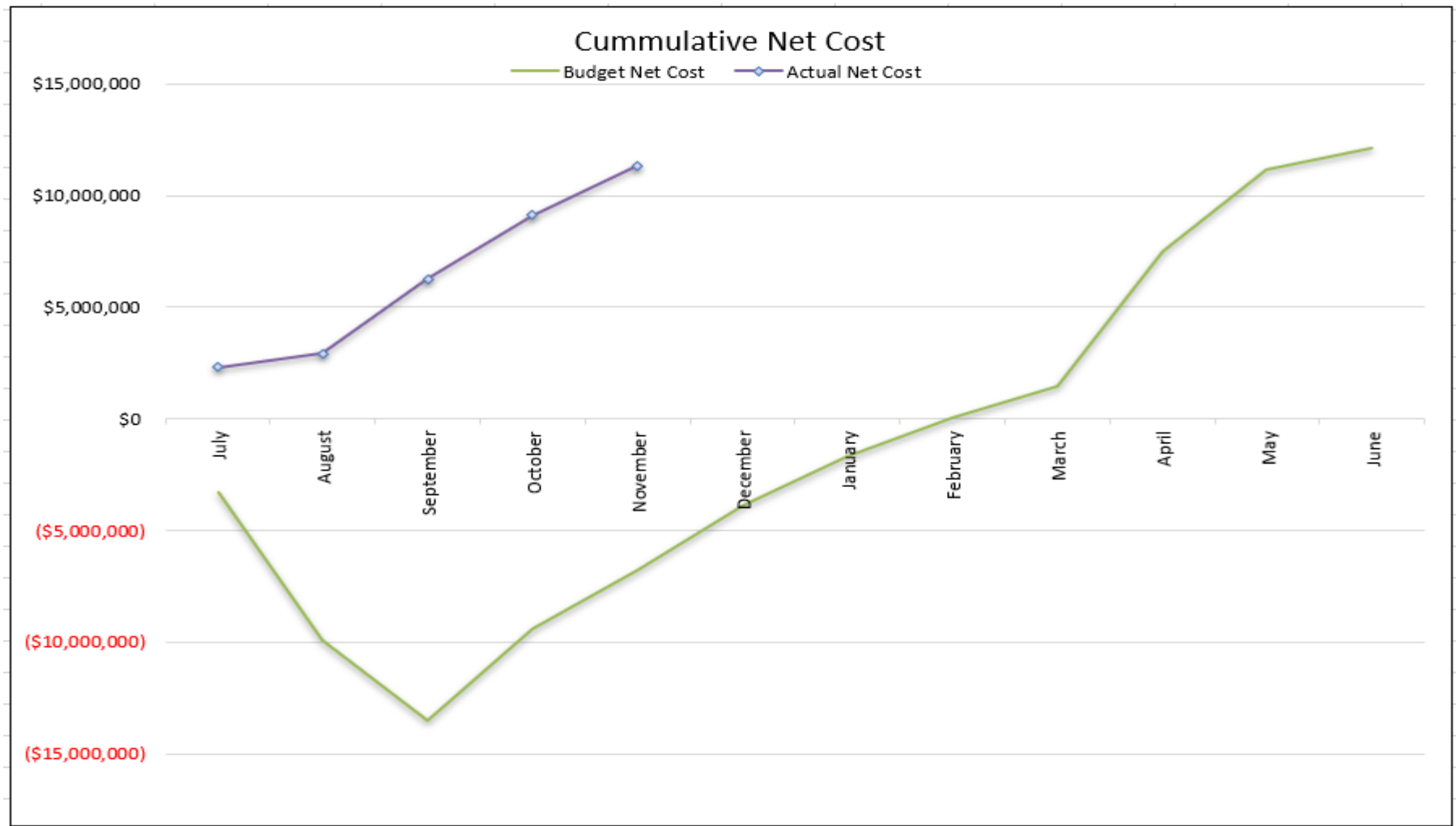


\* November 2023 Margin @ \$1,328,889 due to favorable market conditions.

## Historical Monthly Comparison



- \* Spark Spread from (Nov 2022) @ \$11.21 \$/MWhr vs. (Nov 2023) @ \$12.16 \$/MWhr
- \* Spark Spread delta marginally higher from Nov 2022 vs Nov 2023 @ \$.95 \$/MWhr
- \* Margin comparison lower from Nov 2022 (\$1,834,005) vs Nov 2023 (\$1,328,889)



\* Budget Net Cost (\$6,798,629) vs. Actual Net Cost \$11,346,927

Lodi Energy Center  
Monthly Budget Analysis  
Expenditures  
Report Date: 12/20/2023

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2024 Budget	Percent Used	Comments
VOM	6,230,796	8,130,435	1,644,190	8,884,688	6,634,438	12,863,585	11,864,775	9,027,463	6,667,363	0	2,570,180	6,972,279	81,490,191	91,703,714	88.9%	
Capacity Factor	49%	65%	15%	56%	50%	51%	44%	41%	36%	0%	14%	37%	38%	38%	100.0%	CF higher by 5% vs. Forecast
Fuel Consumed (mmBTU, estimated)	778,036	1,034,230	228,909	881,581	764,290	814,748	726,353	630,996	591,117	0	245,525	595,959	7,291,744	9,058,849	80.5%	
Avg Fuel Cost (\$/mmBTU)	5.41	5.39	4.33	6.38	6.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2.89	7.87	36.7%	
Power Produced (MWhr, estimated)	110,534	148,957	31,972	125,082	109,227	113,931	99,862	86,560	80,139	0	31,820	79,787	1,017,871	1,303,566	78.1%	MWhr produced higher by 6% vs. Forecast
Avg Power Price (\$/MWhr)	70.51	77.17	60.02	78.22	74.97	0.00	0.00	0.00	0.00	0.00	0.00	0.00	38.49	95.06	40.5%	Power Prices lower by 23% vs. Forecast
Operations / Variable / LTSA	147,690	169,459	141,392	878,497	148,982	123,567	989,738	98,356	93,910	0	50,850	561,857	3,404,298	4,837,398	70.4%	
Fuel (estimated)	4,211,170	5,569,646	991,544	5,627,298	4,649,538	10,814,009	9,107,302	7,393,794	5,136,906	0	1,925,325	4,963,948	60,390,480	71,517,913	84.4%	
AB32 GHG Offset (estimated)	1,462,153	2,030,979	462,367	1,749,465	1,592,739	1,718,085	1,585,487	1,377,341	1,290,293	0	535,933	1,300,862	15,105,705	13,984,733	108.0%	GHG higher by 6% vs. Forecast
CA ISO Charges (estimated)	409,783	360,351	48,887	629,428	243,179	207,923	182,248	157,973	146,253	0	58,072	145,612	2,589,708	1,363,670	189.9%	CAISO charges higher by 28% vs. Forecast
Routine O&M (Fixed)	1,364,229	1,520,704	1,104,923	1,292,039	1,265,418	1,332,092	1,082,044	1,149,642	1,120,800	1,354,887	1,318,930	1,221,232	15,126,937	14,013,817	107.9%	
Maintenance / Fixed	370,865	330,257	338,399	533,479	371,163	268,500	268,500	268,500	268,500	396,582	268,500	268,500	3,951,745	3,350,082	118.0%	Fixed cost higher by 38% due to unit outage vs. Forecast
Administration	2,526	15,273	2,212	12,348	22,003	21,566	13,786	13,947	15,681	15,681	15,681	15,681	166,385	188,173	88.4%	
Mandatory Costs	44,199	405,606	18,181	19,785	14,490	32,525	17,861	20,325	17,907	43,800	40,525	40,525	715,729	374,870	190.9%	
Inventory Stock	0	0	0	18,118	132,665	11,773	65,373	156,346	118,188	0	144,000	0	646,463	500,000	0.0%	
Labor	675,240	484,316	459,297	436,142	453,204	711,607	430,403	404,403	414,403	612,703	564,103	610,403	6,256,224	6,167,244	101.4%	Labor higher by 10% vs. Forecast (outage)
Insurance	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	1,751,712	1,751,712	100.0%	
Power Management & Settlements	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,424	1,505,074	1,505,071	100.0%	
Other Costs	0	13,853	15,435	768	494	14,722	14,722	14,722	14,722	14,722	14,722	14,723	133,605	176,665	75.6%	
Projects	218,640	180,755	243,735	222,078	258,846	272,966	180,755	255,755	248,255	1,328,823	180,755	248,255	3,839,620	3,912,591	98.1%	
Maintenance Reserve	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	2,169,062	2,169,063	100.0%	
Operations & Maintenance Projects	37,885	0	62,980	41,323	78,091	92,211	0	75,000	67,500	1,148,068	0	22,500	1,625,558	1,698,528	95.7%	
Capital Projects	0	0	0	0	0	0	0	0	0	0	0	45,000	45,000	45,000	100.0%	
A&G	223,194	223,194	223,194	223,194	223,194	223,280	223,280	223,280	223,280	223,280	223,280	223,280	2,678,929	2,679,358	100.0%	
Administrative & General (Allocated)	190,458	190,458	190,458	190,458	190,458	190,498	190,498	190,498	190,498	190,498	190,498	190,498	2,285,773	2,285,971	100.0%	
Generation Services Shared	32,736	32,736	32,736	32,736	32,736	32,782	32,782	32,782	32,782	32,782	32,782	32,782	393,156	393,387	99.9%	
Total O&M Cost	8,036,859	10,055,088	3,216,042	10,621,999	8,381,896	14,691,922	13,350,853	10,656,140	8,259,697	2,906,990	4,293,144	8,665,045	103,135,677	112,309,480	91.8%	
Debt Service	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	0	0	0	0	0	0	0	10,830,100	25,992,239	41.7%	
Revenues	7,885,997	11,628,566	2,044,088	9,914,012	8,322,394	13,006,194	10,948,243	9,384,327	6,873,592	0	2,465,368	6,584,270	89,057,051	126,179,301	70.6%	
ISO Energy Sales (estimated)	7,793,651	11,494,752	1,919,044	9,783,322	8,188,300	13,006,194	10,948,243	9,384,327	6,873,592	0	2,465,368	6,584,270	88,441,063	123,918,636	71.4%	Sales lower by 19% vs. Forecast
Other Income	92,346	133,814	125,044	130,690	134,094	0	0	0	0	0	0	0	615,988	2,260,665		
Net	(\$2,316,882)	(\$592,542)	(\$3,337,974)	(\$2,874,007)	(\$2,225,522)	(\$1,685,728)	(\$2,402,611)	(\$1,271,813)	(\$1,386,106)	(\$2,906,990)	(\$1,827,776)	(\$2,080,776)	(\$24,908,726)	(\$12,122,418)	Above budget by 105.48%	



651 Commerce Drive  
Roseville, CA 95678

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

# LEC Treasurer's Report

AGENDA ITEM NO.: 8

---

**Date:** January 8, 2024  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended November 30, 2023

---

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

Cash - At month end cash totaled \$2,652,746.

Investments - The carrying value of the LEC's investment portfolio totaled \$39,073,036 at month end. The current market value of the portfolio totaled \$37,889,694.

The overall portfolio had a combined weighted average interest rate of 2.465% with a bond equivalent yield (yield to maturity) of 2.466%. Investments with a maturity greater than one year totaled \$19,410,000. During the month \$9,386,933 was invested.

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

Interest Rates - During the month, rates on 90 day T-Bills decreased 5 basis points from 5.59% to 5.54% and rates on one year T-Bills decreased 15 basis points from 5.41% to 5.26%.

To the best of my knowledge and belief, all securities held by LEC as of November 30, 2023 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**NOVEMBER 30, 2023**

### **TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
<b>CASH &amp; INVESTMENT BALANCE</b>	<b>1</b>
<b>CASH ACTIVITY SUMMARY</b>	<b>2</b>
<b>INVESTMENT ACTIVITY SUMMARY</b>	<b>3</b>
<b>INTEREST RATE/YIELD ANALYSIS</b>	<b>4</b>
<b>LIQUIDITY AND INVESTMENT MATURITIES ANALYSIS</b>	<b>5</b>
<b>DETAIL REPORT OF INVESTMENTS</b>	<b>APPENDIX</b>



**Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Cash & Investment Balance  
November 30, 2023**

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 2,652,746	\$ 13,691,350	\$ 16,344,096	39.17%	\$ 13,691,349
Debt Service Reserve	-	9,540,471	9,540,471	22.86%	9,155,808
O & M Reserve	-	15,671,419	15,671,419	37.56%	14,872,741
	<b>2,652,746</b>	<b>38,903,240</b>	<b>41,555,986</b>	<b>99.59%</b>	<b>37,719,898</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	169,796	169,796	0.41%	169,796
Participant Deposit Account	-	-	-	-	-
	<b>\$ 2,652,746</b>	<b>\$ 39,073,036</b>	<b>\$ 41,725,782</b>	<b>100.00%</b>	<b>\$ 37,889,694</b>

**NOTE A -Investment amounts shown at book carrying value.**

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**November 30, 2023**

	<b>RECEIPTS</b>			<b>EXPENDITURES</b>			<b>CASH</b>
	<b>OPS/CONSTR</b>	<b>INTEREST (NOTE B)</b>	<b>INVESTMENTS (NOTE A)</b>	<b>OPS/CONSTR</b>	<b>INVESTMENTS (NOTE B)</b>	<b>INTER-COMPANY/ FUND TRANSFERS</b>	<b>INCREASE / (DECREASE)</b>
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ 3,218,020	\$ -	\$ 6,624,000	\$ -	\$ (9,283,000)	\$ 2,092,695	\$ 2,651,715
Debt Service Reserve	-	-	3,218,020	(3,218,020)	-	-	-
O & M Reserve	-	28,376	8,250	-	(103,158)	66,532	-
	<u>3,218,020</u>	<u>28,376</u>	<u>9,850,270</u>	<u>(3,218,020)</u>	<u>(9,386,158)</u>	<u>2,159,227</u>	<u>2,651,715</u>
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	775	-	-	(775)	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 3,218,020</u>	<u>\$ 29,151</u>	<u>\$ 9,850,270</u>	<u>\$ (3,218,020)</u>	<u>\$ (9,386,933)</u>	<u>\$ 2,159,227</u>	<u>\$ 2,651,715</u>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**November 30, 2023**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR MATURED	DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	\$ 9,283,000	\$ (6,624,000)	\$ 47,112	\$ -	\$ -	\$ 2,706,112
Debt Service Reserve	-	(3,218,020)	13,359	-	-	(3,204,661)
O & M Reserve	103,158	(8,250)	(452)	-	-	94,456
	<u>9,386,158</u>	<u>(9,850,270)</u>	<u>60,019</u>	<u>-</u>	<u>-</u>	<u>(404,093)</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	775	-	-	-	-	775
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 9,386,933</u>	<u>\$ (9,850,270)</u>	<u>\$ 60,019</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (403,318)</u>

**Less Non- Cash Activity**

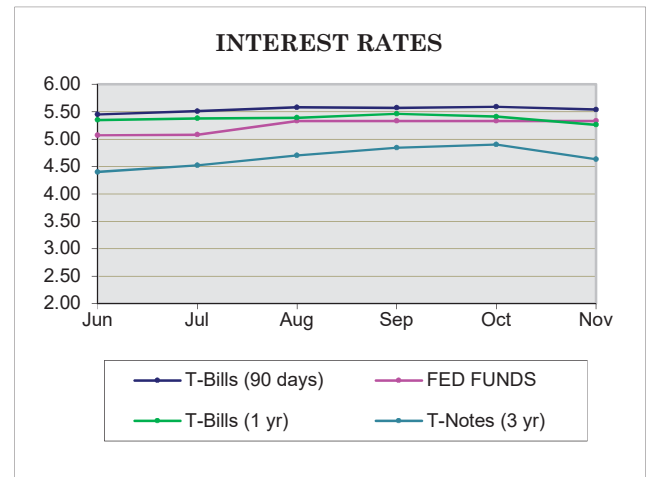
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(60,019)
<b>Net Change in Investment –Before Non-Cash Activity</b>	<u><u>\$ (463,337)</u></u>

**NOTE A -Investment amounts shown at book carrying value.**

**Northern California Power Agency/Lodi Energy Center**  
**Interest Rate/Yield Analysis**  
**November 30, 2023**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>2.465%</b>	<b>2.466%</b>
Debt Service Account	<b>1.698%</b>	<b>1.741%</b>
Debt Service Reserve	<b>2.994%</b>	<b>2.996%</b>
O & M Reserve	<b>2.779%</b>	<b>2.743%</b>
GHG Cash Account	<b>5.560%</b>	<b>5.560%</b>

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>5.33%</b>	<b>3.83%</b>
T-Bills (90da.)	<b>5.54%</b>	<b>4.41%</b>
Agency Disc (90da.)	<b>5.35%</b>	<b>4.42%</b>
T-Bills (1yr.)	<b>5.26%</b>	<b>4.76%</b>
Agency Disc (1yr.)	<b>5.35%</b>	<b>4.75%</b>
T-Notes (3yr.)	<b>4.63%</b>	<b>4.26%</b>

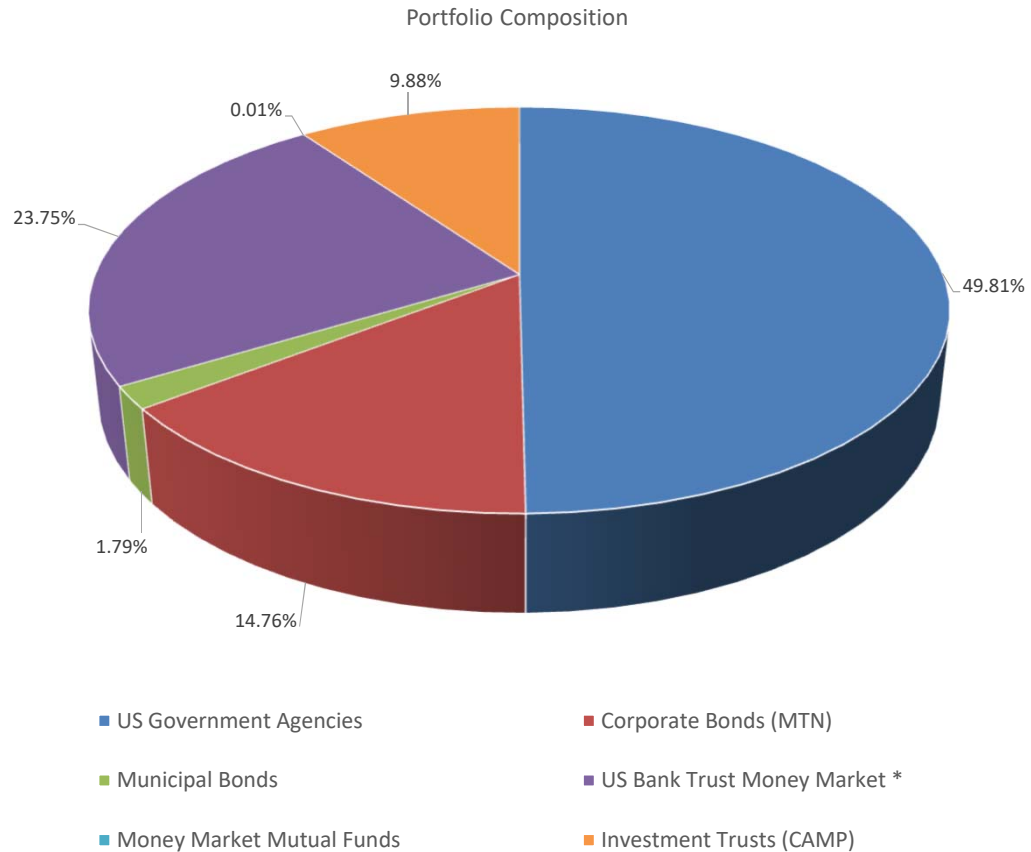


**Northern California Power Agency  
Total Portfolio  
Liquidity and Investment Maturities Analysis  
November 30, 2023**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ 4,408	\$ 50	\$ -	\$ -	\$ 2,070	\$ 12,941	\$ -	\$ 19,469	49.81%
Corporate Bonds (MTN)	-	-	-	-	-	5,769	-	5,769	14.76%
Municipal Bonds	-	-	-	-	-	700	-	700	1.79%
US Bank Trust Money Market *	9,284	-	-	-	-	-	-	9,284	23.75%
Money Market Mutual Funds	2	-	-	-	-	-	-	2	0.01%
Investment Trusts (CAMP)	3,860	-	-	-	-	-	-	3,860	9.88%
<b>Total Dollars</b>	<b>\$ 17,554</b>	<b>\$ 50</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,070</b>	<b>\$19,410</b>	<b>\$ -</b>	<b>\$ 39,084</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>44.91%</b>	<b>0.13%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>5.30%</b>	<b>49.66%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.

\* Uninvested debt service balances at U.S. Bank Global Trust and Custody are swept into U.S. Bank unrated money market demand deposit investment products.



# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



## Northern California Power Agency

## Treasurer's Report

11/30/2023

## LEC Issue #1 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	5,176,742	0.010		5,176,742		1	0.010	5,176,742	SYS79004	79004	5,176,742
Federal Home Loan Ba	USBT	731,000	5.300	08/29/2023	720,884	12/01/2023	0	5.449	731,000	313384PY9	27634	731,000
Federal National Mtg	USBT	728,000	5.205	09/28/2023	721,264	12/01/2023	0	5.326	728,000	313588PY5	27648	728,000
<b>Fund Total and Average</b>		<b>\$ 6,635,742</b>	1.163		<b>\$ 6,618,890</b>		<b>1</b>	<b>1.192</b>	<b>\$ 6,635,742</b>			<b>\$ 6,635,742</b>

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	4,106,607	0.010		4,106,607		1	0.010	4,106,607	SYS79012	79012	4,106,607
Federal Home Loan Ba	USBT	818,000	5.300	08/29/2023	806,680	12/01/2023	0	5.449	818,000	313384PY9	27635	818,000
Federal National Mtg	USBT	813,000	5.205	09/28/2023	805,477	12/01/2023	0	5.326	813,000	313588PY5	27649	813,000
<b>Fund Total and Average</b>		<b>\$ 5,737,607</b>	1.500		<b>\$ 5,718,764</b>		<b>1</b>	<b>1.539</b>	<b>\$ 5,737,607</b>			<b>\$ 5,737,607</b>

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	661,000	5.300	08/29/2023	651,852	12/01/2023	0	5.449	661,000	313384PY9	27636	661,000
Federal National Mtg	USBT	657,000	5.205	09/28/2023	650,921	12/01/2023	0	5.326	657,000	313588PY5	27650	657,000
<b>Fund Total and Average</b>		<b>\$ 1,318,000</b>	5.253		<b>\$ 1,302,773</b>		<b>0</b>	<b>5.388</b>	<b>\$ 1,318,000</b>			<b>\$ 1,318,000</b>
<b>GRAND TOTALS:</b>		<b>\$ 13,691,349</b>	1.698		<b>\$ 13,640,427</b>		<b>1</b>	<b>1.741</b>	<b>\$ 13,691,349.</b>			<b>\$ 13,691,349</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 11/30/2023



## Northern California Power Agency

## Treasurer's Report

11/30/2023

## LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	736	0.010		736		1	0.010	736	SYS79005	79005	736
Federal Home Loan Ba	USBT	20,000	4.875	04/25/2023	20,107	09/13/2024	287	4.468	19,936	3130ATVD6	27586	20,061
Federal Home Loan Mt	USBT	4,800,000	5.010	12/29/2022	4,800,000	12/29/2025	759	5.010	4,792,224	3134GY7C0	27506	4,800,000
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	822	0.840	4,066,651	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	924	0.799	136,775	3130AN4T4	27270	150,279
Federal Home Loan Ba	USBT	120,000	4.000	07/28/2023	118,496	06/30/2028	1,673	4.285	118,430	3130AWN63	27624	118,601
U.S. Treasury	USBT	21,000	4.375	09/28/2023	20,785	08/31/2028	1,735	4.608	21,054	91282CHX2	27647	20,793
Fund Total and Average		\$ 9,541,736	2.994		\$ 9,540,652		803	2.996	\$ 9,155,806			\$ 9,540,470

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	1	0.010		1		1	0.010	1	SYS79006	79006	1
Fund Total and Average		\$ 1	0.010		\$ 1		1	0.010	\$ 1			\$ 1

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	1	0.010		1		1	0.010	1	SYS79013	79013	1
Fund Total and Average		\$ 1	0.010		\$ 1		1	0.010	\$ 1			\$ 1
GRAND TOTALS:		\$ 9,541,738	2.994		\$ 9,540,654		803	2.996	\$ 9,155,808.			\$ 9,540,472

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 11/30/2023

## Callable Dates:

Inv #

27199	FFCB	Anytime
27506	FHLMC	12/29/2023





## Northern California Power Agency

## Treasurer's Report

11/30/2023

## LEC O &amp; M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
First American Govt.	USBGC	2,188	5.240		2,188		1	5.240	2,188	SYS70041	70041	2,188
California Asset Mgm	CMP	3,690,615	5.560	09/09/2022	3,690,615		1	5.560	3,690,615	SYS70075	70075	3,690,615
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70047	70047	0
Federal Farm Credit	USBGC	50,000	5.125	02/28/2023	49,991	02/28/2024	89	5.143	49,947	3133EPCB9	27557	49,998
Federal Farm Credit	USBGC	2,050,000	5.375	09/15/2023	2,053,075	09/13/2024	287	5.217	2,051,538	3133EPVU6	27640	2,052,422
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	366	1.776	455,607	14912L6G1	26952	471,539
Nashville Met Gov	USBGC	350,000	0.610	09/18/2023	350,000	07/01/2025	578	0.609	326,186	592112XC5	27645	350,000
Nashville Met Gov	USBGC	150,000	0.610	09/18/2023	150,000	07/01/2025	578	0.609	139,968	592112XA9	27646	150,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	606	0.579	931,170	3136G4D75	27047	1,000,332
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	626	0.600	929,210	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	668	0.530	690,038	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	668	0.530	619,804	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	800	0.699	458,535	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	881	1.200	446,730	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	958	1.050	899,580	57629WDE7	27250	1,003,825
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	999	1.250	87,907	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	1,018	1.227	452,320	14913R2Q9	27290	498,961
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	1,059	1.567	772,939	872898AA9	27335	854,303
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	1,074	1.490	467,172	74460DAG4	27310	515,143
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	1,074	1.475	965,186	74460DAG4	27341	1,064,737
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,278	3.654	175,874	088006KB6	27424	185,214
Mercedes-Benz Fin. N	USBGC	275,000	3.750	06/26/2023	260,832	02/22/2028	1,544	5.003	260,227	233851DF8	27609	262,142
Fund Total and Average		\$ 15,681,803	2.779		\$ 15,696,567		567	2.743	\$ 14,872,741			\$ 15,671,419
GRAND TOTALS:		\$ 15,681,803	2.779		\$ 15,696,567		567	2.743	\$ 14,872,741.			\$ 15,671,419

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types.

Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 11/30/2023

## Callable Dates:

Inv #

27047	FHLMC	Quarterly
27057	FNMA	Quarterly
27083	FFCB	Anytime
27084	FFCB	Anytime
27170	APPL	Anytime starting 1/8/2026
27222	JPM	Annually
27259	BAC	Semi-annually



Northern California Power Agency  
Treasurer's Report  
11/30/2023

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
California Asset Mgm	CMP	169,796	5.560	09/13/2022	169,796		1	5.560	169,796	SYS70077	70077	169,796
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70046	70046	0
Fund Total and Average		\$ 169,796	5.560		\$ 169,796		1	5.560	\$ 169,796			\$ 169,796
GRAND TOTALS:		\$ 169,796	5.560		\$ 169,796		1	5.560	\$ 169,796.			\$ 169,796

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 11/30/2023



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

---

**Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** November 30, 2023 Financial Reports (Unaudited)

---

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

		November	
		2023	2022
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$	169,796	\$ 466,533
Interest receivable		47,415	22,710
Inventory and supplies - at average cost		2,501,962	2,708,603
Prepaid insurance		(8,774)	1,311,197
Due from (to) Agency, net		33,453,272	43,770,092
<b>TOTAL CURRENT ASSETS</b>		<b>36,163,671</b>	<b>48,279,135</b>
<b>RESTRICTED ASSETS</b>			
Cash and cash equivalents		17,827,636	11,453,629
Investments		23,728,349	28,920,824
Interest receivable		113,514	9,818
<b>TOTAL RESTRICTED ASSETS</b>		<b>41,669,499</b>	<b>40,384,271</b>
<b>ELECTRIC PLANT</b>			
Electric plant in service		447,506,790	447,458,697
Less: accumulated depreciation		(144,881,648)	(130,130,995)
<b>TOTAL ELECTRIC PLANT</b>		<b>302,625,142</b>	<b>317,327,702</b>
<b>OTHER ASSETS</b>			
Regulatory assets		28,745,617	29,482,396
<b>TOTAL OTHER ASSETS</b>		<b>28,745,617</b>	<b>29,482,396</b>
<b>TOTAL ASSETS</b>		<b>409,203,929</b>	<b>435,473,504</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Unamortized excess cost on advance refunding of debt, net		375,243	715,371
Asset retirement obligations		201,184	194,399
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>		<b>576,427</b>	<b>909,770</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$</b>	<b>409,780,356</b>	<b>\$ 436,383,274</b>

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

		November	
		2023	2022
<b>LIABILITIES &amp; NET POSITION</b>			
<b>CURRENT LIABILITIES</b>			
Accounts and retentions payable	\$	4,656,491	\$ 11,721,936
Operating reserves		19,200,800	13,319,100
Current portion of long-term debt		14,239,000	13,842,676
Accrued interest payable		6,181,145	9,388,888
<b>TOTAL CURRENT LIABILITIES</b>		<b>44,277,436</b>	<b>48,272,600</b>
<b>NON-CURRENT LIABILITIES</b>			
Operating reserves and other deposits		165,932	461,985
Asset retirement obligations		201,184	194,399
Long-term debt, net		301,709,764	315,948,765
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>302,076,880</b>	<b>316,605,149</b>
<b>TOTAL LIABILITIES</b>		<b>346,354,316</b>	<b>364,877,749</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Regulatory credits		36,935,993	39,413,138
<b>NET POSITION</b>			
Invested in capital assets, net of related debt		167,550	896,360
Restricted		7,274,257	6,611,105
Unrestricted		19,048,240	24,584,922
<b>TOTAL NET POSITION</b>		<b>26,490,047</b>	<b>32,092,387</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$</b>	<b>409,780,356</b>	<b>\$ 436,383,274</b>

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

		<b>Five Months Ended November</b>	
		<b>2023</b>	<b>2022</b>
<b>SALES FOR RESALE</b>			
Participants	\$	29,131,574	\$ 25,568,323
Other		38,405,407	60,415,166
<b>TOTAL SALES FOR RESALE</b>		<b>67,536,981</b>	<b>85,983,489</b>
<b>OPERATING EXPENSES</b>			
Operations		31,410,991	46,525,017
Depreciation & amortization		5,897,517	5,896,720
Purchased power		1,475,155	3,798,294
Maintenance		2,502,223	1,707,387
Administrative and general		2,899,324	2,356,888
Transmission		312,052	430,700
Intercompany (sales) purchases		163,682	175,065
<b>TOTAL OPERATING EXPENSES</b>		<b>44,660,944</b>	<b>60,890,071</b>
<b>NET OPERATING REVENUES</b>		<b>22,876,037</b>	<b>25,093,418</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(5,280,623)	(5,440,025)
Interest income		2,290,771	1,568,195
Amortization		-	-
Insurance reimbursements		-	-
Other		2,384,558	4,165,796
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>(605,294)</b>	<b>293,966</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(395,157)</b>	<b>(237,618)</b>
<b>REFUNDS TO PARTICIPANTS</b>		<b>-</b>	<b>-</b>
<b>INCREASE IN NET POSITION</b>		<b>21,875,586</b>	<b>25,149,766</b>
<b>NET POSITION</b>			
Beginning of year		4,614,461	6,942,621
End of period	\$	26,490,047	\$ 32,092,387

**Lodi Energy Center  
FY 2024 Operating Costs  
As of November 30, 2023**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 4,837,398	\$ 1,486,020	\$ 3,351,378	69%	
Fuel & LDC Costs	71,517,913	22,298,393	49,219,520	69%	
GHG Allowance Costs	13,984,733	4,608,584	9,376,149	67%	
CA ISO Charges	675,245	312,052	363,193	54%	A
CA ISO Energy Purchases	688,425	1,475,155	(786,730)	0%	A
<b>Total Variable Costs</b>	<b>91,703,714</b>	<b>30,180,204</b>	<b>61,523,510</b>	<b>67%</b>	
<b>Routine O&amp;M Costs</b>					
Fixed O&M	3,350,082	1,944,163	1,405,919	42%	B
Administration	188,173	54,362	133,811	71%	
Mandatory Costs	374,870	502,260	(127,390)	0%	C
Routine O&M Costs without Labor	4,413,125	2,651,568	1,761,557	40%	
Labor	6,167,244	2,508,199	3,659,045	59%	
<b>Total Routine O&amp;M Cost</b>	<b>10,580,369</b>	<b>5,159,767</b>	<b>5,420,602</b>	<b>51%</b>	
<b>Other Plant Costs</b>					
Debt Service	25,992,239	10,830,099	15,162,140	58%	
Insurance	1,751,712	729,880	1,021,832	58%	
Other Costs	176,665	30,549	146,116	83%	
Generation Services Shared	393,387	163,682	229,705	58%	
Administrative & General (Allocated)	2,285,971	952,290	1,333,681	58%	
Power Management Allocated Costs	1,505,071	627,113	877,958	58%	
<b>Total Other Plant Costs</b>	<b>32,105,045</b>	<b>13,333,613</b>	<b>18,771,432</b>	<b>58%</b>	
<b>Total O&amp;M Costs</b>	<b>134,389,128</b>	<b>48,673,584</b>	<b>85,715,544</b>	<b>64%</b>	
<b>Projects</b>					
Operations & Maintenance	1,698,529	220,280	1,478,249	87%	
Capital	45,000	-	45,000	100%	
Maintenance Reserve	2,169,063	903,776	1,265,287	58%	
<b>Total Projects</b>	<b>3,912,592</b>	<b>1,124,056</b>	<b>2,788,536</b>	<b>71%</b>	
<b>Annual Cost</b>	<b>138,301,720</b>	<b>49,797,640</b>	<b>88,504,080</b>	<b>64%</b>	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	568,744	(318,744)	0%	
ISO Energy Sales	123,918,636	37,944,465	85,974,171	69%	
Ancillary Services Sales	2,010,665	460,942	1,549,723	77%	
Other Income	-	947	(947)	0%	
	126,179,301	38,975,098	87,204,203	69%	
<b>Net Annual Cost to Participants (without GHG Transfer Credits)</b>	<b>12,122,419</b>	<b>10,822,542</b>	<b>1,299,877</b>		
GHG Allowance Credits	13,611,634	4,608,584	9,003,050	66%	
<b>Net Annual Cost to Participants (with GHG Transfer Credits)</b>	<b>\$ (1,489,215)</b>	<b>\$ 6,213,958</b>	<b>\$ (7,703,173)</b>	<b>517%</b>	
<b>Total Variable Costs</b>	<b>91,703,714</b>	<b>30,180,204</b>	<b>61,523,510</b>		
<b>Total Fixed Costs</b>	<b>46,598,006</b>	<b>19,617,436</b>	<b>26,980,570</b>		
	<b>\$ 138,301,720</b>	<b>\$ 49,797,640</b>	<b>\$ 88,504,080</b>		
<b>Net Cumulative Generation (MWh)</b>	<b>1,626,895</b>	<b>525,772</b>			
<b>Total O&amp;M Cost Per MWh</b>	<b>\$ 82.60</b>	<b>\$ 92.58</b>			
<b>Net Annual Cost Per MWh</b>	<b>\$ (0.92)</b>	<b>\$ 11.82</b>			
<b>Net Annual Cost Per KW Month</b>	<b>\$ (0.41)</b>	<b>\$ 1.71</b>			

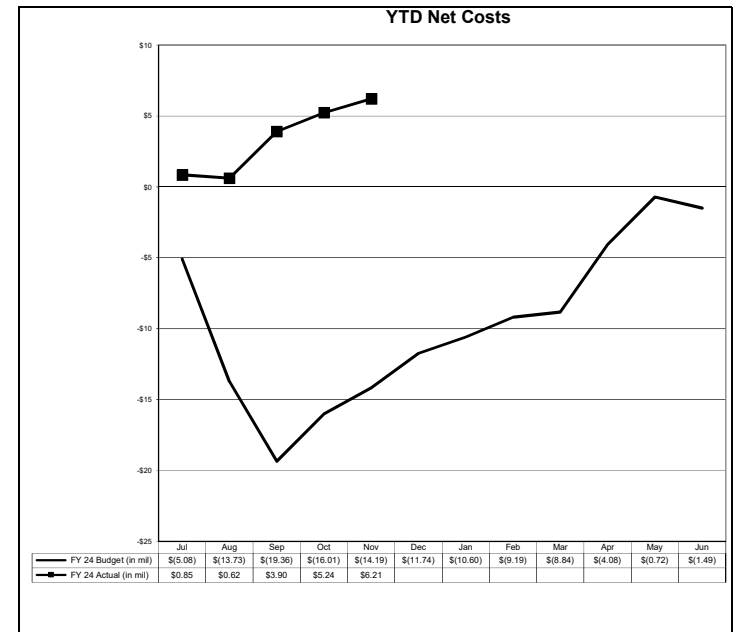
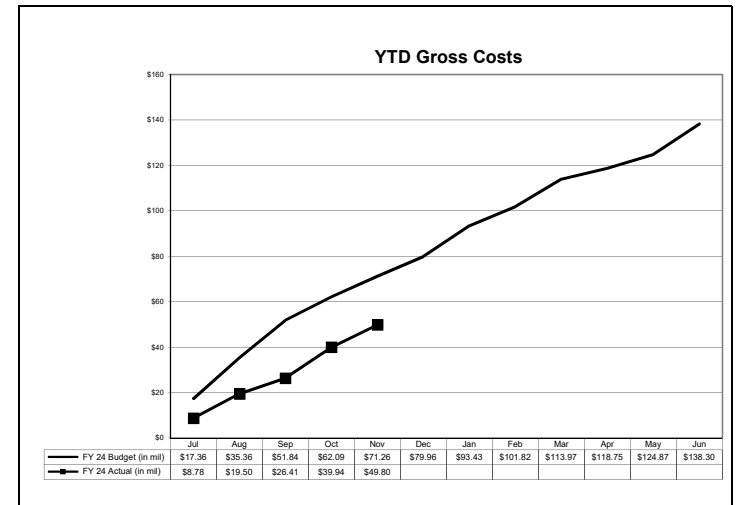
**Footnotes:**

**General** - The plant ran 17 out of 30 days during the month due to economics.

**A** - Higher CAISO costs due to higher prices for settlement charges during the month.

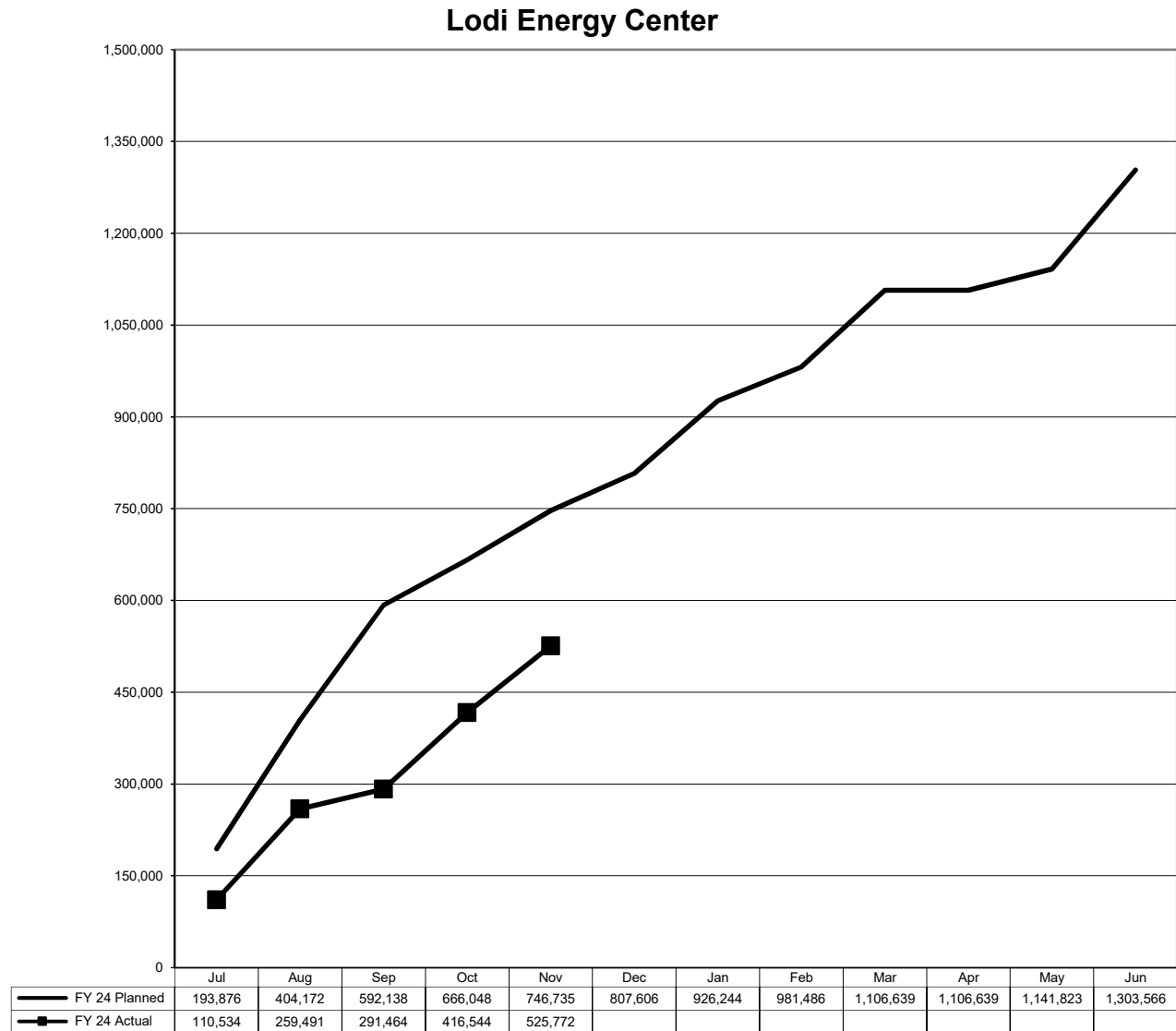
**B** - Costs for materials and supplies for annual outage were higher than expected due to supply chain issues.

**C** - Expenditure for annual permit fees, including higher than expected fees to Air Resources Board.



# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2024

In MWh







## **Lodi Energy Center Project Participant Committee**

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

---

**Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** GHG Reports (excerpted from monthly ARB)

---

NCPA All Resources Bill Imports GHG Obligation Report (Cumulative)														
January 2024														
IDENTIFIER	AZU L&P	BART	Biggs	CDWR	Gridley	Healdsburg	Lodi	Lompoc	MID	Plumas	PWR	SVP	Ukiah	Total
Allocation Percentages														
Generation Entitlement Share(%)	2.79%	6.60%	0.27%	33.50%	1.96%	1.64%	9.50%	2.04%	10.71%	0.79%	2.67%	25.75%	1.79%	100.00%
Obligation Accounts														
Current MT Compliance Obligation (MTO) Balance (MT)	38,392	85,856	3,486	461,688	25,552	21,371	130,794	26,411	147,657	10,224	36,767	328,568	23,227	1,339,993
Current MT Compliance Instrument Account (MTA) Balance (MT)	38,392	95,466	10,611	609,751	30,163	32,059	211,290	57,803	180,332	10,640	70,271	377,278	28,431	1,752,487
MTA Shortfall (MT)	0	(9,610)	(7,125)	(148,063)	(4,611)	(10,688)	(80,496)	(31,392)	(32,675)	(416)	(33,504)	(48,710)	(5,204)	(412,494)
Monthly GHG Price \$/MT	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Current Month CCA Balance (\$)*	69,071	0	162	0	1,249	5,413	878	0	0	0	86,155	0	3,003	165,931
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Advance Funding for Allowances Auction Purchase (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total GHG Obligation and Advance Funding (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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

[illegible]



## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 11

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Univar Solutions, Inc. – Five Year Multi-Task Agreement for Purchase of Chemicals; Applicable to the following projects: All NCPA locations

---

### Proposal

Approve the Multi-Task Agreement for Purchase of Chemicals with Univar Solutions, Inc. for purchase of various chemicals, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA.

### Background

Purchase of various chemicals is required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA recently had an agreement in place with Univar Solutions, Inc., which recently expired. NCPA has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future projects. NCPA has agreements in place for similar services with Brenntag Pacific, Hill Brothers Chemical Company, Thatcher Company of California and Dow Chemical (Pending).

### 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.

### Fiscal Impact

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

### 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.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Agreement for Purchase of Chemicals



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

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Univar Solutions, Inc., ("Supplier"), whose principal office is located at 3075 Highland Parkway, #200, Downers Grove, IL 60515 (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 (the "Effective Date").

**Section 1. SCOPE.** In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to the designated Project Site, DDP, when requested by the Agency. Supplier shall be responsible at its sole expense for delivering the Goods to the designated Project Site and title 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. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement. The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP.

**Section 3. TERM OF AGREEMENT.** This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A.

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

**Section 5. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed ONE MILLION DOLLARS (\$1,000,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement. Supplier may adjust product prices at any time. Agency may suspend orders immediately upon notice of a price increase. In the event price protection is stated in a written agreement between the parties, Supplier may temporarily suspend such product's price

protection in extraordinary market conditions as determined by Supplier in its discretion. Supplier shall reinstate the product's price protection upon Supplier's determination that the market condition for the product is no longer extraordinary.

- 5.1 **Invoices.** Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the Goods for which Supplier is seeking payment. 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  
[AcctsPayable@ncpa.com](mailto:AcctsPayable@ncpa.com)

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

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

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

the operations of Supplier in regard to this Agreement with not less than \$3,000,000 per each accident, with \$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

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

**6.5 All Policies Requirements.**

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

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

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

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

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



**Section 7. WARRANTY.** In addition to any and all warranties provided or implied by law or public policy, or any other warranties provided by Supplier, Supplier warrants that all Goods meet the Supplier specification at the time of delivery and comply with applicable federal, state and local laws and regulations; and are not subject to any liens or encumbrances. SUPPLIER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. AGENCY'S SOLE REMEDY FOR BREACHES OF THIS WARRANTY IS REPLACEMENT OR REFUND OF THE DEFECTIVE GOODS. Moreover, Agency must make any claim for shortage or non-conforming Goods within 30 days after Agency's receipt of the Goods in writing. Any claim for non-delivery must be made within 30 days after the date the Goods were to be delivered. As to any claim not reasonably discoverable within such 30 day period (including claims discoverable only in process, further manufacture, other use or resale), such claim must be in writing and received by Supplier within 180 days after Agency's receipt of the Goods. Failure of Supplier to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Agency of such claim. Goods may not be returned without Supplier's permission and transportation for return will not be paid by Supplier unless authorized in advance. Amounts owing to or payable by either party under this Agreement shall be deemed finally reconciled on the first anniversary of the final delivery under this Agreement and any outstanding rights of either party to receive overpayments or under payments including rights to unclaimed credits or refunds shall expire on such date.

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

- 8.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Supplier from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Supplier acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 8.2 Scope.** Supplier shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Supplier, its officers, officials, agents, and employees, except as caused by the sole 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.
- 8.3 Transfer of Title.** Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge

or release requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications. Should Supplier be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

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

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

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

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

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

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

**9.13 Contract Administrator.** This Agreement shall be administered by 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.

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

Tom McGowan, Sales Account Manager  
2461 Crocker Circle  
Fairfield, CA. 94533

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

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

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

- 9.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 9.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 9.15.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 9.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 9.15.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 9.16** **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 9.17** **Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 9.18** **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19** **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 9.20** **Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.
- 9.21** **LIMITATION OF LIABILITY.** FOR LIABILITIES COVERED BY INSURANCE SUPPLIER'S LIABILITY IS EXCLUSIVELY LIMITED TO THE INSURANCE

LIMITS SPECIFIED IN Section 6. NEITHER PARTY IS LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

**9.22 Termination for Convenience.** Either party may terminate this Agreement at any time on up to 180 days' notice whereby any confirmed orders remain valid.

**9.23 Force Majeure.** Supplier is not liable for nonperformance or delay in performance caused by circumstances beyond Supplier's reasonable control and/or the occurrence of any unforeseeable contingency making performance impracticable ("Force Majeure Event"). A Force Majeure Event includes, without limitation, (a) acts of God, war, riots, fire, explosions, floods, regional strikes or lockouts, court ordered injunctions, cyber or physical security breaches unforeseen shutdown of major sources of supply, , epidemic or pandemic (including any further deterioration of conditions related to COVID-19), or national emergency; (b) unforeseen shortage of supply of Goods, fuel, power, raw materials, labor, containers, or transportation facilities; or (c) compliance in good faith with any applicable governmental statute, regulation, or order. Any delivery so suspended shall be cancelled without liability, but this Agreement shall otherwise remain unaffected. This section does not apply to payment obligations but for a delay of payment for up to five (5) business days.

**9.24 Sanctions and Embargo Due Diligence.** Neither party, nor, to its knowledge, any of its or its affiliates' directors, officers, agents, subsidiaries or employees, is a person that is, or is owned or controlled by persons that are (1) the subject of any sanctions or embargoes administered or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union or HM Treasury (collectively, "[Sanctions](#)"); or (2) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions. Agency shall not export Goods to any person that is subject to Sanctions.

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

NORTHERN CALIFORNIA POWER AGENCY

UNIVAR SOLUTIONS, INC.

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_  
**JAMES ROGERS, General Manager**

Attest:

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

Approved as to Form:

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

## EXHIBIT A

### PURCHASE LIST

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

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

Additional products no listed above to be provided as requested in writing by NCPA facilities.

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

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

**EXHIBIT B**

**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, \_\_\_\_\_

(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 \_\_\_\_\_, 2024.

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

**EXHIBIT C**

**CERTIFICATION**

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

I, \_\_\_\_\_,

(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 \_\_\_\_\_, 2024.

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





## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 12

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Irani Engineering, Inc. – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

---

### Proposal

Approve the Multi-Task Consulting Services Agreement with Irani Engineering, Inc. for injection well related consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various injection well related consulting 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 AECOM Technical Service, Inc.

### 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.

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Consulting Services Agreement with Irani Engineering, Inc.



## **MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND IRANI ENGINEERING, INC.**

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Irani Engineering, Inc., a California corporation, with its office located at 35131 Beach Road, Capistrano Beach, CA 92624 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 ("Effective Date") in Roseville, California.

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

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

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

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** TWO MILLION dollars (\$2,000,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 All Policies Requirements.**

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

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

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

**4.4.4 Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and

policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

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

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

## **Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.**

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

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

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

**6.1 Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only

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

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

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

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

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



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

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

## **Section 7.     LEGAL REQUIREMENTS.**

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

## **Section 8.     TERMINATION AND MODIFICATION.**

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

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

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

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

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for

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

#### **9.4 Confidential Information and Disclosure.**

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

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

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

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

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

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

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

## **Section 10. MISCELLANEOUS PROVISIONS.**

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

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

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

- 10.7 Contract Administrator.** This Agreement shall be administered by 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.

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

Irani Engineering, Inc.  
Attention: Saeed Irani  
35131 Beach Road  
Capistrano Beach, CA 92624

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and

Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

IRANI ENGINEERING, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**SAEED IRANI,**  
President

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Irani Engineering, Inc. ("Consultant") shall provide injection well related consulting 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:

- Injection Well Consulting
- Injection Well Maintenance Supervision
- Injection Well Acidizing/Cleaning Supervision
- Surveys



## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### **EFFECTIVE: October 1, 2022**

##### WELLSITE SUPERVISION:

Rig Supervisor: For first Rig or Wireline Truck	\$1,800.00 per day
Second Rig or Wireline truck on the same day	\$ 900.00 per day

<u>ENGINEERING &amp; CONSULTING- HOURLY RATES:</u>	\$200.00 per hour
--	-------------------

##### WELLSITE COMMUNICATIONS:

Dedicated Cellular Phone & Computer & internet	\$50.00 per day
--	-----------------

##### TRAVEL EXPENSES:

Meals per diem (day rate minimum)	\$100.00 per day
Mileage	\$2.50 per mile**
Lodging	\$ at Cost, if required
Other Travel (airfare, rental cars, taxis, incidentals)	\$ at Cost

##### OTHER SERVICES & FEES:

3 <sup>rd</sup> Party Vendor Charges	\$ at Cost plus 15%
Miscellaneous Office (copies, express mail, phone)	\$ at Cost

Consultant may revise the rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

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

**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

Irani Engineering, 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.



## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 13

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Quantum Spatial, Inc. dba NV5 Geospatial, Inc. – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

---

### Proposal

Approve the First Amendment to the Multi-Task General Services Agreement with Quantum Spatial, Inc. dba NV5 Geospatial, Inc. for transmission and distribution line modeling and inspection, vegetation surveys, aerial surveys, LiDAR mapping and analytics, drafting and other misc. related mapping tasks, with any non-substantial changes recommended and approved by the NCPA General Counsel, accepting assignment to NV5 Geospatial, Inc., for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members.

### Background

Transmission and distribution line modeling and inspection, vegetation surveys, aerial surveys, LiDAR mapping and analytics, drafting and other misc. mapping tasks are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task General Services Agreement with Quantum Spatial, Inc. dba NV5 Geospatial, Inc. effective April 29, 2021, for use at all NCPA, NCPA Member, SCPPA, and SCPPA Member facilities.

Effective November 8, 2022, Quantum Spatial, Inc. dba NV5 Geospatial, Inc. changed their name to NV5 Geospatial, Inc. NCPA now desire to enter into a First Amendment to the Multi-Task General Services Agreement accepting assignment to NV5 Geospatial, Inc.

### Selection Process

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has two other agreements with GEI Consultants and GHD, Inc., however, they subcontract the work to NV5 Geospatial, Inc. NCPA seeks bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

Upon execution, the total cost of the agreement will be not to exceed \$2,000,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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.

Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with Quantum Spatial, Inc. dba NV5 Geospatial, Inc.
- First Amendment to Multi-Task General Services Agreement with Quantum Spatial, Inc. dba NV5 Geospatial, Inc. Accepting Assignment to NV5 Geospatial, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
QUANTUM SPATIAL, INC. dba NV5 GEOSPATIAL, 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 Quantum Spatial, Inc. d/b/a NV5 Geospatial, a corporation with its office located at 10033 MLK Street N, Ste. 200, St. Petersburg, FL 33716 ("Contractor") (together sometimes referred to as the "Parties") as of April 29, 2021 ("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** two million dollars (\$2,000,000) 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](mailto: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.

**4.2.4 Aircraft Liability Insurance.** Contractor shall maintain aircraft liability insurance, covering both owned and non-owned aircraft, in connection with performance of work under this Agreement in an amount for combined single limit for bodily injury, property damage and passengers of not less than Five Million Dollars (\$5,000,000.00).

**4.3 Professional Liability Insurance.** Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 Pollution Insurance.** Intentionally omitted.

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

In no event shall either party or any of its representatives be liable under this agreement to the other party or any third party for any liquidated, consequential, incidental, indirect, exemplary, special or punitive damages, including any damages for business interruption, loss of use, data, revenue or profit, whether arising out of breach of contract, tort (including negligence) or otherwise,

regardless of whether such damages were foreseeable and whether or not the breaching party was advised of the possibility of such damages.

Additionally, Contractor's total liability to the Agency for any and all claims or disputes arising against Contractor shall not exceed the amount of insurance described in Section 4 of this Agreement.

## **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. If Contractor and Agency agree that Contractor has no outstanding Requested Work under any Purchase Orders, Contractor may cancel this Agreement without cause upon ten (10) days' prior written notice to Agency.

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 with at least five (5) business days' notice 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 Joel Ledesma, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

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

Jennifer Whitacre  
Senior Director of Strategic Accounts  
Quantum Spatial, Inc. d/b/a/ NV5 Geospatial  
5 Blackhawk Club Court  
Danville, CA 94506

With a copy to:

Richard Tong  
General Counsel  
Quantum Spatial, Inc. d/b/a NV5 Geospatial  
200 S Park Road, Suite 350  
Hollywood, FL 33021

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, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

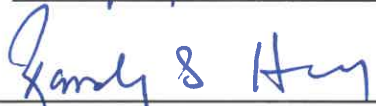
The Parties have executed this Agreement as of the date signed by the Agency.


NORTHERN CALIFORNIA POWER AGENCY

QUANTUM SPATIAL, INC  
dba NV5 GEOSPATIAL

Date 4/29/21

Date 4/8/21


  
RANDY S. HOWARD, General Manager

  
ERIC H. MERTEN, VP & General  
Manager of Commercial Markets

Attest:

  
Assistant Secretary of the Commission

Approved as to Form:

  
Jane E. Luckhardt, General Counsel

## **EXHIBIT A**

### **SCOPE OF WORK**

Quantum Spatial, Inc. dba NV5 Geospatial ("Contractor") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members, including:

- Transmission and Distribution Line Modeling and Inspection;
- Vegetation Surveys;
- Aerial Surveys;
- LiDAR Mapping and Analytics;
- Drafting; and
- Other Misc. Mapping Tasks.

## 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:



quantum SPATIAL

#### Quantum Spatial Rate Card 2021

Personnel Rates by Title	
Position	Hourly Rate
GeoContractor	\$50
Technician	\$85
Analyst	\$99
Senior Analyst	\$110
Lead Analyst	\$121
Associate Team Leader	\$120
Team Lead	\$151
Solutions Developer	\$165
Technical Specialist	\$139
Project Manager	\$157
Technical Expert	\$186
Program Manager	\$204
Administrative Assistant	\$91
Acquisition Field Surveyor	\$89
Acquisition Survey Analyst	\$113
Acquisition Field Manager	\$172
Acquisition Project Coordinator	\$124
Acquisition Operations Manager	\$226
Acquisition Sensor Operator	\$97
Acquisition Pilot	\$125
IND Technician	\$14
IND Analyst	\$20
IND Technical Specialist	\$38
IND Production Manager	\$135
IND Director	\$192

Equipment Rates by Unit	
Unit	Hourly Rate
Twin Turbine	\$1,855
Single Engine Turbine	\$1,161
Twin Piston	\$1,024
1560i	\$1,476
1560il	\$1,476
ALS 80	\$782
Riegl 880-Gii (Topobathy)	\$1,774
Leica Chiroptera	\$1,935
Leica HawkEye	\$1,452
Vexcel Ultracam	\$1,266
ADS 100	\$1,347
CLASS	\$1,290
CASI 1500	\$1,532
FLIR	\$903
Headwall Hyperspec	\$806
Optech Orion C / VQ-480i / Midar	\$806
Mobile Mapper	\$806
Phase One Digital Camera	\$161

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, Eric H. Merten

(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 Quantum Spatial, Inc. dba NV5 Geospatial

(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]

(Signature of officer or agent)

Dated this 9<sup>th</sup> day of April, 20 21.

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



**EXHIBIT D – NOT APPLICABLE**

**CERTIFICATION**

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

I, \_\_\_\_\_,

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_  
(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

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

EXHIBIT E

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: 4/9/21

Name of Employer

Quantum Spatial, Inc dba NV5 Geospatial

Eric Merton VP and General Manager  
(Authorized Officer & Title)  
421 SW 6th Ave  
Portland, OR 97204  
(Address)



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND QUANTUM SPATIAL, INC. dba NV5  
GEOSPATIAL, INC. ACCEPTING ASSIGNMENT TO NV5 GEOSPATIAL, INC.**

This First Amendment (“Amendment”) to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and NV5 Geospatial, Inc. (“Contractor”) (collectively referred to as “the Parties”) as of \_\_\_\_\_, 202\_\_.

WHEREAS, the Agency and Quantum Spatial, Inc. dba NV5 Geospatial, Inc. entered into a Multi-Task General Services Agreement dated effective April 29, 2021, (the “Agreement”) for Contractor to provide transmission and distribution line modeling and inspections, vegetation surveys, aerial surveys, LiDAR mapping and analytics, drafting and various other mapping services for the Agency, Agency Members, the Southern California Public Power Authority (SCPPA) or SCPPA Members; and

WHEREAS, effective November 8, 2022, Quantum Spatial, Inc. dba NV5 Geospatial, Inc. has changed their name to NV5 Geospatial, Inc. and the Parties now desire to assign the Agreement to the NV5 Geospatial, Inc.; and

WHEREAS, the Parties now desire to amend Section 13.8 entitled “Notices” of the Agreement to reflect the change of the Contractor’s name; and

WHEREAS, the Agency now desires to amend the Exhibit A entitled “Scope of Work” of the Agreement to reflect the change of the Contractor’s name; and

WHEREAS, the Parties now desire to amend Exhibit C entitled “Affidavit of Compliance for Contractors” of the Agreement to reflect the change of the Contractor’s name; and

WHEREAS, the Agency now desires to amend Exhibit E – Maintenance Labor Agreement Attachment Lodi Energy Center Project to reflect it is not applicable for the work performed under this agreement; and

WHEREAS, the Parties and Quantum Spatial, Inc. dba NV5 Geospatial, Inc. agree to the assignment of the Agreement to NV5 Geospatial, Inc.; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **As of the Amendment Effective Date**, the preamble to the Agreement is replaced in its entirety as follows:

"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 NV5 Geospatial, Inc., a corporation with its office located at 10033 MLK Street N, Ste. 200, St. Petersburg, FL 33716 ("Contractor") (together sometimes referred to as the "Parties") as of April 29, 2021 ("Effective Date") in Roseville, California.

2. Section 13.8 Notices is replaced in its entirety as follows:

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

Jennifer Whitacre  
Senior Director of Strategic Accounts  
NV5 Geospatial, Inc.  
5 Blackhawk Club Court  
Danville, CA 94506

With a copy to:

Richard Tong  
General Counsel  
NV5 Geospatial, Inc.  
200 S. Park Road, Suite 350  
Hollywood, FL 33021

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

3. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
4. **Exhibit C – CERTIFICATION – Affidavit of Compliance for Contractors** is amended to include NV5 Geospatial, Inc. and shall be executed as set forth in the attached Exhibit C.
5. Agency hereby approves the name change of the Agreement from Quantum Spatial, Inc. dba NV5 Geospatial, Inc. to NV5 Geospatial, Inc., Contractor.

6. 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

NV5 GEOSPATIAL, INC.

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

\_\_\_\_\_  
**REBECCA LASICA,**  
**VP of Commercial Sales and Business**  
**Development**

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF WORK**

NV5 Geospatial, Inc. ("Contractor") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, NCPA Members, SCPPA, or SCPPA Members, including:

- Transmission and Distribution Line Modeling and Inspection;
- Vegetation Surveys;
- Aerial Surveys;
- LiDAR Mapping and Analytics;
- Drafting; and
- Other Misc. Mapping Tasks.

**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

NV5 GEOSPATIAL, INC.

(Company name)

for contract work at:

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

(Project name and location)

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

\_\_\_\_\_  
(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

**EXHIBIT E – NOT APPLICABLE**

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

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

The undersigned hereby certifies and agrees that:

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





## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 14

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Western Hydrologics, LLP – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

---

### Proposal

Approve the Multi-Task Consulting Services Agreement with Western Hydrologics, LLP for forecasting and modeling related consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various forecasting and modeling related consulting 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 CBEC Inc, Sierra Hydrographics, WEST Consultants, Inc. and Zanjero, Inc.

### 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.

### Fiscal Impact

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

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.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Consulting Services Agreement with Western Hydrologics, LLP



## **MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND WESTERN HYDROLOGICS, LLP**

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Western Hydrologics, LLP, a partnership with its office located at 610 Auburn Ravine Road, Suite C, (P.O. Box 7192), CA 95604 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 20\_\_ ("Effective Date") in Roseville, California.

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

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

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

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** ONE MILLION dollars (\$1,000,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 All Policies Requirements.**

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

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

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

**4.4.4 Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and

policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

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

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

## **Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.**

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

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

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

**6.1 Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only

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

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

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

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

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



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

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

## **Section 7.     LEGAL REQUIREMENTS.**

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

## **Section 8.     TERMINATION AND MODIFICATION.**

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

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

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

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

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for

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

#### **9.4 Confidential Information and Disclosure.**

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

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

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

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

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

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

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

## **Section 10. MISCELLANEOUS PROVISIONS.**

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

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

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

- 10.7 Contract Administrator.** This Agreement shall be administered by the Assistant General Manager, Generation Service, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

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

Jeffrey K. Meyer, Principal  
Western Hydrologics, LLP  
P.O. Box 7192  
Auburn, CA 95604

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and

Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

WESTERN HYDROLOGICS, LLP

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JEFFREY K. MEYER,**  
Principal

Attest:

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

Approved as to Form:

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

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

Western Hydrologics, LLP ("Consultant") shall provide forecasting, modeling, and other hydrologic consulting services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members.

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

- Monitoring the State Water Resource Control Board's (SWRCB) ongoing activities and decision-making process related to implementation of unimpaired flow criteria for the San Joaquin and Sacramento Rivers;
- Advising NCPA of opportunities in the public process where NCPA could provide further input to mitigate risk;
- Analyzing impacts of the proposed SWRCB unimpaired flows on the North Fork Stanislaus Hydroelectric Project and/or Central Valley Project hydropower;
- Water and runoff modeling;
- Power generation modeling;
- Water rights modeling, analysis, and/or reporting;
- Development of Technical Documents, Reports, and Presentations;
- Attendance at meetings; and
- Other misc. engineering tasks.



## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### RATE SCHEDULED FOR PROFESSIONAL SERVICES

Labor Category	Hourly Rate
Project Principal	\$230
Senior Water Resources Engineer	\$215

---

#### Expense Reimbursement/Other:

1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
2. Per Diem, depending upon location, may be charged where overnight stays are required.
3. Expert Witness Testimony, including Depositions, is billed at time and a half.
4. Mileage is reimbursed at current IRS rate.
5. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.

This schedule is effective from June 1, 2023 to May 31, 2024. Contractor may revise the hourly rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I, \_\_\_\_\_  
(Name of person signing affidavit)(Title)

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

\_\_\_\_\_  
(Company name)

for contract work at:

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

(Project name and location)

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

\_\_\_\_\_  
(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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



## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 15

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Advanced Chemical Transport, Inc. dba ACTEnviro – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

---

### Proposal

Approve the Multi-Task General Services Agreement with Advanced Chemical Transport, Inc. dba ACTEnviro for waste removal 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.

### Background

Various waste removal services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. 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 MP Environmental and Ponder Environmental.

### 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.

### 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.

### 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.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Advanced Chemical Transport, Inc. dba ACTEnviro



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
ADVANCED CHEMICAL TRANSPORT, INC. DBA ACTENVIRO**

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 Advanced Chemical Transport, Inc. dba ACTEnviro, a corporation, with its office located at 967 Mabury Road, San Jose, CA 95133 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 ("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.
- 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](mailto: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.** Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one

occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

#### **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.** 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 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.** If Contractor's Work involves its transporting hazardous materials, Contractor shall be deemed to be in exclusive possession and control of such materials and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of such materials, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Contractor or its agents complete transfer of such materials 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, Contractor shall be responsible for all such notifications. Should Contractor be required to remedy or remove such materials as a result of a leak, spill, release or discharge of such materials into the environment at Agency's Site or elsewhere, Contractor 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 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 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. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. 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.** 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.

- 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.

### **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:

Advanced Chemical Transport, Inc. dba ACTEnviro  
Attention: Rob Boal  
6940 Tremont Road  
Dixon, CA 95620

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.

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

NORTHERN CALIFORNIA POWER AGENCY

ADVANCED CHEMICAL TRANSPORT,  
INC. DBA ACTENVIRO

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**SHAWN BALL,**  
Sr. Vice President

Attest:

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

Approved as to Form:

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

## EXHIBIT A

### SCOPE OF WORK

Advanced Chemical Transport, Inc. dba ACTEnviro ("Contractor") shall provide waste cleanup services related to project support and plant operations 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:

- Waste Cleanup Services
- Waste Transporter Services (used oil, oily absorbents, equipment pump outs, universal waste, e-waste, etc.)
- Other Services as required

NCPA CT Facilities specific services to include, but not be limited to the following:

(1) Provide filter cake bins and cake disposal services at LEC site, including, but not limited to providing the following:

- a) 24-hour turnaround for waste bin(s) drop-off and pickup.
- b) Waste cake profiling quarterly for bins prior to disposal until such profiling is no longer required by the corresponding landfill or NCPA
- c) Classification of all materials where applicable
- d) Supply 2x20 yard lined bins on site at all times for disposal of Filter Cake.
- e) Remove and replace filter cake bins on a regular schedule.
- f) Transport bins to final disposal facilities.
- g) Provide all paperwork, including profiling, labeling and manifesting in accordance with DOT regulations (49 CFR).
- h) Sample periodically and get analytical results from lab if needed

(2) Act as the Emergency Responder at the Lodi Energy Center ("LEC"), STIG, Lodi CT1, and Alameda CT1 sites, including providing all labor, equipment and materials to perform cleanup of hazardous and non-hazardous material and substance spill incident and transport and disposal;

(3) Provide Hazardous & Non-Hazardous Waste transporter services for LEC, STIG, Lodi CT1, and Alameda CT1 sites to state permitted treatment, storage, or disposal facilities (TSFD). Services will include but not be limited to the manifesting and transportation of used oil, oily absorbents, HRSG debris, cooling tower sludge, OWS pump-outs, and universal waste.

## **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:

CT Facilities Specific Rates:

- (1) Filter Cake Bins and Disposal Service Rates - See Following Rate Sheets
- (2) Emergency Response Rates - See Following Rate Sheets
- (3) Miscellaneous Waste Removal Rates - See Following Rate Sheets

## **1.0 FILTER CAKE BINS AND DISPOSAL SERVICE RATES**

### **Transportation:**

Bin drop off only	\$ 450.00
Removal, replacement, and disposal of bin during business hours Business hours: 6:00AM – 3:00PM Mon-Fri	\$ 650.00
After hours bin removal, replacement, and disposal After hours: After 3:00PM Mon-Fri, Weekends, Holidays	\$ 850.00
Fuel/Energy Surcharge	\$ 15%
Additional Costs (include list and cost breakdown)	\$ N/A

### **Disposal: Non-Haz Filter Cake for Landfill**

2 x 20 yd. bins / 10 Yd/ton min/per bin	\$ 35.00 per Yd
Energy & Security/County Fees	\$ 15%
Additional Costs (include list and cost breakdown)	\$ N/A

### **Equipment & Materials:**

4 x Bin Rental per month	\$ 1,140.00
Daily rental of additional bins	\$ 14.00
Bin Liners (Straw bales)	\$ 35.00
Manifesting/profiling, scheduling etc.	\$ Included
Additional Costs (include list and cost breakdown)	\$ N/A

## **2.0 EMERGENCY RESPONSE SERVICE RATES**

<b>Labor</b>	(include cost sheet of rates)
<b>PPE</b>	(include cost sheet of rates)
<b>Equipment</b>	(include cost sheet of rates)
<b>Material</b>	(include cost sheet of rates)

### **Disposal:**

Non-Hazardous Waste Liquids	\$ 0.85 per gallon
Non-RCRA Hazardous Waste Liquids	\$ 1.45 per gallon
RCRA Hazardous Waste Liquid	\$ 2.45 per gallon
55 Gal. Drum Non-Hazardous Waste Liquid	\$ 195.00
55 Gal. Drum Non-Hazardous Waste Sludge	\$ 195.00
55 Gal. Drum RCRA Hazardous Waste Liquid	\$ 445.00
Bulk Non-Hazardous Solids (soil & contaminated debris)	\$ 95.00 per Ton
Bulk Non-RCRA Hazardous Waste Solids (soil & contaminated debris)	\$ 145.00 per Ton
Bulk RCRA Hazardous Waste Solids (soil & contaminated debris)	\$ 265.00 per Ton
55 Gal. Drum Non-Hazardous Waste Solids (soil & contaminated debris)	\$ 195.00
55 Gal. Drum Non-RCRA Hazardous Waste Solids (soil & contaminated debris)	\$ 275.00
55 Gal. Drum RCRA Hazardous Waste Solids (soil & contaminated debris)	\$ 445.00

### **3.0 MISCELLANEOUS WASTE REMOVAL / DISPOSAL RATES**

<b>Labor</b>	(include cost sheet of rates)
<b>PPE</b>	(include cost sheet of rates)
<b>Equipment</b>	(include cost sheet of rates)
<b>Material</b>	(include cost sheet of rates)
<b>Transportation and Disposal:</b>	
Used Oil {pumped out}	\$ 95.00 Flat
Used Oil Filters	\$ 125.00
Waste Oily Debris 55 Gallon Drums (absorbent sweep, pads, boom, socks, etc.)	\$ 275.00
Oily Sludge 55 Gallon Drums	\$ 275.00
Used Antifreeze "A/F" {pumped out}	\$ 1.85 Gal
Waste Aerosols	
55 Gallon Drums	\$ 325.00
30 Gallon Drums	\$ 265.00
Waste Paint Related Material, Mixed Fuels, RCRA Concrete Cure (Oil Based Paints, thinner, Flammable Liquid, etc)	\$ 385.00
55 Gallon Drums	\$ 385.00
55 Gallon Drums (loose-pack =1-5 gallon buckets)	\$ 395.00
Cu. Yd. boxes "holds 4 x 55gal" (loose-pack = 1-5 gallon buckets)	\$ 895.00
Latex Paint & Non-RCRA Concrete Sprays & Cures 55 Gallon Drums	\$ 275.00
Ion exchange resin	\$ 275.00
Empty Haz Drums	\$ 30.00
Universal Waste Fluorescent Lamps	
4 ft. box	\$ 0.25 per ft.
8 ft. box	\$ 0.25 per ft.
Non-Hazardous Water and Solids	\$ 0.98 per gall
Non-RCRA Liquid and Solids	\$ 1.68 per galk
Transportation	\$ 137.50 per hr.

### **4.0 HYDRO-JETTER SERVICE RATES**

<b>Labor</b>	(include cost sheet of rates)
<b>PPE</b>	(include cost sheet of rates)
<b>Equipment</b>	(include cost sheet of rates)
<b>Material</b>	(include cost sheet of rates)

Fuel/Energy Surcharge	\$ 15%
-----------------------	--------

### **5.0 ANNUAL COST PERCENTAGE INCREASE TABLE**

Enter the annual percentage increase in the table below.

YEAR 2	YEAR 3	YEAR 4	YEAR 5
3 %	3 %	4 %	4 %



## Dixon Branch - Emergency Response Rate Sheet

Effective May 23, 2019 to May 22, 2024 and amended 7/21/22

**NOTE: This ER Rate Schedule (Exhibit B) is for NCPA CA and is reflective of pricing for the Dixon Branch.**

Labor	Weekdays (6:00 am to 3:00 pm); after 3:00 pm, weekend rates apply	Weekends	Holidays & Double Time (after 12 hr.'s per day) double time- rates apply
Project Manager	\$105.00/hr.	\$126.00/hr.	\$136.00/hr.
Technicians	\$ 95.00/hr.	\$114.00/hr.	\$123.00/hr.
Administration	\$ 75.00/hr.	\$ 85.00/hr.	\$ 92.50/hr.

### Personal Protection Levels

#### LEVEL B (respiratory protection extra)

1. Maximum protection disposable suit	\$ 125.00/man/day
2. Intermediate protection disposable suit	\$ 110.00/man/day
3. Acid splash suit, heavy duty	\$ 75.00/man/day
4. Acid splash suit, light duty	\$ 45.00/man/day
5. Limited use, light weight suit	\$ 35.00/man/day

#### LEVEL C (respiratory protection extra)

1. Maximum protection disposable suit	\$ 105.00/man/day
2. Intermediate protection disposable suit	\$ 100.00/man/day
3. Acid splash suit, heavy duty	\$ 95.00/man/day
4. Acid splash suit, light duty	\$ 85.00/man/day
5. Limited use, light weight suit	\$ 65.00/man/day

#### LEVEL D

\$ 35.00/man/day

### OTHER PROTECTIVE CLOTHING

1. Flame resistant / Nomex coveralls	\$ 135.00ea
2. Flame resistant/ Nomex hood	\$ 122.00ea
3. Latex gloves	\$ 1.50/pair
4. Light duty gloves	\$ 5.50/pair
5. Heavy duty gloves	\$ 10.00/pair
6. Specialty gloves	\$ 50.00/pair
7. Leather gloves	\$ 5.00/pair
8. Cotton gloves	\$ 4.00/pair
9. Light duty shoe covers	\$ 12.00/pair
10. Heavy duty shoe covers	\$ 18.00/pair
11. Chemical resistant boots	\$ 10.00/pair
12. Hip boots	\$ 80.00/pair
13. Waders	\$ 110.00/pair

**RESPIRATORY EQUIPMENT**

1. Full face respirator	\$ 85.00/man/day
2. Half Face respirator	\$ 65.00/man/day
3. Respirator cartridges (HEPA)	\$ 30.00/set
4. Respirator cartridges (standard)	\$ 25.00/set
5. Half face disposable respirator	\$ 45.00/man/day

**Monitoring/Sampling Equipment**

LEL, O2, H2S meter	\$ 80.00/day
Combustible Gas Indicator	\$ 125.00/day
Ph meter	\$ 30.00/day
Plastic Kalawasa	\$ 20.00each
Glass Thief	\$ 5.00each
Gas detector w/o tubes	\$ 125.00/day
Gas detector tubes	\$ 15.00each
Pocket transit	\$ 75.00each
Air monitoring pump	\$ 150.00/day
Samples for TPH oil, diesel, gas & Cam 17 (Tiles 22 for metals)	\$ 395.00/each

**Safety Equipment**

Communication systems	\$ 65.00/day
Decon pool	\$ 40.00/day
Decon trailer	\$ 500.00/day
Face shield	\$ 5.00ea
Fire Extinguisher	\$ 15.00/day
First aid kit	\$ 45.00/day
Fluorescent safety vest	\$ 10.00ea
Goggles	\$ 6.00ea
GFI's	\$ 10.00/day
Harnesses	\$ 87.00each
Lock out/ tag out tags	\$ 5.00each
Top entry extraction device (tri-pod & winch)	\$ 200.00/day

## Equipment- Services

Emergency Response Call Out Fee "Minor" 1 truck w/operator	\$ 250.00
Emergency Response Call Out Fee "Regular" > 1 truck w/operator	\$ 750.00
Emergency Response Call Out Fee "Major" need crew w/numerous trucks	\$1,500.00
Emergency Response Trailer "Major"	\$ 500.00/day

## Equipment- Transportation Portal to Portal

{A 15% Energy surcharge will be added to all transportation and Equipment}

One ton Truck with Lift Gate	\$ 50.00/hour
Three ton Flat Bed	\$ 82.50/hour
Five ton Box Truck	\$ 85.00/hour
Roper Pump Trucks	\$ 95.00/hour
Water Truck (5300 gallon) W/operator @ (PW Rate)	\$ 145.00/hour
Vacuum Trucks W/ operators @ (PW Rate) 70 bbl-130 bbl-150 bbl	\$ 145.00/hour
Sludge & Stainless Vacuum Trucks	\$ 165.00/hour
<i>"&gt;8 hr.'s @ x 1.2 - &gt; 12 hr.'s and weekends x 1.3"</i>	
Vacuum Tank Hoses (20-30 foot extensions)	\$ 20.00/day/each

Air Mover (Guzzler) – W/operator @ (PW Rate)	\$ 285.00/hour
Jetter	\$ 125.00/hour

Bin Trucks W/operators @ (PW Rate)	
Bob-tail (holds- 1 bin)	\$ 140.00/hour
Doubles (holds 2 bins)	\$ 140.00/hour
Rocket Launchers	\$ 140.00/hour
<i>"&gt;8 hr.'s @ x 1.2 - &gt; 12 hr.'s and weekends x 1.3"</i>	

Bin ramp Rental 10 yd. & 20 yd.	\$ 50.00/per day ea.
Bin Rental (10, 20, 30, 40 yard)	\$ 15.00/day
Dewatering Bin Rental	\$ 75.00/day
Vacuum Bin Rental	\$ 65.00/day
Bin/ Truck Liners	\$ 45.00each

**All equipment below does not include mobilization or de-mobilization**

Portable Tanks (2,000 gal., 6,500 gal., 21,000gal.)	<b>Quoted as needed</b>
245/235/225/215 Excavator - crawler	Quote as needed
Long Reach - 46' / 56'	Quote as needed
Hydraulic thumbs	Quote as needed
Hydraulic breakers	Quote as needed
Concrete pulverizer	Quote as needed
Excavator – rubber tire	Quote as needed
416 Backhoe	\$ 950.00/day
936 Front-end loader ( 3-yard bucket )	\$1300.00/day
<i>"Various size buckets available for extra fee"</i>	
Front-end loaders	Quote as needed
Dozer – crawler	Quote as needed
Forklifts and Telehandler	
1. 5000 lb.	\$ 600.00/day
2. 15,000 lb.	\$ 750.00/day
3. larger	Quote as needed
Small/Medium Telehandler/Grade-all	\$950.00/per day

## Additional Equipment

### Air Compressors

1. 175-375 CFM

\$ 375.00/day

### Small Air compressor

\$ 45.00/day

### Generators

1. 1-5 kw
2. 6-10 kw

\$ 160.00/day

\$ 200.00/day

### Lights - portable

1. Twin Flood 8' 500W
2. Light Tower 1000W

\$ 35.00/day-each

\$ 195.00/day-each

### Pumps

1. Centrifical self priming 1.5hp
2. Trash Pump 2" cast iron 5hp
3. Utility Pump 1" aluminum 2hp
4. Submersible utility – manual 110v
5. Sump pump
6. Diaphragm 1"
7. Diaphragm 2"
6. Economy manual drum pump

\$ 55.00/day

\$ 100.00/day

\$ 45.00/day

\$ 38.00/day

\$ 45.00/day

\$ 85.00/day

\$ 170.00/day

\$ 29.00/day

### Power Vactor Drummer (into 55 gallon drum)

\$ 375.00/day

***" 3 cylinder diesel powered"***

### Drum Vactor (into 55 gallon drum)

\$ 100.00/day

***"Electric Unit"***

### Wet/Dry Vacuum (15 gallon)

\$ 30.00/day

### Wet/Dry Vacuum (5 gallon)

\$ 20.00/day

### Industrial (Hot Water) Pressure Washer

\$ 375.00/day

### Pressure Washer (cold)

\$ 150.00/day

### Negative Air Machine

\$ 85.00/day

### Hydro blaster (5,000 Psi)

\$ 95.00/hour

### Hydro blaster (10,000 Psi)

Quote as needed

### Hydro blaster Equipment

- A. Mini Lance (25' length, stiff)
- B. Spin Jet
- C. Shell Cleaner
- D. MGValve (multi gun valve)
- E. Interior Cleaning Equipment
- F. Hydro blast hose (3/8" and 1/2" x 50')
- G. Scrubber Unit for fuel tank cleaning

\$ 37.00/hour

\$ 40.00/hour

\$ 40.00/hour

\$ 21.00/hour

\$ 16.00/hour

\$ 10.00/day

\$1,500.00/day

**Other Equipment**

30 foot Extension Ladder	\$ 45.00/day
Safety Cones Each	\$ 2.00/day
Blower (intrinsically safe – coppus style)	\$ 145.00/day
Chain saw	\$ 55.00/day
Chop saw	\$ 145.00/day
Cutting Torch and Rig	\$ 290.00/day
Drum de-header	\$ 20.00/day
Drum dolly	\$ 25.00/day
Electric cords (each)	\$ 6.00/day
Hand Tools (each)	\$ 3.00/day
Hand truck	\$ 10.00/day
Hydraulic jack – 20 ton	\$ 20.00/day
Non-sparking tools	\$ case by case
Small Power Tools	\$ 45.00/day
Welder Arc/Wire Feed	\$ 190.00/day
Wheelbarrow	\$ 10.00/day

## Materials

### Absorbent materials

1. Oil sorbent (3M or equivalent)	
A. HP 38" x 144' roll	\$ 150.00/roll
B. P 19" x 144' rolls	\$ 112.50/roll
C. P 21" x 100' sweeps	\$ 112.50each
D. HP 15" x 18" pads	\$ 75.00/case
E. HP 16" x 20" pads	\$ 95.00/case
F. P 8" x 10' sorbent booms	\$ 60.00each
G. P 5" x 10' sorbent booms	\$ 50.00each
H. HP 4' mini boom	\$ 112.50/case
I. P 8' mini boom	\$ 112.50/case
J. P 12' mini boom	\$ 112.50/case
H. P 14" x 25" x 5" pillows (10 pillows per bag)	\$ 165.00/case
2. Granule absorbent	
A. Dri Zorb (multipurpose)	\$ 15.00/bag
B. Oil Dry (petroleum)	\$ 12.00/bag
C. Solid – A – Sorb (chemicals, PCB's)	\$ 15.00/bag
D. Vermiculite	\$ 35.00/bag
3. Universal sorbent (3M or equivalent)	
A. 15" x 19" pad	\$ 95.00/bag
B. 15" x 150' roll	\$ 135.00/roll
C. 38" x 150' roll	\$ 225.00/roll
D. 4' mini boom	\$ 195.00/case
E. 8' mini boom	\$ 195.00/case
F. 12' mini boom	\$ 195.00/case
Acid Neutralizer	\$ 35.00/bag
Base Neutralizer	\$ 35.00/bag
Chlor-D-Test Test	\$ 20.00each
Drums: A. 15gallon Polys	\$ 65.00each
B. 30 gallon Polys	\$ 75.00each
C. 55 gallon Polys – closed top	\$ 75.00each
D. 55 gallon Polys – open top	\$ 75.00each
E. 95 gallon Polys – overpacks	\$ 225.00each
F. 55 gallon 1A2 – Recycled: open top	\$ 75.00each
G. 55 gallon 1A1 – Recycled: closed top	\$ 75.00each
H. 85 gallon Steel – overpack	\$ 225.00each
I. 5 gallon Buckets	\$ 25.00each
J. 30-55 gallon fiber	\$ 45.00each
K. Drum Liners ( roll )	\$ 145.00/roll
L. Drum Liners	\$ 4.00each
M. Drum Thieves	\$ 5.00each

**Supplies**

Cement (50lb bag)	\$ 10.00each
Deionized Water	\$ 3.50/gal
Floor Dry	\$ 15.00/bag
Concrete Degreaser	\$ 21.00/gal
Soap/Simple Green Cleanser	\$ 15.00/gal
Soda Ash	\$ 35.00
Solidification material (Sure Pak 25lb bag)	\$ 10.00/bag
Sand Bags	\$ 5.00/bag
Barricade Tape	\$ 29.80/roll
Duct Tape	\$ 5.90/roll
Hazardous Waste Label Kits	\$ 2.00each
Manifests	\$ 5.00each
pH Strips	\$ 26.50/box
Rags	\$ 50.00/box
Sample bottles	\$ 5.00ea
Visqueen 6 mil (20' x 100')	\$ 187.00/roll



## Disposal Bulk Liquids Rates

### **Non-Hazardous Liquids**

% Solids	Price/Per Gallon	Washout Fee
1-10%	\$ .98/gal	\$ 275.00
Each additional 10% Solids	\$ .15/gal.	

---

### **Non-RCRA Hazardous waste liquid**

% Solids	Price/Per Gallon	Washout Fee
0-10%	\$ 1.45/gal	\$ 395.00
Each additional 10%	\$ .15/gal.	

---

### **RCRA Hazardous waste liquid**

Case by Case

---

## Disposal Drummed Liquids Rates

### **Non-Hazardous Liquids**

<b>Liquids</b> 55 gallon	\$ 145.00
<b>Sludge</b> 55 gallon	\$ 160.00

---

### **Non-RCRA Hazardous waste liquid**

<b>Liquids</b> 55 gallon	\$ 255.00
<b>Sludge</b> 55 gallon	\$ 295.00

---

### **RCRA Hazardous waste liquid**

Case by Case



**Disposal Bulk Solids Rates** (Soil & contaminated debris) "includes all taxes and fees"

**Non-Hazardous Solids**

Minimum 10 Yards/Ton \$ 85.00/Yd./Ton

---

**Non-RCRA Hazardous Waste Solids**

Minimum 10 Yards/Ton \$ 145.00/Yd./Ton

---

**RCRA Hazardous Waste Solids**

Minimum 10 Yards/Ton \$ 265.00/Yd./Ton

---

**Disposal Drummed Solids Rates**

**Non-Hazardous Solids**

55 gallon \$ 165.00

---

**Non-RCRA Hazardous waste Solids**

55 gallon \$ 275.00

---

**RCRA Hazardous waste Solids**

Case by Case

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(Name of person signing affidavit)(Title)

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

Advanced Chemical Transport, Inc. dba ACTEnviro

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

**EXHIBIT D**

**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,

Advanced Chemical Transport, Inc. dba ACTEnviro

(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)

\_\_\_\_\_



## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 16

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Process Cooling International, Inc. dba Applied Process Cooling Corp. dba APCCO – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

---

### Proposal

Approve the Multi-Task General Services Agreement with Process Cooling International, Inc. dba Applied Process Cooling Corp. dba APCCO for insulation 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 insulation 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 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 Insulation & Scaffolding, Bayside Insulation & Construction, Farwest Insulation Contracting and Sunshine Metal Clad.

### 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.

### 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.

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.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Process Cooling International, Inc. dba Applied Process Cooling Corp. dba APCCO



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
PROCESS COOLING INTERNATIONAL, INC. DBA APPLIED PROCESS COOLING  
CORPORATION DBA APCCO**

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 Process Cooling International, Inc. dba Applied Process Cooling Corporation dba APCCO, an S-corporation with its office located at 4812 Enterprise Way, Modesto, CA 95356 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 ("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 (\$4,000,000.00) 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](mailto: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:

Process Cooling International, Inc.  
dba Applied Process Cooling Corporation dba APPCO  
Attention: Shon Martin  
4812 Enterprise Way  
Modesto, CA 95356

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, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

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

NORTHERN CALIFORNIA POWER AGENCY

PROCESS COOLING INTERNATIONAL,  
INC. DBA APPLIED PROCESS COOLING  
CORPORATION DBA APCCO

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JIM HELSEL P.E.,**  
Vice President of Construction

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF WORK**

Process Cooling International, Inc, dba Applied Process Cooling Corporation dba APCCO ("Contractor") shall provide insulation related 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:

- Insulation

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:



**\*\*ZONE 1 - SCHEDULE A**  
**WAGE AND FRINGE BREAKDOWN / EFFECTIVE 01/01/24 thru 07/31/24**  
**100% WAGE / 100% FRINGES**

<b><u>CLASSIFICATION:</u></b>	<b><u>WAGES</u></b>	<b><u>DUES</u></b>
<b>JOURNEYMAN 1-5 years/Level 2</b>	<b>\$84.76</b>	<b>\$5.71</b>
<b>FOREMAN (Applicable Jrnymn wage rate, plus \$4.00)</b>		<b>\$5.71</b>
<b>GEN. FOREMAN (Applicable Jrnymn wage rate plus \$6.00)</b>		<b>\$5.71</b>

**VACATION:** \$3.00 Included in Base Wage – (deducted and submitted with monthly fringe contributions.)

	<b>Jrnymn Level 2</b>	<b>Jrnymn Level 3</b>	<b>Jrnymn Level 4</b>	<b>Jrnymn Level 5</b>
<b><u>FRINGES:</u></b>	<b><u>1-5 Yrs.</u></b>	<b><u>6-15 Yrs.</u></b>	<b><u>16-20 Yrs.</u></b>	<b><u>20 or more Yrs.</u></b>
<b>Base Wage (Incl. Vac.)</b>	<b>\$84.76</b>	<b>\$74.86</b>	<b>\$72.86</b>	<b>\$71.86</b>
<b>Vacation Administration</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>
<b>Pension Fund</b>	<b>\$ 7.72*</b>	<b>\$17.62*</b>	<b>\$19.62*</b>	<b>\$20.62*</b>
<b>Occupational Health</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>
<b>Health &amp; Welfare</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>
<b>Apprentice Training</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>
<b>Industry Promotion Fund</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>
<b>Preservation Trust Fund</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>

**\*BASE WAGES AFFECTED BY MANDATORY DEDUCTION IN REGARDS TO YEARS IN PENSION.**

<b>TOTAL PACKAGE</b>	<b>\$110.27</b>	<b>\$110.27</b>	<b>\$110.27</b>	<b>\$110.27</b>
----------------------	-----------------	-----------------	-----------------	-----------------

- ✓ Dues are calculated at 5.25% of the base wage of the 1-5 Yr. Journeyman, plus \$1.26 per hour, effective 01/01/23
- ✓ \$0.05 cents per hour Employer contribution to the Industry Promo Fund, effective 08/01/23.
- ✓ Travel pay is based per County. Subsistence is \$100.00 per day, up to \$140.00 per day with receipts, effective 08/01/22.
- ✓ \$0.90 cents diverted from base wage , plus \$0.35 cent employer contribution MOB for a total of \$1.25 to H&W.
- ✓ \$1.00 diverted from base wage to Journeyman Class 5 Pension effective 01/01/24.

**\*\*ZONE 1 will include the following Counties: Alameda, Contra Costa, Marin, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.**

**\*\*ZONE 2 - SCHEDULE A**  
**WAGE AND FRINGE BREAKDOWN / EFFECTIVE 01/01/24thru 07/31/24**  
**100% WAGE / 100% FRINGES**

<b><u>CLASSIFICATION:</u></b>	<b><u>WAGES</u></b>	<b><u>DUES</u></b>
<b>JOURNEYMAN 1-5 years/Level 2</b>	<b>\$64.56</b>	<b>\$4.65</b>
<b>FOREMAN (Applicable Jrnymn wage rate, plus \$4.00)</b>		<b>\$4.65</b>
<b>GEN. FOREMAN (Applicable Jrnymn wage rate plus \$6.00)</b>		<b>\$4.65</b>
<b><u>VACATION:</u> \$3.00 Included in Base Wage – (deducted and submitted with monthly fringe contributions.)</b>		

	<b>Jrnymn Level 2</b>	<b>Jrnymn Level 3</b>	<b>Jrnymn Level 4</b>	<b>Jrnymn Level 5</b>
<b><u>FRINGES:</u></b>	<b><u>1-5 Yrs.</u></b>	<b><u>6-15 Yrs.</u></b>	<b><u>16-20 Yrs.</u></b>	<b><u>20 or more Yrs.</u></b>
<b>Base Wage (Incl. Vac.)</b>	<b>\$64.56</b>	<b>\$54.66</b>	<b>\$52.66</b>	<b>\$51.66</b>
<b>Vacation Administration</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>
<b>Pension Fund</b>	<b>\$ 7.72*</b>	<b>\$17.62*</b>	<b>\$19.62*</b>	<b>\$20.62*</b>
<b>Occupational Health</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>
<b>Health &amp; Welfare</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>
<b>Apprentice Training</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>
<b>Industry Promotion Fund</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>
<b>Preservation Trust Fund</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>

**\*BASE WAGES AFFECTED BY MANDATORY DEDUCTION IN REGARDS TO YEARS IN PENSION.**

<b>TOTAL PACKAGE</b>	<b>\$90.07</b>	<b>\$90.07</b>	<b>\$90.07</b>	<b>\$90.07</b>
----------------------	----------------	----------------	----------------	----------------

- ✓ Dues are calculated at 5.25% of the base wage of the 1-5 Yr. Journeyman, plus \$1.26 per hour, effective 01/01/23.
- ✓ Travel pay is based per County. Subsistence is \$100.00 per day, up to \$140.00 per day with receipts, effective 08/01/22.
- ✓ 0.90 cents diverted from base wage , plus \$0.35 cent employer contribution MOB for a total of \$1.25 to H&W.
- ✓ \$1.00 diverted from base wage to Journeyman Class 5 Pension effective 01/01/24

**\*\*ZONE 2 will include the following Counties: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, Placer, Plumas, Sacramento, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Yolo, Yuba.**

**\*\*ZONE 3 - SCHEDULE A**  
**WAGE AND FRINGE BREAKDOWN / EFFECTIVE 01/01/24 thru 07/31/24**  
**100% WAGE / 100% FRINGES**

<b><u>CLASSIFICATION:</u></b>	<b><u>WAGES</u></b>	<b><u>DUES</u></b>
<b>JOURNEYMAN 1-5 years/Level 2</b>	<b>\$50.36</b>	<b>\$3.90</b>
<b>FOREMAN (Applicable Jrnymn wage rate, plus \$4.00)</b>		<b>\$3.90</b>
<b>GEN. FOREMAN (Applicable Jrnymn wage rate plus \$6.00)</b>		<b>\$3.90</b>

**VACATION:** \$3.00 Included in Base Wage – (deducted and submitted with monthly fringe contributions.)

	<b>Jrnymn Level 2 <u>1-5 Yrs.</u></b>	<b>Jrnymn Level 3 <u>6-15 Yrs.</u></b>	<b>Jrnymn Level 4 <u>16-20 Yrs.</u></b>	<b>Jrnymn Level 5 <u>20 or more Yrs.</u></b>
<b><u>FRINGES:</u></b>				
<b>Base Wage (Incl. Vac.)</b>	<b>\$50.36</b>	<b>\$42.46</b>	<b>\$47.46</b>	<b>\$40.46</b>
<b>Vacation Administration</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>	<b>\$ 0.02</b>
<b>Pension Fund</b>	<b>\$ 7.72*</b>	<b>\$15.62*</b>	<b>\$10.62*</b>	<b>\$17.62*</b>
<b>Occupational Health</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>
<b>Health &amp; Welfare</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>
<b>Apprentice Training</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>	<b>\$ 1.60</b>
<b>Industry Promotion Fund</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>	<b>\$ 0.40</b>
<b>Preservation Trust Fund</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>	<b>\$ 0.01</b>

**\*BASE WAGES AFFECTED BY MANDATORY DEDUCTION IN REGARDS TO YEARS IN PENSION.**

<b>TOTAL PACKAGE</b>	<b>\$75.87</b>	<b>\$75.87</b>	<b>\$75.87</b>	<b>\$75.87</b>
----------------------	----------------	----------------	----------------	----------------

- ✓ Dues are calculated at 5.25 of the base wage of the 1-5 Yr. Journeyman plus \$1.26 per hour, effective 01/01/23.
- ✓ \$0.05 cents per hour Employer contribution to the Industry Promo Fund, effective 08/01/23.
- ✓ 0.90 cents diverted from base wage , plus \$0.35 cent employer contribution MOB for a total of \$1.25 to H&W.
- ✓ Journeyman Level 4 divert \$7.00 per hour from Pension Fund (IAP) to base wage, effective 01/01/23.
- ✓ Travel rates for the State of Nevada will be determined by a radius extending from Reno City Hall as , as follows effective 08/01/22:

**0-20 miles = \$15.00      21-40 miles = \$25.00      41-60 miles = \$35.00**

**Over 60 miles = \$100.00 per day, up to \$140.00 per day with receipts.**

**\*\*ZONE 3 will include the following Counties: Northern Nevada: Carson, Churchill, Douglas, Humboldt, Lander, Lyon, Mineral, Pershing, Storey and Washoe.**

Contractor may revise the hourly rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

Process Cooling International, Inc. dba Applied Process Cooling Corporation dba APCCO

(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)



## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: 17

---

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Eaton Corporation – Five Year Multi-Task General Services Agreement;  
Applicable to the following projects: All Northern California Power Agency (NCPA)  
Facilities

---

### Proposal

Approve the Multi-Task General Services Agreement with Eaton Corporation for electrical related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years for use at any facilities owned and/or operated by NCPA.

### Background

Various electrical related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. 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 Contra Costa Electric, Electrical Maintenance Consultants, Electric Power Systems and NorCal Power Services.

### 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.

### Fiscal Impact

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

### Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Eaton Corporation





**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
EATON CORPORATION**

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 Eaton Corporation, a corporation with its office located at 1000 Cherrington Parkway, Moon Township, PA 15108 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("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.
- 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, or begins to perform the Requested Work, 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** TWO MILLION dollars (\$2,000,000.00) 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](mailto: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.** Unless Agency provides Contractor with a valid and applicable exemption certificate, Agency will reimburse Contractor for sales, use, excise, services, consumption and other taxes or duties (excluding value-added tax) that Contractor is permitted or required to collect from Agency. Contractor is solely responsible for the payment of taxes based upon Contractor's ongoing business such as employment taxes.

**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 \$5,000,000 per occurrence/\$5,000,000 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. No endorsement shall be attached limiting the coverage.

**4.2.2 Automobile Liability.** Contractor 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 (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$5,000,000 per each accident. 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.** Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Contractor shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**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) blanket policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured, to the extent of Contractor's legal liability and excluding its requirements as set forth in Section 4.1 above, 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 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 Reserved.**

**4.5.4 Reserved..**

**4.5.5 Waiver of Subrogation.** Excluding Worker's Compensation policies, Contractor agrees to waive subrogation, to the extent of Contractor's legal liability assumed hereunder, 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.

**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, and volunteers from and against any and all claims of bodily injury, death or property damage brought against the Agency that arise out of, and to the extent of the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims brought against Agency for bodily injury, death or property damage ("Liabilities") to the extent of Contractor's negligence. Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the 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, with such approval not being unreasonably withheld, delayed, or conditioned. 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, including without limitation all progress billings, services rendered, and all incurred direct manufacturing costs; 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 shall provide Contractor with written notice of such breach and a ten (10) day period in which to commence to cure such breach. In the event Contractor does not commence to cure within such ten (10) day period, Agency may terminate this agreement, in whole or in part, and purchase similar replacement goods or services. Contractor shall reimburse Agency for the direct and reasonable costs of reprocurring such similar replacement goods or services over the original Purchase Order price.
- 8.4.1** If agreed to in writing by both parties, Agency may retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement.

## **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.** Excluding any cost, financial accounting or proprietary information, unless required to be provided to Agency by law or regulation, any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any mutually agreed upon time during regular business hours, upon oral or written request of the Agency, and at Agency's sole cost and expense. 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 excluding any cost, financial accounting or proprietary information of Contractor unless required to be provided to Agency by law or regulation, 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.** Contractor warrants that all Work shall be free from failure due to defects in design (Contractor's design), material, 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. Unless otherwise agreed to in writing by Contractor, Contractor assumes no responsibility with respect to the suitability of the Agency's, or its customer's, equipment or with respect to any latent defects in equipment not supplied by Contractor. This warranty does not cover damage to Agency's, or its customer's, equipment, components or parts resulting from Agency's improper maintenance or operation or from their deteriorated condition. Agency will, at its cost, provide Contractor with reasonable access to the defective Works for a reasonable period of time to expeditiously perform warranty obligations, as well as reasonable working space in the immediate vicinity of the defective Works and such facilities and systems, including, without limitation, docks, cranes and utility disconnects and connects, as may be necessary in order that Contractor may perform its warranty obligations, unless as part of Contractor's Work Contractor performed activities to obtain access to the defective Work in which case Contractor shall perform the necessary activities listed above to perform Contractor's warranty obligations. Contractor shall proceed diligently to repair the defective Works to reduce equipment downtime. The conducting of any tests shall be mutually agreed upon and Contractor shall be notified of, and may be present at, all tests that may be made.
- 11.2 Deficiencies in Work.** 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, 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. THE FOREGOING WARRANTIES ARE EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE..
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties or extended warranties provided by or reasonably obtainable from suppliers of equipment and material used in the Work, to the extent such third party permits assignment of its warranty.

**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:

Eaton Corporation  
Attention: Contracts Management  
1000 Cherrington Parkway  
Moon Township, PA 15108

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, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

## **Section 14. Limitation of Liability.**

**14.1** THE REMEDIES OF THE AGENCY SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND ARE ITS SOLE REMEDIES FOR ANY FAILURE OF CONTRACTOR TO COMPLY WITH ITS OBLIGATIONS HEREUNDER.



NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT TO THE CONTRARY, IN NO EVENT SHALL CONTRACTOR BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, CLAIMS OF CUSTOMERS OF THE AGENCY OR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, REGARDLESS OF WHETHER SUCH POTENTIAL DAMAGES ARE FORESEEABLE OR IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

BUT FOR THIRD PARTY LIABILITY FOR PROPERTY DAMAGE OR PERSONAL INJURY (INCLUDING TO AGENCY EMPLOYEES) TO THE EXTENT OF CONTRACTOR'S NEGLIGENCE, THE TOTAL CUMULATIVE LIABILITY OF CONTRACTOR ARISING FROM OR RELATED TO THIS CONTRACT WHETHER THE CLAIMS ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL CONTRACT COMPENSATION OR \$5 MILLION, WHICHEVER IS GREATER.

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

NORTHERN CALIFORNIA POWER AGENCY

EATON CORPORATION

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**IGOR STAMENKOVIC,**  
Vice President/General Manager

Attest:

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

Approved as to Form:

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

**EXHIBIT A**  
**SCOPE OF WORK**

Eaton Corporation ("Contractor") shall provide electrical related 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:

- Generator Inspections
- Testing and Evaluation
- 
- Stator and Field Cleaning and Sealing
- Exciter Maintenance and Inspection
- Retaining Ring Removal and Non-Destructive Testing
- Static Excitation Retrofits
- Voltage Regulation Retrofits
- Control System Troubleshooting
- Control System Calibration and Maintenance
- Additional electrical related services as needed

Contractor may provide services at all Project Site Locations.

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:

Service	Straight Time	Overtime	Premium
In-shop technician	\$204	\$306	\$407
Field service technician	\$248	\$372	\$496
Field service specialist/engineer	\$314	\$471	\$628
Remote service specialist	\$314	\$314	\$314
Power automation specialist	\$414	\$620	\$827
Power systems engineer	\$414	\$620	\$827
Special consultant/forensic analysis	\$514	\$770	\$1,027
CAD technician	\$175	\$262	\$349
Project coordinator	\$224	\$337	\$449
Construction manager	\$347	\$521	\$695
Design engineer	\$347	\$521	\$695
Scheduler	\$347	\$521	\$695
Project manager	\$410	\$614	\$819
Project/principal engineer	\$410	\$614	\$819
Safety specialist	\$410	\$614	\$819
Quality specialist	\$410	\$614	\$819
Excitation specialist	\$499	\$748	\$997

Contractor may revise the hourly rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

Eaton Corporation

(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)



## Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.:18

**Date:** January 3, 2024

**Meeting Date:** January 8, 2024

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Revision to Exhibit 5 of PMOA Agreement Schedule 1.00

### Proposal

Adopt revision of PMOA Exhibit 5 of Schedule 1.00 for revised 2024 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge and System Operations Charge.

### Background

The CAISO recovers its cost through unbundled grid management charges (GMC) composed of three volumetric charges and five associated fees and charges assessed to market participants. Each unbundled service has a corresponding service rate. With respect to the LEC Project, two of the CAISO's volumetric grid management rates, the Market Services Charge and System Operations Charge categories, are used as inputs into the Economic Operations bid calculation defined in Agreement Schedule 1.00 to the LEC PMOA (Project Management and Operations Agreement).

The CAISO recently completed its 2024 budget stakeholder process based on a relatively lower revenue requirement due to a \$12.9 million operating reserve adjustment credit for 2024 that will reduce the GMC revenue requirement.

The 2024 GMC rates applicable to the bid calculation for the LEC Project are reflected in the table below. These rates became effective on January 1, 2024.

Charge Code	CAISO GMC Charge Code Name	2023 Rate	2024 Rate	Difference	Unit of Measure
4560	GMC - Market Services Charge	\$0.1513	\$0.1376	(\$0.0137)	Awarded Schedules (MWh)
4561	GMC - System Operations Charge	\$0.2167	\$0.2127	(\$0.0040)	Metered Energy (MWh)
		\$0.3680	\$0.3503	(\$0.0177)	

The market services charge is assessed to the LEC Project based on awarded CAISO energy and ancillary service schedules while the system operations charge is based on metered generation quantities. NCPA includes these GMC rates into the Economic Operations bid calculation indicated in Agreement Schedule 1.00 under the defined term 'CAISO GMC' in order to internalize these costs in the awarded energy bid amount.



Fiscal Impact

There is no fiscal impact on an overall basis to Participants as these costs will be included in the Economic Operations bid calculation in order to achieve economic awards.

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.

Recommendation

NCPA staff recommends that the PPC pass a motion authorizing adopting the revised PMOA Exhibit 5 of Schedule 1.00 for the revised 2024 CAISO Grid Management Charge (GMC) rates.

Submitted by:

ROBERT W. CARACRISTI  
Manager,  
Information Services and Power Settlements

Attachments: (1)

- Red-lined version of PMOA Exhibit 5 of Schedule 1.00

## EXHIBIT 5

### CAISO Charges

The CAISO Charges component used to determine Economic Operations is calculated as shown in the table below:

<b>Market Charge Code</b>	<b>CAISO Charge Code Name</b>	<b>Rate</b>	<b>Unit of Measure</b>
4560	GMC - Market Services Charge	\$ .1376	per MWh
4561	GMC - System Operations Charge	\$ .2127	per MWh
Total GMC Amount		<u><u>\$ .3503</u></u>	per MWh