



12745 N. Thornton Road
Lodi, CA 95242

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

LEC PPC Agenda

Date: January 6, 2021
Subject: January 11, 2021 Lodi Energy Center Project Participant Committee Meeting
Location: 12745 N. Thornton Road, Lodi, CA and/or Posted Teleconference Locations
Time: 10:00 a.m.

***This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, Governor Newsom's Emergency Declaration related to COVID-19, and Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by LEC PPC Members, staff, and the public to participate and conduct the meeting by teleconference.

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In compliance with the Executive Department, State of California, Executive Order N-29-20, and the Brown Act, you may participate in the meeting via teleconference by:

<https://www.gotomeet.me/NCPALodi>

Dial: 1-872-240-3212

Access Code: 327-912-613

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

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 1, 2020 Special Meeting Minutes, December 7, 2020 Regular Meeting Minutes, and December 14, 2020 Special Meeting Minutes.

MONTHLY REPORTS

4. Operational Report for December 2020 – *(Rafael Santana)*

5. Market Data Report for December 2020 – Verbal Report *(Zakary Liske)*

6. Monthly Asset Report for November 2020 – *(Michael DeBortoli)*

7. Bidding Strategies Report – Verbal Report and update regarding bidding strategies and regulation down revenues *(Jesse Shields/Ken Goeke)*

CONSENT CALENDAR

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

8. Treasurer's Report for November 2020 – Accept by all Participants

9. Financial Report for November 2020 – Approve by all Participants

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

- 11. Pacific Star Chemical, LLC dba Northstar Chemical, Inc. MTEMS** – Staff is seeking a recommendation for approval of a five-year Multi-Task Agreement for Purchase of Equipment, Materials, and Supplies with Pacific Star Chemical, LLC dba Northstar Chemical, Inc. for the purchase of miscellaneous chemicals, with a not to exceed amount of \$2,500,000, for use at all facilities owned and/or operated by NCPA.
- 12. Basic Energy Services, LP MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Basic Energy Services, LP for well maintenance services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA.
- 13. C&J Well Services, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with C&J Well Services, Inc. for well maintenance services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA.
- 14. Petro-Analytical, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Petro-Analytical, Inc. for routine, recurring, and miscellaneous fuel tank storage maintenance services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA.
- 15. GreatBlue Research MTCSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Consulting Services Agreement with GreatBlue Research for market research and surveys, with a not to exceed amount of \$250,000, for use at all facilities owned and/or operated by NCPA.
- 16. RFI Enterprises Inc. dba RFI Communications & Security Systems MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with RFI Enterprises Inc. dba RFI Communications & Security Systems for integrated security services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA.

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

None.

INFORMATIONAL/ DISCUSSION ITEMS

- 17. NCPA Insurance Renewals Update** – Staff will provide an informational-only update regarding the 2021 NCPA Insurance Renewals.
- 18. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: Monday, February 8, 2021 at 10:00 a.m.



651 Commerce Drive
Roseville, CA 95678

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LEC PPC Meeting Minutes - Special

Date: December 1, 2020

Time: 3:30pm

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

Subject: Lodi Energy Center Project Participant Committee Meeting - Special

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 3:33pm by Chairman Basil Wong. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Absent	0.2679%
CDWR - Alqaser	Present	33.5000%
Gridley - Eckert	Present	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Costalupes	Absent	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	4	70.7143%
Absent	9	29.2857%
Quorum by #:	No	
Quorum by GES:	Yes	

Public Forum

Chairman Wong asked if any members of the public were on the phone 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.

BUSINESS ACTION ITEMS**3. Reapproval of Major Insurance Renewals for Policy Year of 2021**

Monty Hanks presented a PowerPoint presentation on the property & casualty insurance premium increases for 2021. The original estimate was a combined total for \$1 million and the current trends will be closer to \$1.25 million. Monty explained the property insurance premium is driving the majority of the increase costs and a budget accommodation will be made to cover the difference. Ghassan Alqaser wanted to know how long this trend will last and the LEC loss impact on future insurance premiums. Monty mentioned it may take 10 years for the insurance to recover from losses. Ghassan also asked if NCPA will grow funds for future losses or inquire about self-insurance. Monty said he will look into bonds and self-insurance to cover the cost of a rebuild. Chairman Wong asked for a future discussion on NCPA looking into debt and a strategic look forward on future insurance policies.

Date: 12/1/2020

Motion: Staff is seeking a recommendation for re-approval delegating authority to the General Manager to negotiate and bind property damage and casualty coverage amounts increasing the not-to-exceed from \$1,005,531 to \$1,249,100. If approved this recommendation will be taken to the NCPA Commission for approval.

Moved by: CDWR

Seconded by: Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Absent	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%

Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	4	70.7143%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	9	29.2857%
Result:	Motion Passes	

Adjournment

The next regular meeting of the PPC is scheduled for Monday December 7, 2020 at 10:00am.

The meeting was adjourned at 3:54pm.

Submitted by: Melissa Conrad



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LEC PPC Meeting Minutes

Date: December 7, 2020

Time: 10:00am

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 10:02am by Chairman Basil Wong. 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 - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Eckert	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	7	85.1858%
Absent	6	14.8142%
Quorum by #:	Yes	
Quorum by GES:	Yes	

Meeting Date:

December 7, 2020

Public Forum

Chairman Wong asked if any members of the public were on the phone 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 9, 2020 were considered. The LEC PPC considered the following motion:

Date: 12/7/2020

Motion: The PPC approves the minutes from the November 9, 2020 regular LEC PPC meeting.

Moved by:

CDWR

Seconded by:

Azusa

Discussion: There was no further discussion

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:		Motion Passes

MONTHLY REPORTS

4. Operational Reports for November 2020

Rafael Santana presented the Operational Report for November 2020. There were no OSHA recordable accidents and no NERC/WECC violations. On October 30, 2020, San Joaquin Valley Air Pollution Control District issued a NOV permit violation for October 7, 2020. There were (2) forced outages in November for a steam turbine steam leak repair and condensate pump trip. The next planned outage is April 2021. Planning continues for the steam turbine and generator six-week major outage in 2022/2023.

The operational report reflected monthly production of 62,410 MWH, 251 service hours, and equivalent operating availability of 86.4%. The report set for the Capacity Factor @ 302MW Pmax of 28.1%. There were 4 hot starts, 16 warm starts, and 1 cold starts during the month.

5. Market Data Report for November 2020

Zackary Liske mentioned the operating and financial settlement results for the month. LEC was committed to CAISO 21 out of 26 available days. Most runs were between 6-11 hours in the afternoons and evenings, and (3) two starts in a day, in the month of November. There were 4 days not committed due to the steam turbine leak forced outage.

6. Monthly Asset Report

Michael DeBortoli presented the monthly asset report for October 2020. Michael mentioned October was a very strong and in-line with the budget and forecast. This is a stronger October than last year for LEC.

7. Bidding Strategies Report

Jesse Shields presented the Bidding Strategies Report for November 2020. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee.

Consent Calendar (Items 8-11)

The consent calendar was considered. Chairman Wong 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: 12/7/2020

Motion: The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for October 2020; **9.** Financial Report for October 2020; **10.** GHG Reports (excerpted from the Monthly ARB); **11.** Utility System Efficiencies, Inc. MTPSA for consulting services related to WECC and NERC reliability criteria, not to exceed \$500,000, for use at all NCPA facilities and Members/SCPPA.

Moved by:

Lodi

Seconded by:

SVP

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	84.9179%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	15.0821%
Result:	Motion Passes	

BUSINESS ACTION ITEMS

12. Lodi Energy Center Spring 2021 Outage

Rafael Santana presented a PowerPoint presentation on the 2021 Lodi Energy Center Spring Outage Project. Rafael reviewed the projected costs, scope of work and funding for this project in April 2021. The Staff's recommendation is to approve authority for \$2.4M for the April 2021 planned outage.

Date: 12/7/2020

Motion: Staff recommends that the Lodi Energy Center Project Participant Committee approve the LEC 2021 Spring Outage Project and delegate authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the outage in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$2,400,000.

Moved by:
Seconded by:

CDWR
Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	84.9179%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	15.0821%
Result:	Motion Passes	

INFORMATIONAL ITEMS

13. Additional Operational Updates

None.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, January 11, 2020 at 10:00am.

The meeting was adjourned at 10:28 am.

Submitted by: Melissa Conrad



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LEC PPC Meeting Minutes - Special

Date: December 14, 2020

Time: 11:00 am

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

Subject: Lodi Energy Center Project Participant Committee Meeting - Special

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 11:02 am by Chairman Basil Wong. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Alqaser	Present	33.5000%
Gridley - Eckert	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	6	82.4001%
Absent	7	17.5999%
Quorum by #:	No	
Quorum by GES:	Yes	

Public Forum

Chairman Wong asked if any members of the public were on the phone 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.

BUSINESS ACTION ITEMS**3. Reapproval of Major Insurance Renewals for Policy Year of 2021**

Monty Hanks presented a PowerPoint presentation on the quotes received for the property and casualty insurance premiums for 2021. The latest estimate was a combined total \$1.25 million and it came in at \$1.49 million. The property insurance deductibles for the property and LEC turbine generator doubled in the 2021 policy. The main reasons for insurance premium increases include market pressure, wildfires, other insurance companies backing out and the LEC loss in 2020. Monty Hanks asked Michael DeBortoli to review the budget to prevent losses in the future.

Date: 12/14/2020

Motion: Staff is seeking a recommendation for re-approval delegating authority to the General Manager to negotiate and bind property damage and casualty coverage amounts increasing the not-to-exceed from \$1,249,100 to \$1,499,100. If approved this recommendation will be taken to the NCPA Commission for approval.

Moved by: CDWR
Seconded by: Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%

Vote Summary		
Total Ayes	6	82.4001%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.5999%
Result:	Motion Passes	

Adjournment

The next regular meeting of the PPC is scheduled for Monday January 11, 2021 at 10:00am.

The meeting was adjourned at 11:21am.

Submitted by: Melissa Conrad

Lodi Energy Center Project Participant Committee

Operational Report

Agenda Item No.: 4

Date: 1/11/2021

To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents.

Notice of Violations

- Permits: 1 Violations Issued. San Joaquin Valley Air Pollution Control District issued a violation for the exceedance of LEC's one-hour average NOx limit by 0.1ppm on October 7, 2020. The District has issued a settlement offer in the amount of \$3,000.
- NERC/WECC: 0 Violations Issued.

Outage Summaries:

- None

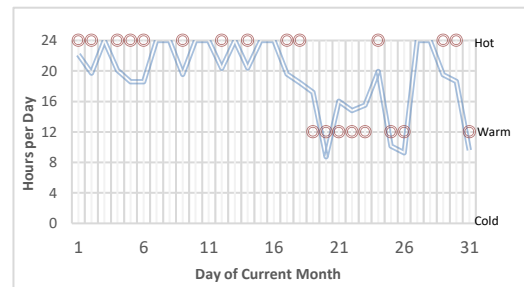
Planned Outage Summaries:

- April 1-30, 2021 Planned Outage
- 2022/2023 ST and Gen – Major Inspection (6 weeks outage)

Generating Unit Statistics:**Date:**

12/1/2020

1. Monthly Production	159,971	MWH
2. Productivity Factor		
a. Service Hours	597	Hours
b. Service Factor	80.2%	%
c. Capacity Factor @ 302MW Pmax	71.2	%
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	6,922	1.06%	55,682	\$16,123
Seg. 2 284 - 296	6870	6,942	1.05%	32,035	\$9,238
Seg. 3 275 - 284	6971	6,951	-0.29%	13,104	-\$1,058
Seg. 4 250 - 275	7081	6,993	-1.24%	37,147	-\$13,049
Seg. 5 225 - 250	7130	7,095	-0.49%	13,054	-\$1,819
Seg. 6 200 - 225	7200	7,241	0.57%	2,833	\$466
Seg. 7 175 - 225	7450	7,599	2.00%	1,685	\$1,003
Seg. 8 165 - 175	7760	7,848	1.13%	358	\$125
	7,164	7,199	0.28%	155,899	\$11,029

6. AGC Control Deviation

MW Range	High Dev MWH	Low Dev MWH	Total Dev MWH	Cost \$
Seg. 1 296 +	0	0	0	\$3
Seg. 2 284 - 296	2	-1	3	\$87
Seg. 3 275 - 284	2	0	3	\$76
Seg. 4 250 - 275	4	-1	5	\$133
Seg. 5 225 - 250	4	-1	5	\$146
Seg. 6 200 - 225	2	-2	4	\$113
Seg. 7 175 - 225	1	-1	2	\$53
Seg. 8 165 - 175	0	0	0	\$0
	16	-5	22	\$611

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	13	8	0
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	72	92	0
Start Time Deviation (%)	-3%	-17%	0%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,406	1,759	0
Fuel Deviation (%)	8%	-2%	0%
Costs of Fuel Deviations (\$)	\$5,527	-\$1,300	\$0



LEC PPC Meeting

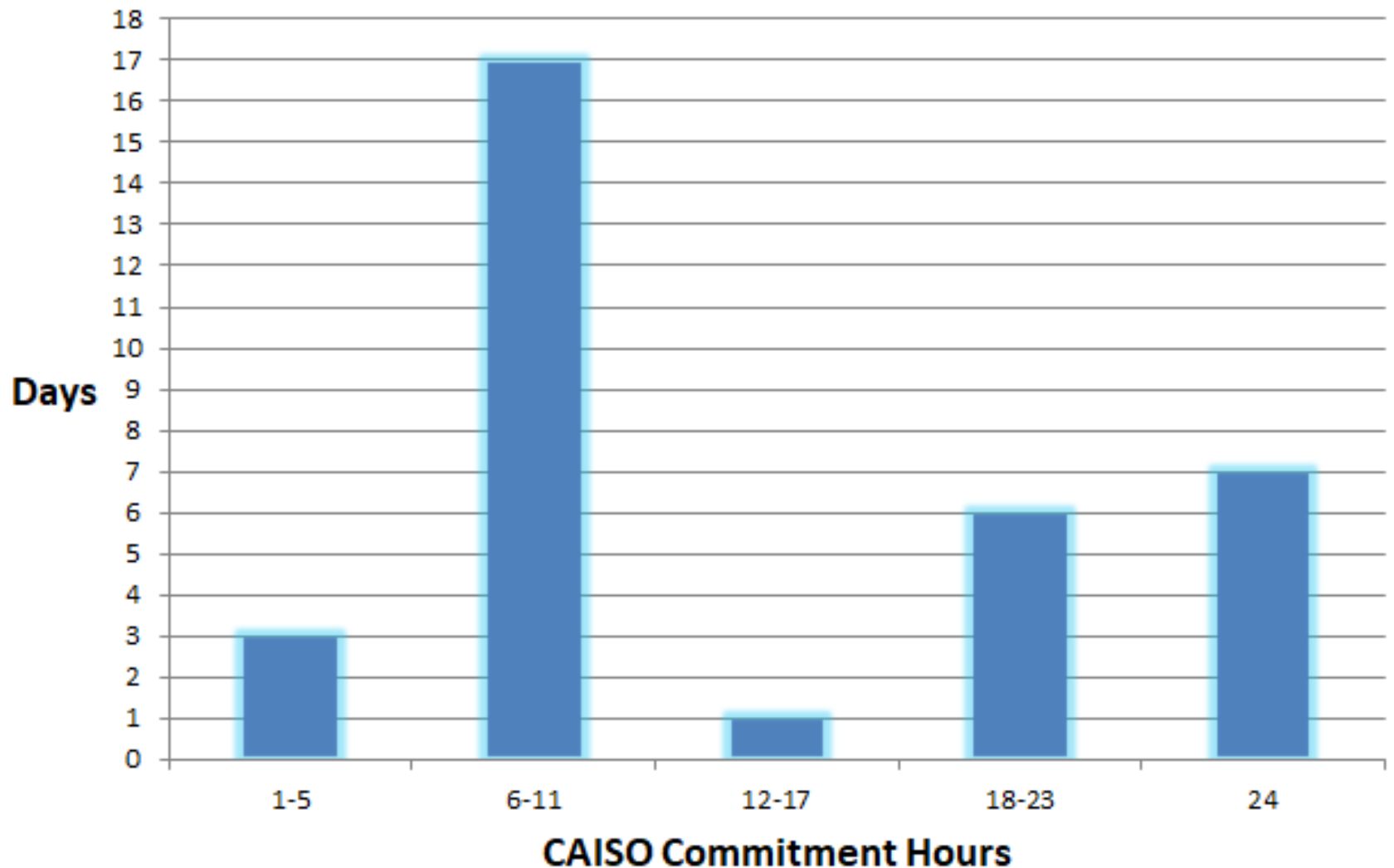
January 11, 2021

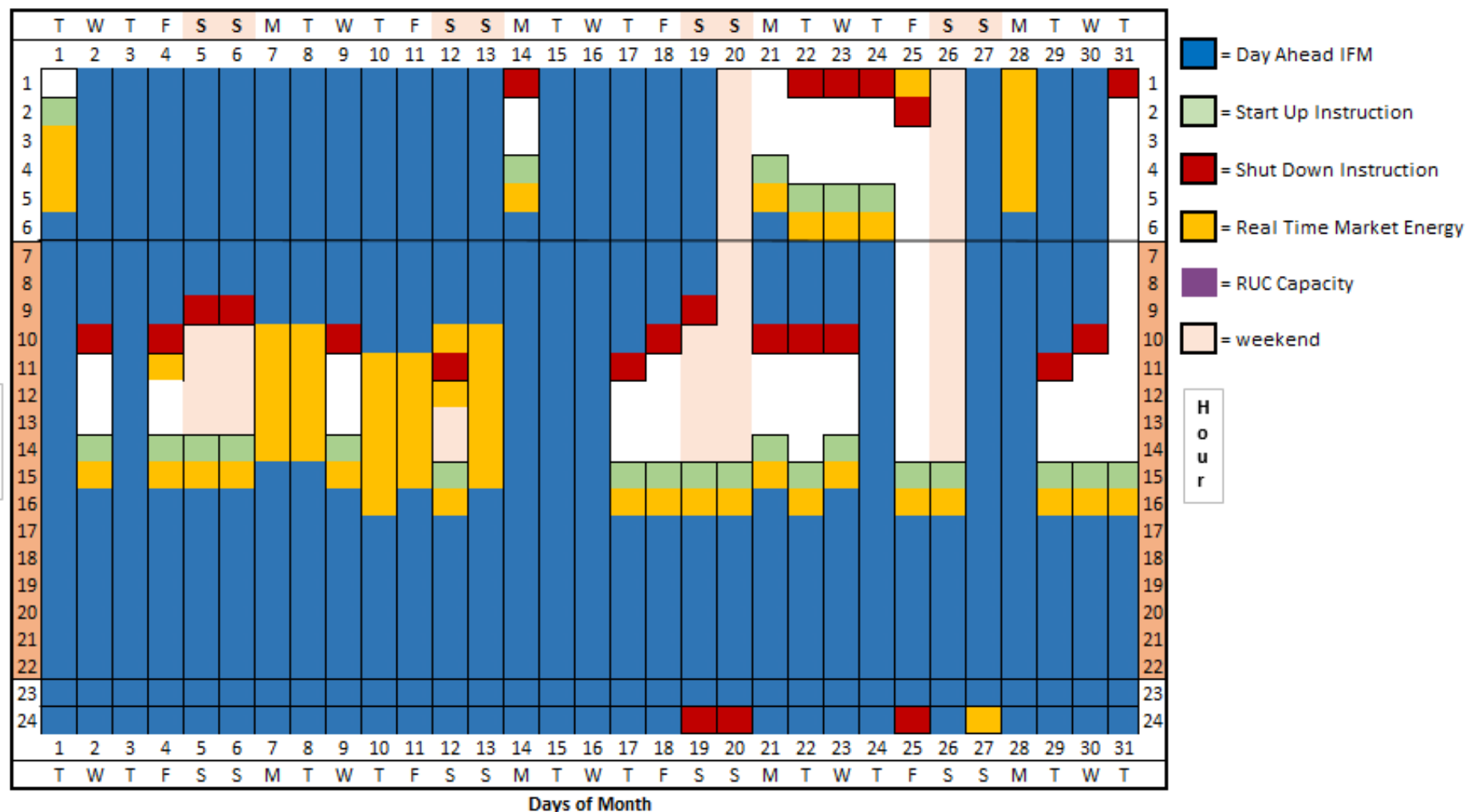
December 2020 Market Financial Results

LEC Operational Results for December 2020

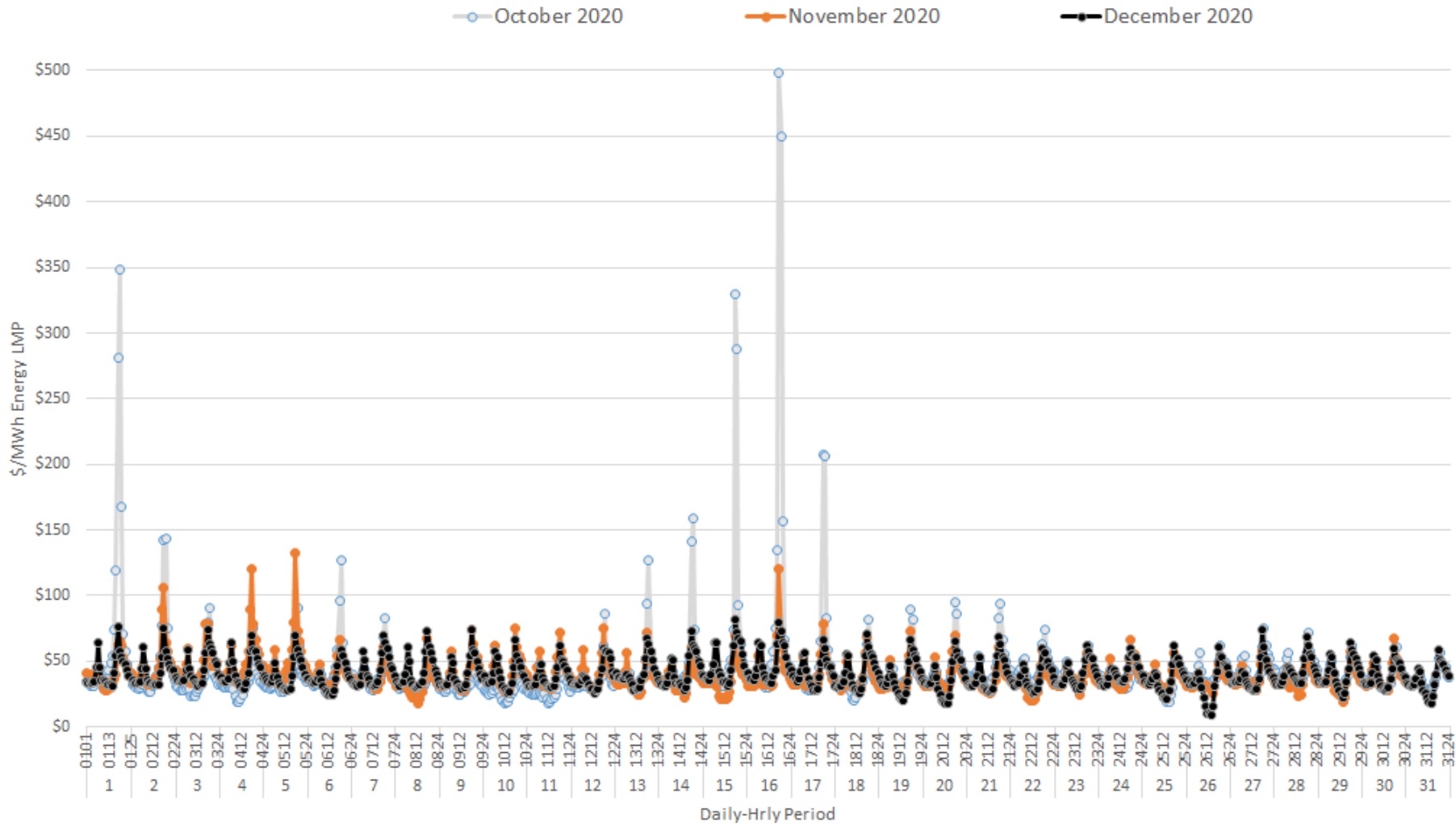
- Resource Adequacy Availability Metrics:
 - 100% - Monthly Assessment Generic Performance
 - 100% - Monthly Assessment Flexible Performance Vs
 - 96.5% Availability Standard
- RAAIM Incentive Payment Amount:
 - \$24,400 for Generic RA based on claimed 143.22 mw
 - \$ 2,449 for Flexible RA based on claimed 16.48 mw
- LEC was committed by CAISO for Market energy 31 days of 31 available days
 - LEC Plant cycled 24 times during the month
 - 3 days involved two start-ups and shut-downs per day
 - 0 days unavailable due to forced outage from turbine steam leaks
 - 0 days not committed due to economics

Frequency Tabulation of Daily CAISO commitment hours for December 2020

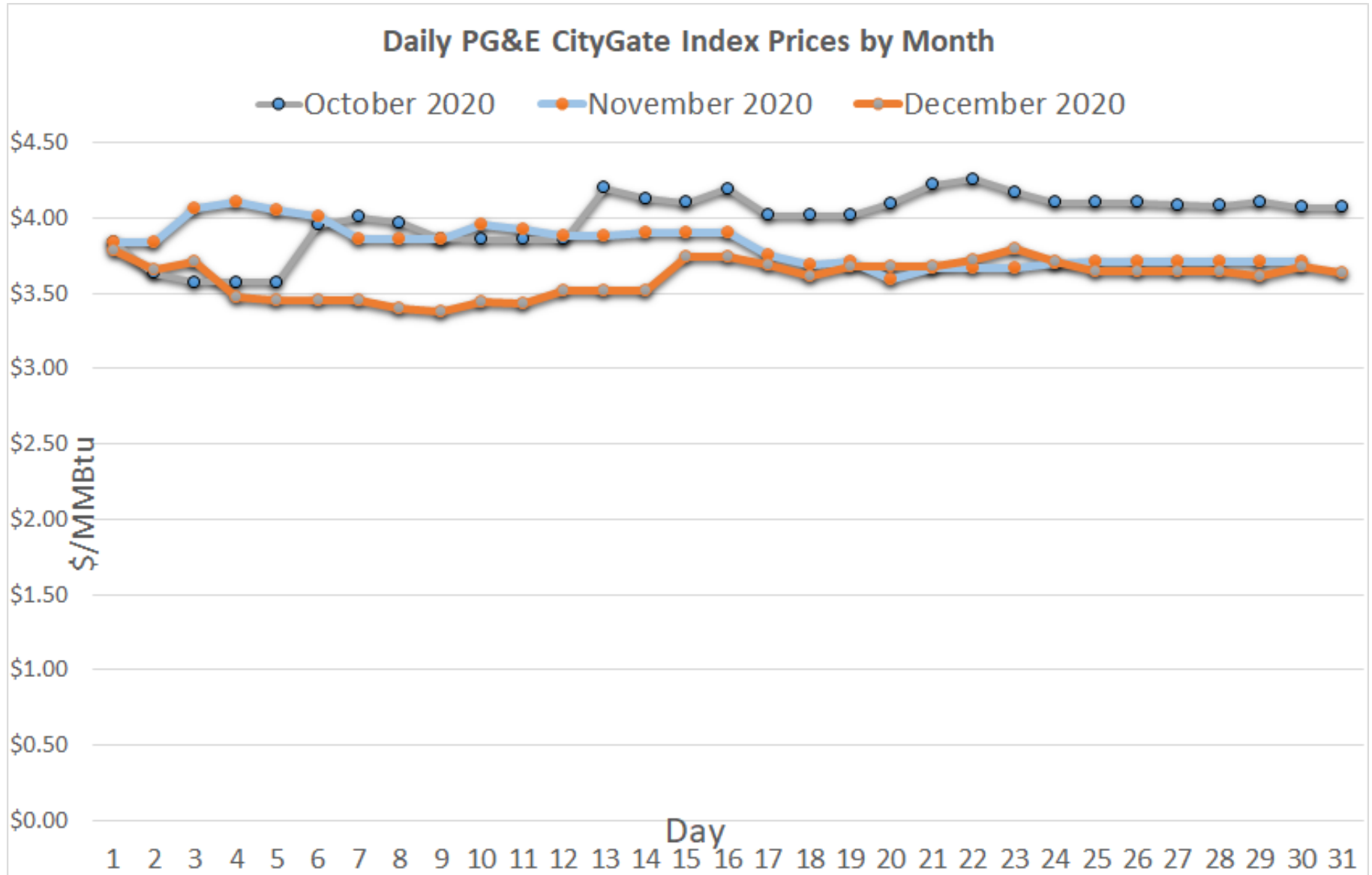




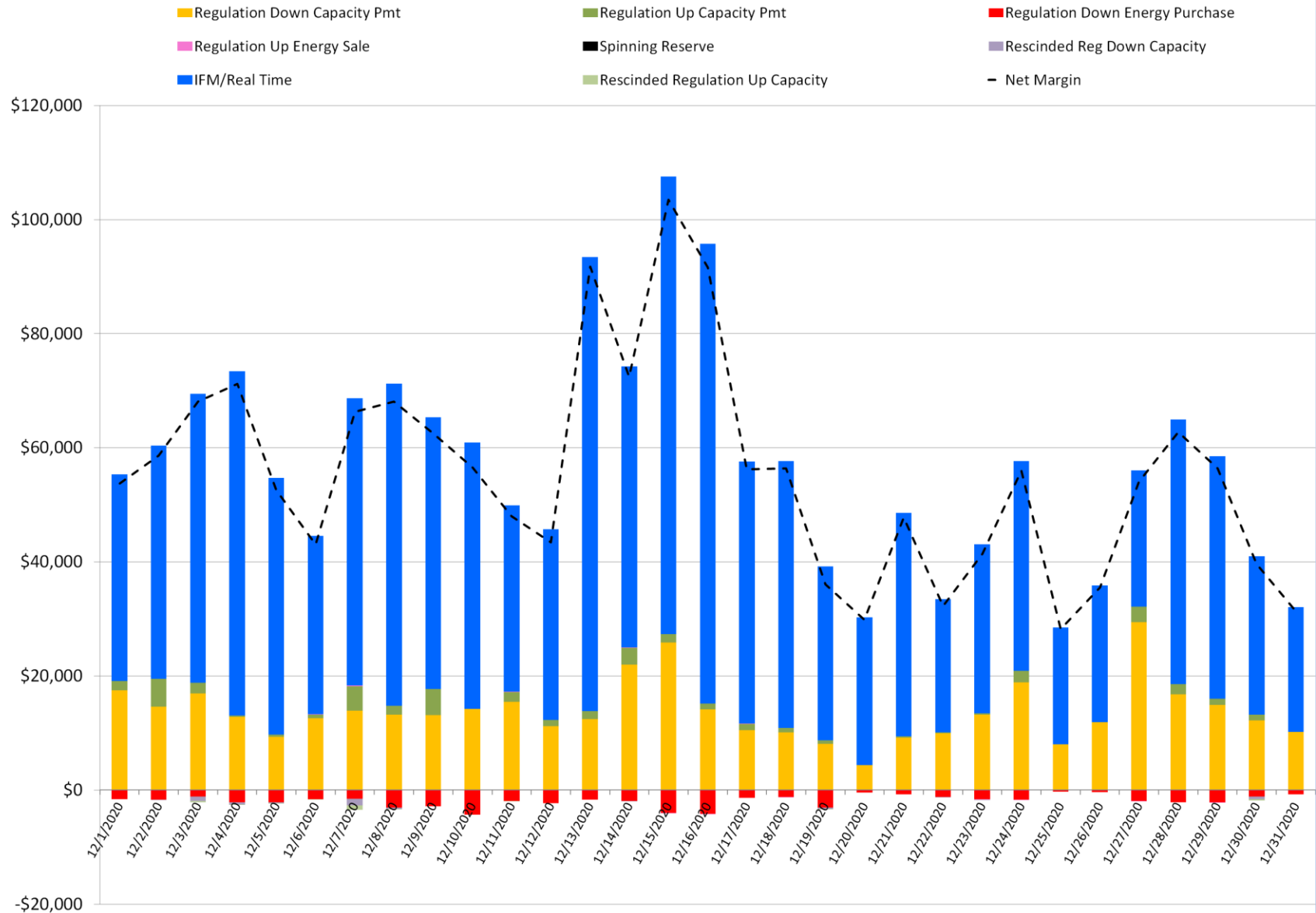
DA Energy LMP values by Month



December 2020 Daily PG&E City Gate Gas Index



December 2020 LEC Daily Margin Profile by Product



December 2020 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$ 7,295,600	
Regulation Up Capacity	\$ 41,400	
Regulation Down Capacity	\$ 426,800	
Spinning Reserve	\$ -	
Total Gross LEC Revenue		\$ 7,763,800
LEC CAISO GMC Costs	\$ (65,500)	
CAISO Energy & Capacity Buyback Costs	\$ (218,700)	
Total Monthly LEC Fuel Cost	\$ (4,114,000)	
Total Monthly GHG Obligation	\$ (1,061,400)	
Variable Operations & Maintenance Cost	\$ (510,300)	
Total Costs		\$ (5,969,900)
Net Cumulative Monthly Margin		\$ 1,793,900
Average Margin \$/MWh	\$	11.2

Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net_Amount by Day

● Increase ● Decrease ● Total

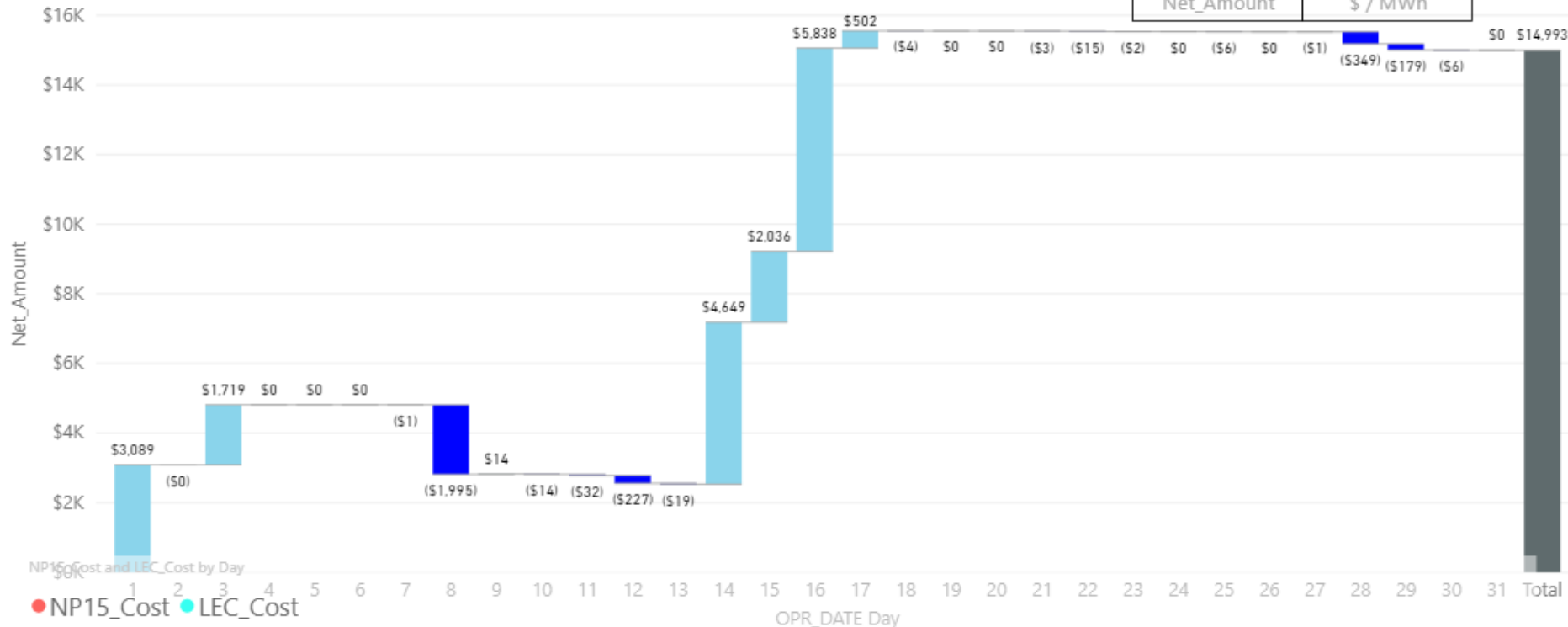
December 2020 Cost of Congestion Component

\$14,993

Net_Amount

\$0.09

\$ / MWh



NP15_Cost and LEC_Cost by Day

● NP15_Cost ● LEC_Cost

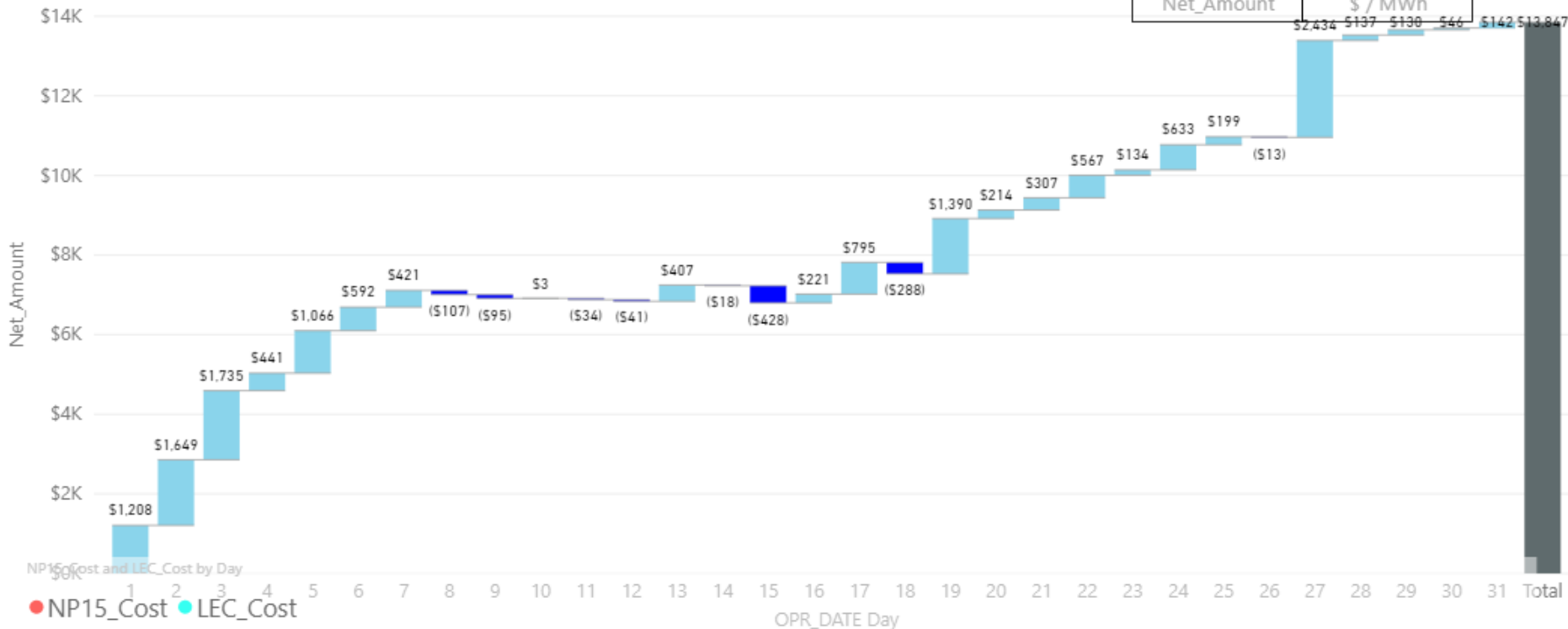


Comparison of Day Ahead Loss Component LEC vs NP15 Trade Hub

Net_Amount by Day

December 2020 Cost of Loss Component

● Increase ● Decrease ● Total

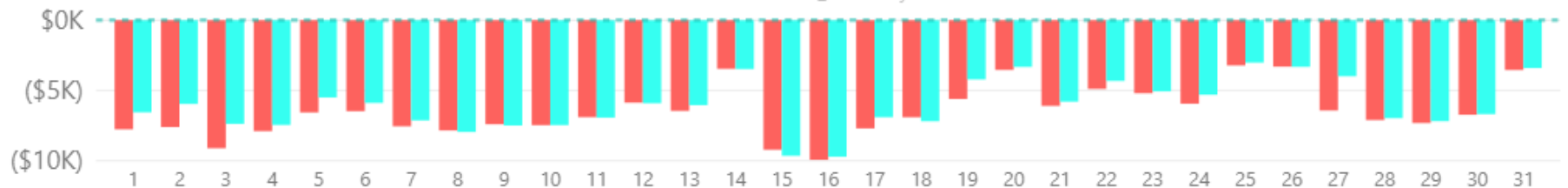


\$13,847
Net_Amount

\$0.09
\$ / MWh

NP15_Cost and LEC_Cost by Day

● NP15_Cost ● LEC_Cost



Lodi Energy Center
Monthly Budget Analysis
Expenditures
Report Date: 12/23/2020

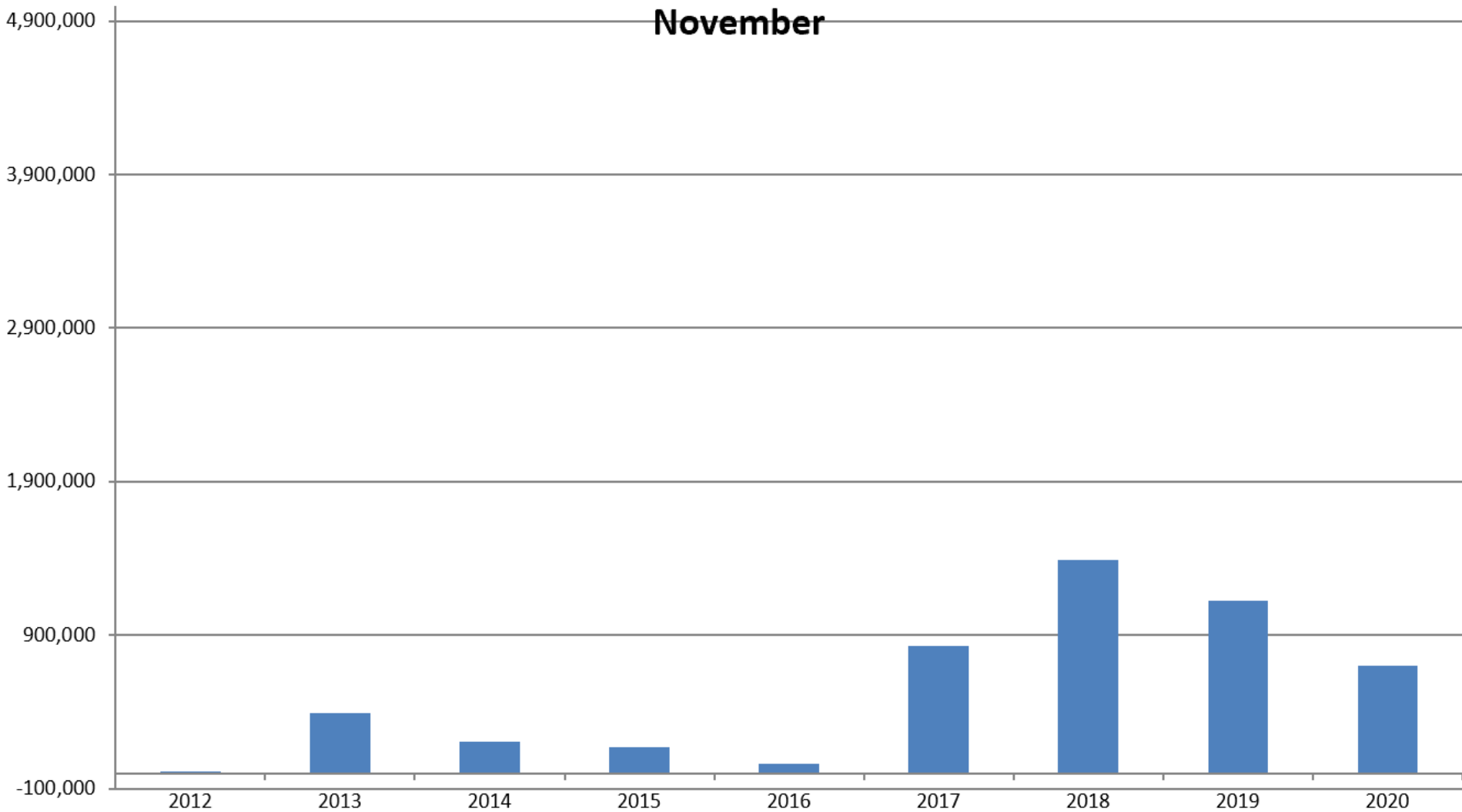
	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY 2020 Budget	Percent Used	Comments
VOM	2,100,250	4,745,364	2,926,963	3,423,662	4,150,637	5,577,916	8,246,163	5,317,986	2,545,605	10,000	1,398,722	2,858,239	43,301,507	50,918,015	85.0%	
Capacity Factor	32%	65%	65%	39%	29%	63%	76%	56%	25%	0%	13%	32%	41%	54%	77.1%	
Fuel Consumed (mmBTU, estimated)	553,447	1,035,000	548,358	637,443	459,993	976,858	1,169,898	804,074	381,483	0	206,610	482,124	7,255,286	9,021,368	80.4%	
Avg Fuel Cost (\$/mmBTU)	2.51	3.21	3.71	4.08	3.86	4.19	4.63	4.96	5.30	0.00	5.14	4.60	4.12	3.65	112.9%	
Power Produced (MWHr, estimated)	75,067	145,066	73,991	87,952	62,413	142,607	170,788	117,383	55,691	0	30,162	70,383	1,031,503	1,316,988	78.3%	Smaller volume at higher prices.
Avg Power Price (\$/MWHr)	37.12	64.43	64.82	58.46	51.97	47.03	50.34	51.76	52.42	0.00	51.62	52.33	53.18	49.94	106.5%	
Operations / Variable / LTSA	32,219	107,731	197,945	73,568	1,775,673	139,509	1,233,872	116,541	10,000	10,000	10,000	10,000	3,717,058	5,436,362	68.4%	
Fuel (estimated)	1,387,262	3,318,378	2,035,385	2,601,505	1,775,673	4,097,430	5,418,578	3,985,977	2,021,388	0	1,061,643	2,217,278	29,920,497	32,955,703	90.8%	
AB32 GHG Offset (estimated)	508,424	950,218	508,995	598,684	430,015	880,456	1,112,855	764,868	362,883	0	196,536	458,616	6,772,548	8,695,359	77.9%	
CA ISO Charges (estimated)	172,345	369,037	184,638	149,905	169,275	460,522	480,858	450,600	151,334	0	130,544	172,345	2,891,404	3,830,591	75.5%	
Routine O&M (Fixed)	1,026,632	1,427,542	964,942	882,496	909,320	898,343	898,343	891,343	916,957	979,970	1,061,957	1,116,957	11,974,804	11,555,680	103.6%	
Maintenance / Fixed	311,545	463,173	282,367	282,612	255,184	205,000	205,000	205,000	205,000	205,000	350,000	205,000	3,174,881	2,717,065	116.8%	
Administration	2,729	13,600	10,296	2,260	4,337	17,615	17,615	17,615	17,615	17,615	17,615	17,615	156,525	211,377	74.1%	
Mandatory Costs	36,623	190,530	25,662	9,311	7,960	15,000	15,000	8,000	33,614	33,614	33,614	33,614	442,541	309,455	143.0%	
Inventory Stock	0	0	7,434	50	0	0	0	0	0	0	0	0	7,484	-	0.0%	
Labor	482,419	566,447	439,117	393,381	435,435	450,000	450,000	450,000	450,000	513,013	450,000	650,000	5,729,812	5,789,039	99.0%	
Insurance	66,328	66,328	66,328	66,328	66,328	74,862	74,862	74,862	74,862	74,862	74,862	74,862	855,671	898,338	95.3%	
Power Management & Settlements	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	1,523,858	1,523,860	100.0%	
Other Costs	0	476	6,750	1,566	13,088	8,879	8,879	8,879	8,879	8,879	8,879	8,879	84,032	106,546	78.9%	
Projects	352,616	277,393	153,194	161,920	160,086	159,694	278,194	278,194	278,194	403,194	424,150	153,194	3,080,025	2,905,788	106.0%	
Maintenance Reserve	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	1,838,330	1,838,332	100.0%	
Operations & Maintenance Projects	-287,312	36,453	0	4,600	6,892	0	125,000	125,000	125,000	250,000	270,956	0	656,589	1,060,956	61.9%	
Capital Projects	486,734	87,746	0	4,126	0	6,500	0	0	0	0	0	0	585,106	6,500	9001.6%	
A&G	183,752	208,363	197,156	188,760	169,560	222,637	222,637	222,637	222,637	222,637	222,637	222,637	2,506,049	2,671,642	93.8%	
Administrative & General (Allocated)	160,659	198,558	152,153	153,613	145,154	193,161	193,161	193,161	193,161	193,161	193,161	193,161	2,162,263	2,317,930	93.3%	
Generation Services Shared	23,093	9,805	45,003	35,147	24,406	29,476	29,476	29,476	29,476	29,476	29,476	29,476	343,786	353,712	97.2%	
Total O&M Cost	3,663,250	6,658,662	4,242,255	4,656,838	5,389,603	6,858,590	9,645,338	6,710,161	3,963,393	1,615,801	3,107,467	4,351,027	60,862,385	68,051,125	89.4%	
Debt Service	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	26,023,835	26,023,835	100.0%	
Revenues	2,786,992	9,389,288	4,797,711	5,141,732	3,268,809	6,738,272	8,629,640	6,107,961	2,951,671	32,154	1,589,211	3,715,347	55,148,787	66,151,457	83.4%	
ISO Energy Sales (estimated)	2,786,450	9,346,750	4,796,399	5,141,732	3,243,809	6,706,119	8,597,486	6,075,807	2,919,517	0	1,557,057	3,683,194	54,854,319	65,765,612	83.4%	
Other Income	542	42,538	1,312	0	25,000	32,154	32,154	32,154	32,154	32,154	32,154	32,154	294,468	385,845		
Net	(\$3,044,911)	\$561,973	(\$1,613,197)	(\$1,683,759)	(\$4,289,447)	(\$2,288,971)	(\$3,184,351)	(\$2,770,853)	(\$3,180,375)	(\$3,752,301)	(\$3,686,909)	(\$2,804,333)	(\$31,737,433)	(\$27,923,503)	Above budget by 13.66%	

November Asset Report

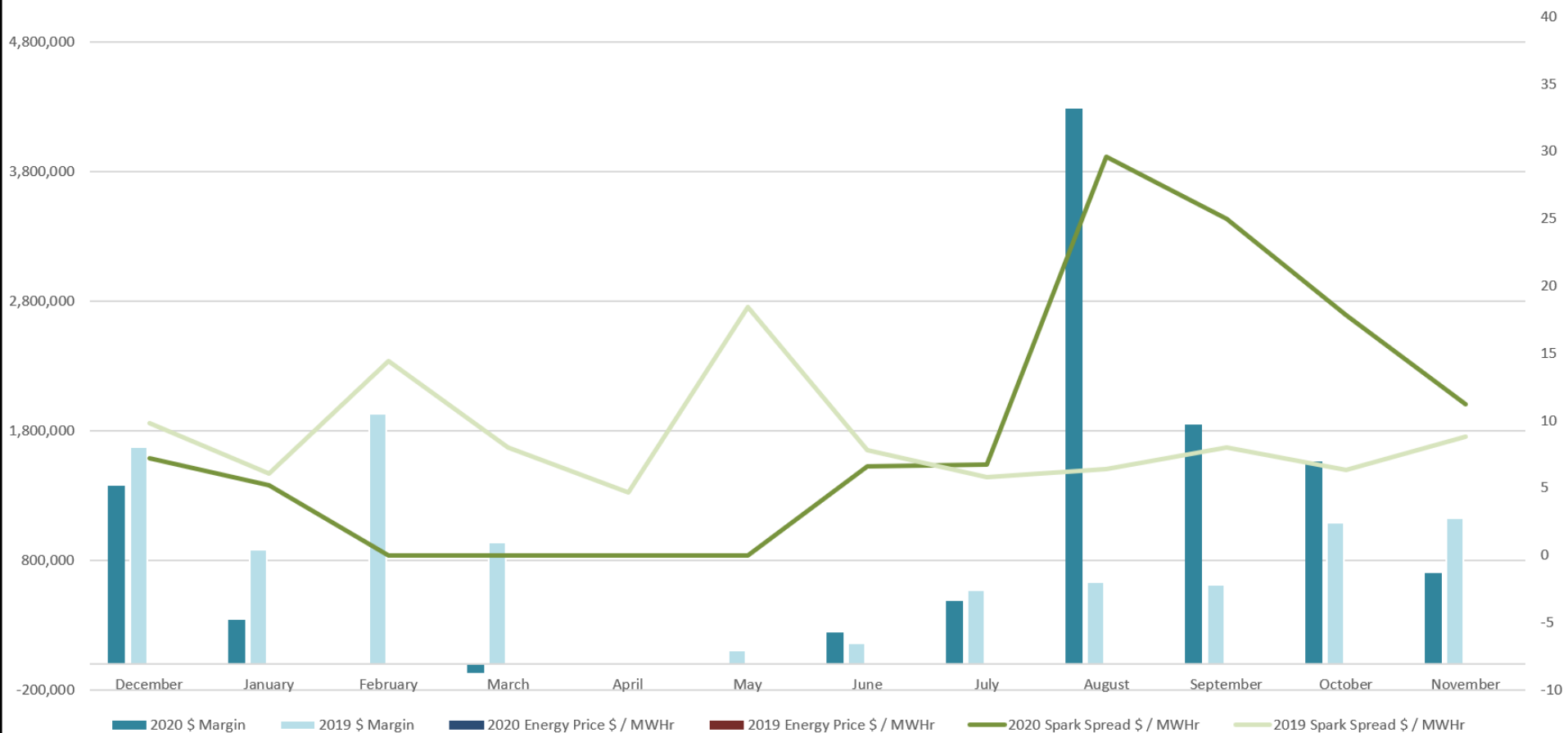
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	3,268,809	5,909,015	4,113,987	(2,640,206)	-45%	Reduced volume at higher prices.
VOM	2,374,964	5,076,434	3,148,243	(2,701,471)	-53%	
Fixed	909,320	1,048,356	973,495	(139,036)	-13%	
Projects	160,086	253,194	253,194	(93,108)	-37%	
A&G	169,560	222,637	222,637	(53,077)	-24%	
Debt	2,168,653	2,168,653	2,168,653	0	0.00%	
Net Cost	(2,513,774)	(2,860,260)	(2,652,235)	346,486	-12%	
Net Annual Cost		(31,737,433)	(27,923,503)	(\$3,813,930)		
				Above budget by 13.66%		

Historical Margins

November

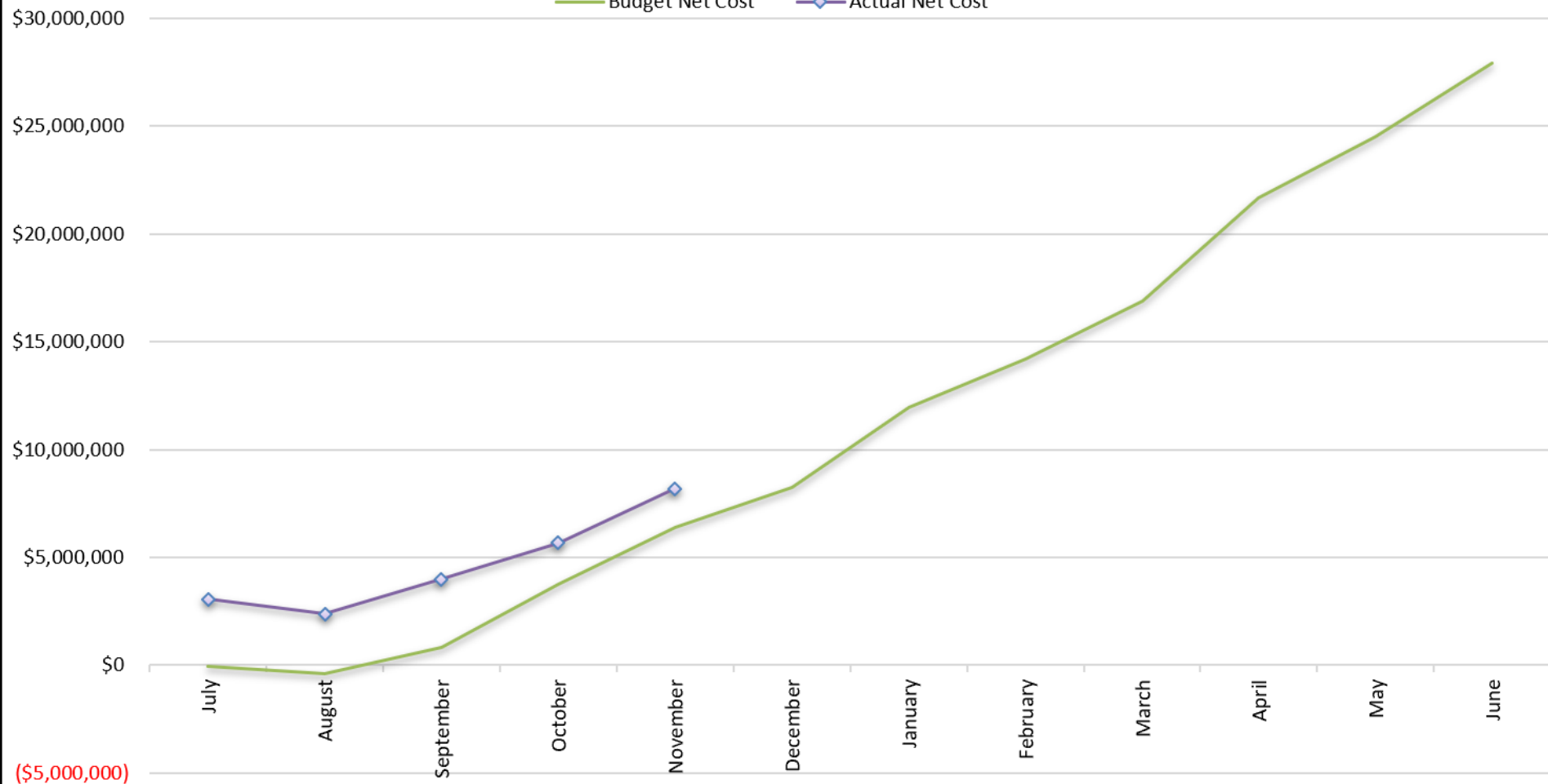


Historical Monthly Comparison



Cummulative Net Cost

Budget Net Cost Actual Net Cost





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 11, 2021
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended November 30, 2020

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 \$1,402,192.

Investments - The carrying value of the LEC's investment portfolio totaled \$41,250,775 at month end. The current market value of the portfolio totaled \$41,395,429.

The overall portfolio had a combined weighted average interest rate of 0.731% with a bond equivalent yield (yield to maturity) of 0.618%. Investments with a maturity greater than one year totaled \$12,960,000. During the month \$6,871,843 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 1 basis point from 0.10% to 0.09% and rates on one year T-Bills decreased 1 basis point from 0.12% to 0.11%.

To the best of my knowledge and belief, all securities held by LEC as of November 30, 2020 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, 2020

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INTEREST RATE/YIELD ANALYSIS	4
INVESTMENT MATURITIES ANALYSIS	5
DETAIL REPORT OF INVESTMENTS	APPENDIX

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
November 30, 2020

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
MANDATORY FUNDS					
Debt Service Account	\$ 1,402,192	\$ 16,933,113	\$ 18,335,305	42.99%	\$ 16,933,112
Debt Service Reserve	-	12,628,680	12,628,680	29.61%	12,731,885
O & M Reserve	-	11,601,855	11,601,855	27.20%	11,643,305
	1,402,192	41,163,648	42,565,840	99.80%	41,308,302
ADDITIONAL PROJECT FUNDS					
GHG Cash Account	-	87,127	87,127	0.20%	87,127
Participant Deposit Account	-	-	-	0.00%	-
	\$ 1,402,192	\$ 41,250,775	\$ 42,652,967	100.00%	\$ 41,395,429

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
November 30, 2020

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
MANDATORY FUNDS							
Debt Service Account	\$ -	\$ 2	\$ 2,347,000	\$ -	\$ (6,850,134)	\$ 5,237,733	\$ 734,601
Debt Service Reserve	-	-	-	-	-	-	-
O & M Reserve	-	21,709	-	-	(21,709)	-	-
	-	21,711	2,347,000	-	(6,871,843)	5,237,733	734,601
ADDITIONAL PROJECT FUNDS							
GHG Cash Account	10,795	-	-	(10,795)	-	-	-
Participant Deposit Account	-	-	-	-	-	-	-
TOTAL	\$ 10,795	\$ 21,711	\$ 2,347,000	\$ (10,795)	\$ (6,871,843)	\$ 5,237,733	\$ 734,601

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, 2020**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR	DISC/(PREM)	GAIN/(LOSS)	TRANSFERS	INCREASE /
		MATURED	AMORT	ON SALE		(DECREASE)
MANDATORY FUNDS						
Debt Service Account	\$ 6,850,134	\$ (2,347,000)	\$ 622	\$ -	\$ -	\$ 4,503,756
Debt Service Reserve	-	-	(12)	-	-	(12)
O & M Reserve	21,709	-	(2,584)	-	-	19,125
	<u>6,871,843</u>	<u>(2,347,000)</u>	<u>(1,974)</u>	<u>-</u>	<u>-</u>	<u>4,522,869</u>
ADDITIONAL PROJECT FUNDS						
GHG Cash Account	-	-	-	-	-	-
Participant Deposit Acct.	-	-	-	-	-	-
TOTAL	<u>\$ 6,871,843</u>	<u>\$ (2,347,000)</u>	<u>\$ (1,974)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 4,522,869</u>

Less Non- Cash Activity

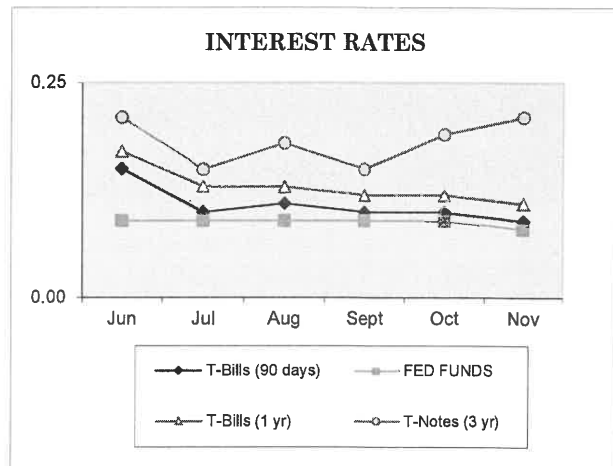
Disc/(Prem) Amortization & Gain/(Loss) on Sale	<u>1,974</u>
Net Change in Investment --Before Non-Cash Activity	<u>\$ 4,524,843</u>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Lodi Energy Center
Interest Rate/Yield Analysis
November 30, 2020**

	WEIGHTED AVERAGE INTEREST RATE	BOND EQUIVALENT YIELD
OVERALL COMBINED	0.731%	0.618%
Debt Service Account	0.348%	0.348%
Debt Service Reserve	0.862%	0.752%
O & M Reserve	1.147%	0.863%
GHG Cash Account	0.843%	0.843%

KEY INTEREST RATES		
	CURRENT	PRIOR YEAR
Fed Funds (Overnight)	0.08%	1.55%
T-Bills (90da.)	0.09%	1.61%
Agency Disc (90da.)	0.10%	1.52%
T-Bills (1yr.)	0.11%	1.59%
Agency Disc (1yr.)	0.12%	1.45%
T-Notes (3yr.)	0.21%	1.60%



**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
November 30, 2020**

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	\$ 8,062	\$ 4,849	\$ 500	\$ 3,278	\$ -	\$ 11,900	\$ -	\$ 28,589	69.42%
Corporate Bonds (MTN)	-	-	-	-	495	1,060	-	1,555	3.78%
Municipal Bonds	-	-	-	-	500	-	-	500	1.21%
US Bank Trust Money Market	8,874	-	-	-	-	-	-	8,874	21.55%
Commercial Paper	-	-	-	-	-	-	-	-	0.00%
Investment Trusts (LAIF)	1,634	-	-	-	-	-	-	1,634	3.97%
Investment Trusts (CAMP)	-	-	-	-	-	-	-	-	0.00%
U.S.Treasury Market Acct. *	30	-	-	-	-	-	-	30	0.07%
U.S.Treasury Bill/Note	-	-	-	-	-	-	-	-	0.00%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
Total Dollars	\$ 18,600	\$4,849	\$500	\$3,278	\$995	\$12,960	\$0	\$ 41,182	100.00%
Total Percents	45.17%	11.77%	1.21%	7.96%	2.42%	31.47%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

NORTHERN CALIFORNIA POWER AGENCY

Detail Report Of Investments

APPENDIX

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



Northern California Power Agency
Treasurer's Report
11/30/2020

LEC Issue#1 2010A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	CUSIP	Investment #	Market Value	Carrying Value
US Bank Trust	USB	485,132	0.600	07/01/2013	485,132		1	0.600	SYS79003	79003	485,132	485,132
Fund Total and Average		\$ 485,132	0.600		\$ 485,132		1	0.600			\$ 485,132	\$ 485,132

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	5,363,608	0.600	07/01/2013	5,363,608		1	0.600	SYS79004	79004	5,363,608	5,363,608
Federal Home Loan Ba	USBT	1,076,000	0.070	07/29/2020	1,075,738	12/01/2020	0	0.070	313384R68A	27036	1,076,000	1,076,000
Federal Home Loan Ba	USBT	1,077,000	0.080	08/28/2020	1,076,773	12/01/2020	0	0.081	313384R68A	27067	1,077,000	1,077,000
Federal Home Loan Ba	USBT	1,076,000	0.060	09/29/2020	1,075,887	12/01/2020	0	0.060	313384R68A	27093	1,076,000	1,076,000
Fund Total and Average		\$ 8,592,608	0.401		\$ 8,592,006		1	0.401			\$ 8,592,608	\$ 8,592,608

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	3,022,372	0.600	07/01/2013	3,022,372		1	0.600	SYS79012	79012	3,022,372	3,022,372
Federal Home Loan Ba	USBT	944,000	0.069	07/29/2020	943,771	12/01/2020	0	0.070	313384R68A	27037	944,000	944,000
Federal Home Loan Ba	USBT	944,000	0.080	08/28/2020	943,801	12/01/2020	0	0.081	313384R68A	27068	944,000	944,000
Federal Home Loan Ba	USBT	945,000	0.060	09/29/2020	944,901	12/01/2020	0	0.060	313384R68A	27094	945,000	945,000
Fund Total and Average		\$ 5,855,372	0.344		\$ 5,854,845		1	0.344			\$ 5,855,372	\$ 5,855,372

LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	667,000	0.070	07/29/2020	666,838	12/01/2020	0	0.070	313384R68A	27038	667,000	667,000
Federal Home Loan Ba	USBT	667,000	0.080	08/28/2020	666,859	12/01/2020	0	0.081	313384R68A	27069	667,000	667,000
Federal Home Loan Ba	USBT	666,000	0.060	09/29/2020	665,930	12/01/2020	0	0.060	313384R68A	27095	666,000	666,000
Fund Total and Average		\$ 2,000,000	0.070		\$ 1,999,627		0	0.071			\$ 2,000,000	\$ 2,000,000
GRAND TOTALS:		\$ 16,933,112	0.348		\$ 16,931,610		1	0.348			\$ 16,933,112	\$ 16,933,112

*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 11/30/2020



Northern California Power Agency
Treasurer's Report
11/30/2020

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	1,917	0.600	07/01/2013	1,917		1	0.600	1,917	SYS79005	79005	1,917
Federal Home Loan Ba	USBT	420,000	1.500	01/28/2020	413,823	01/15/2021	45	1.537	419,958	313385AQ9A	26943	419,213
Federal Home Loan Ba	USBT	4,429,000	0.110	07/29/2020	4,426,510	01/29/2021	59	0.111	4,428,424	313385BE5	27040	4,428,202
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,848	08/12/2021	254	1.699	151,049	3137EAE09	26454	149,421
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	556	1.760	4,222,221	313379Q69	26463	4,121,777
Fund Total and Average		\$ 9,100,917	1.101		\$ 9,157,204		286	0.948	\$ 9,223,569			\$ 9,120,530

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	804	0.600	07/01/2013	804		1	0.600	804	SYS79006	79006	804
U.S. Treasury	USBT	2,369,000	0.070	09/29/2020	2,367,869	07/15/2021	226	0.071	2,367,721	9127963S6	27099	2,367,959
Fund Total and Average		\$ 2,369,804	0.070		\$ 2,368,473		226	0.071	\$ 2,368,525			\$ 2,368,763

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	578	0.600	07/01/2013	578		1	0.600	578	SYS79013	79013	578
U.S. Treasury	USBT	759,000	0.069	09/29/2020	758,573	07/15/2021	226	0.071	758,590	9127963S6	27100	758,686
Federal Home Loan Mt	USBT	380,000	1.650	01/31/2020	380,190	07/28/2023	969	1.635	380,623	3134GU6D7	26945	380,145
Fund Total and Average		\$ 1,139,578	0.597		\$ 1,139,341		474	0.593	\$ 1,139,791			\$ 1,139,389
GRAND TOTALS:		\$ 12,610,299	0.862		\$ 12,665,018		292	0.752	\$ 12,731,885			\$ 12,628,682

*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 11/30/2020
Investment #26945 FHLMC Callable on 1/28/2021 only



Northern California Power Agency
Treasurer's Report

11/30/2020

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1,546,543	0.842	07/01/2013	1,546,543		1	0.842	1,546,543	SYS70047	70047	1,546,543
Union Bank of Califo	UBOC	30,193	0.002	07/18/2013	30,193		1	0.002	30,193	SYS70041	70041	30,193
Federal Farm Credit	UBOC	500,000	1.500	10/15/2019	499,335	04/15/2021	135	1.590	502,605	3133EKY83	26892	499,835
Toyota Motor Credit	UBOC	495,000	1.800	02/03/2020	496,995	10/07/2021	310	1.555	501,237	89236TGJ8	26953	496,011
Memphis Center City	UBOC	500,000	5.530	04/27/2020	533,880	11/01/2021	335	1.000	523,790	56607ECD4	26986	520,552
US Bank, N.A.	UBOC	595,000	2.650	05/31/2019	598,290	05/23/2022	538	2.456	614,504	90331HPC1	26822	596,633
Federal Home Loan Mt	UBOC	1,000,000	0.375	07/30/2020	1,000,000	07/28/2023	969	0.375	999,820	3134GMDL7	27046	1,000,000
Caterpillar Financia	UBOC	465,000	3.250	02/03/2020	496,569	12/01/2024	1,461	1.776	513,393	14912L6G1	26952	491,156
Federal Farm Credit	UBOC	1,000,000	0.640	07/30/2020	1,000,000	01/27/2025	1,518	0.639	1,000,010	3133ELZ84	27048	1,000,000
Federal National Mtg	UBOC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	1,701	0.579	996,330	3136G4D75	27047	1,000,933
Federal Farm Credit	UBOC	2,000,000	0.670	08/04/2020	2,000,000	08/04/2025	1,707	0.670	2,000,100	3133EL2S2	27054	2,000,000
Federal National Mtg	UBOC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	1,721	0.600	999,080	3136G4G72	27057	1,000,000
Federal Farm Credit	UBOC	750,000	0.530	09/29/2020	750,000	09/29/2025	1,763	0.530	748,688	3133EMBH4	27083	750,000
Federal Farm Credit	UBOC	670,000	0.530	09/29/2020	670,000	09/29/2025	1,763	0.530	667,012	3133EMBJ0	27084	670,000
Fund Total and Average		\$ 11,551,736	1.147		\$ 11,622,805		1143	0.863	\$ 11,643,305			\$ 11,601,856
GRAND TOTALS:		\$ 11,551,736	1.147		\$ 11,622,805		1143	0.863	\$ 11,643,305			\$ 11,601,856

*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 11/30/2020

Investment #26822 USB Callable anytime starting 4/22/2022
Investment #27046 FHLMC Callable on 7/28/2021 only
Investment #27047 FHLMC Callable quarterly starting 7/29/2022
Investment #27048 FFCB Callable anytime
Investment #27054 FFCB Callable anytime starting 2/4/2021
Investment #27057 FNMA Callable quarterly starting 8/18/2022
Investment #27083 FFCB Callable anytime starting 9/29/2021
Investment #27084 FFCB Callable anytime starting 12/29/2020



Northern California Power Agency
Treasurer's Report

11/30/2020

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		87,127	0.842	07/01/2013	87,127		1	0.842	87,127	SYS70046	70046	87,127
Fund Total and Average		\$ 87,127	0.843		\$ 87,127		1	0.843	\$ 87,127			\$ 87,127
GRAND TOTALS:		\$ 87,127	0.843		\$ 87,127		1	0.843	\$ 87,127.			\$ 87,127

*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 11/30/2020



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 9

Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: November 30, 2020 Financial Reports (Unaudited)

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

	November	
	2020	2019
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 87,127	\$ 75,103
Interest receivable	189	329
Inventory and supplies - at average cost	2,220,138	2,202,632
Prepaid insurance	21,405	16,907
Due from (to) Agency, net	20,163,885	24,331,543
TOTAL CURRENT ASSETS	22,492,744	26,626,514
RESTRICTED ASSETS		
Cash and cash equivalents	14,546,790	9,414,718
Investments	28,025,500	30,860,314
Interest receivable	77,391	129,720
TOTAL RESTRICTED ASSETS	42,649,681	40,404,752
ELECTRIC PLANT		
Electric plant in service	409,938,075	423,879,333
Less: accumulated depreciation	(100,768,458)	(102,261,705)
	309,169,617	321,617,628
Construction work-in-progress	-	182,398
TOTAL ELECTRIC PLANT	309,169,617	321,800,026
OTHER ASSETS		
Regulatory assets	28,553,529	25,189,754
TOTAL OTHER ASSETS	28,553,529	25,189,754
TOTAL ASSETS	402,865,571	414,021,046
DEFERRED OUTFLOWS OF RESOURCES		
Unamortized excess cost on advance refunding of debt, net	1,373,147	1,691,125
Asset retirement obligations	184,738	180,090
TOTAL DEFERRED OUTFLOWS OF RESOURCES	1,557,885	1,871,215
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 404,423,456	\$ 415,892,261

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

		November	
		2020	2019
LIABILITIES & NET POSITION			
CURRENT LIABILITIES			
Accounts and retentions payable	\$	1,776,378	\$ 3,177,497
Operating reserves		15,941,508	15,169,473
Current portion of long-term debt		12,515,000	12,040,000
Accrued interest payable		8,866,111	10,139,071
TOTAL CURRENT LIABILITIES		39,098,997	40,526,041
NON-CURRENT LIABILITIES			
Operating reserves and other deposits		86,937	1,158,836
Asset retirement obligations		184,738	180,090
Long-term debt, net		306,535,000	319,050,000
TOTAL NON-CURRENT LIABILITIES		306,806,675	320,388,926
TOTAL LIABILITIES		345,905,672	360,914,967
DEFERRED INFLOWS OF RESOURCES			
Regulatory credits		39,386,986	38,021,646
NET POSITION			
Invested in capital assets, net of related debt		(4,906,636)	(5,605,960)
Restricted		21,154,889	17,809,580
Unrestricted		2,882,545	4,752,028
TOTAL NET POSITION		19,130,798	16,955,648
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$	404,423,456	\$ 415,892,261

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

		Five Months Ended November	
		2020	2019
SALES FOR RESALE			
Participants	\$	19,736,438	\$ 17,303,027
Other		25,234,344	24,382,470
TOTAL SALES FOR RESALE		44,970,782	41,685,497
OPERATING EXPENSES			
Operations		15,910,917	17,904,775
Depreciation		5,890,926	6,091,244
Purchased power		690,735	773,731
Maintenance		1,573,888	1,575,361
Administrative and general		2,101,125	1,911,760
Transmission		417,725	314,562
Intercompany (sales) purchases		137,453	169,202
TOTAL OPERATING EXPENSES		26,722,769	28,740,635
NET OPERATING REVENUES		18,248,013	12,944,862
OTHER REVENUES (EXPENSES)			
Interest expense		(5,750,236)	(5,954,101)
Interest income		(27,837)	450,341
Other		1,575,642	1,504,023
TOTAL OTHER REVENUES (EXPENSES)		(4,202,431)	(3,999,737)
FUTURE RECOVERABLE AMOUNTS		(574,721)	508,852
REFUNDS TO PARTICIPANTS		-	(38)
INCREASE IN NET POSITION		13,470,861	9,453,939
NET POSITION			
Beginning of year		5,659,937	7,501,709
End of period	\$	19,130,798	\$ 16,955,648

**Lodi Energy Center
FY 2021 Operating Costs
As of November 30, 2020**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
Routine O&M Costs					
Variable	\$ 5,436,362	\$ 1,454,326	\$ 3,982,036	73%	A
Fixed	2,717,065	1,594,881	1,122,184	41%	
Administration	211,377	33,222	178,155	84%	
Mandatory Costs	309,455	270,085	39,370	13%	B
Routine O&M Costs without Labor	8,674,259	3,359,999	5,314,260	61%	
Labor	5,789,039	2,309,648	3,479,391	60%	C
Total Routine O&M Cost	14,463,298	5,669,647	8,793,651	61%	
Other Costs					
Fuel	32,955,703	11,574,783	21,380,920	65%	
GHG Allowance Costs	8,695,359	16,680	8,678,679	100%	
CA ISO Charges	780,841	417,725	363,116	47%	
CA ISO Purchased Energy	3,049,750	690,735	2,359,015	77%	
Debt Service	26,023,835	10,843,264	15,180,571	58%	
Insurance	898,338	331,638	566,700	63%	
Other Costs	106,546	21,880	84,666	79%	
Generation Services Shared	353,712	137,453	216,259	61%	
Administrative & General (Allocated)	2,317,930	810,137	1,507,793	65%	
Power Management Allocated Costs	1,523,860	634,942	888,918	58%	
Total O&M Cost	91,169,172	31,148,884	60,020,288	66%	D E
Projects					
Operations & Maintenance	1,060,956	(239,368)	1,300,324	123%	
Capital	6,500	578,606	(572,106)	0%	
Maintenance Reserve	1,838,332	765,972	1,072,360	58%	
Total Projects	2,905,788	1,105,210	1,800,578	62%	
Annual Cost	94,074,960	32,254,094	61,820,866	66%	
Less: Third Party Revenue					
Interest Income	385,845	116,131	269,714	70%	
ISO Energy Sales	55,590,251	24,556,356	31,033,895	56%	
Ancillary Services Sales	1,711,986	677,989	1,033,997	60%	
GHG Allowance Credits	8,463,375	-	8,463,375	100%	
Other Income	-	69,392	(69,392)	0%	
	66,151,457	25,419,868	40,731,589	62%	
Net Annual Cost to Participants	\$ 27,923,503	\$ 6,834,226	\$ 21,089,277	76%	
Total Variable Costs	50,918,015	14,137,569	36,780,446		
Total Fixed Costs	43,156,945	18,116,525	25,040,420		
	<u>\$ 94,074,960</u>	<u>\$ 32,254,094</u>	<u>\$ 61,820,866</u>		
Net Cumulative Generation (MWh)	1,316,988	444,493			
Total O&M Cost Per MWh	\$ 69.23	\$ 70.08			
Net Annual Cost Per MWh	\$ 21.20	\$ 15.38			

General - The plant ran 21 days during the month.

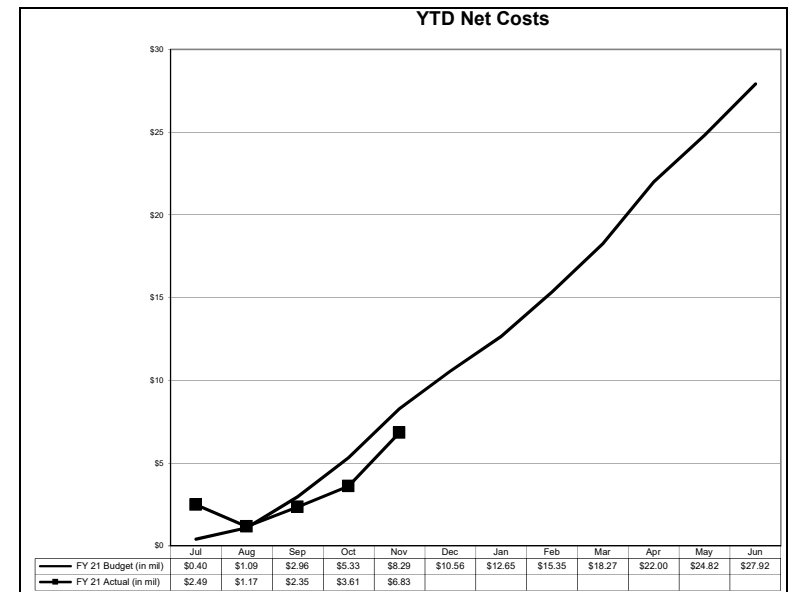
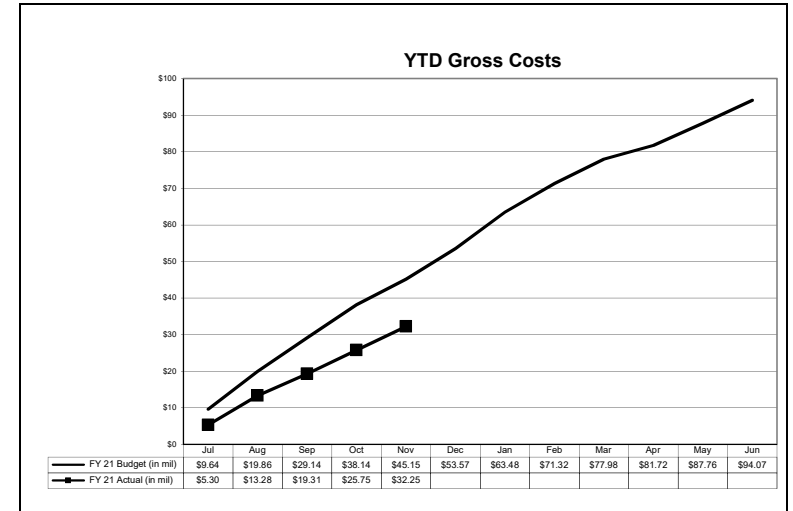
A - Slightly higher costs resulting from additional maintenance costs for annual outage.

B - Higher costs due to annual permit fees payment. Costs are expected to levelize for remainder of the year.

C - Higher than expected CAISO costs due to unbudgeted interest costs allocation. Amount expected to levelize by end of the year.

D - Amount includes prior year accrual reversal which will levelize when payments are made.

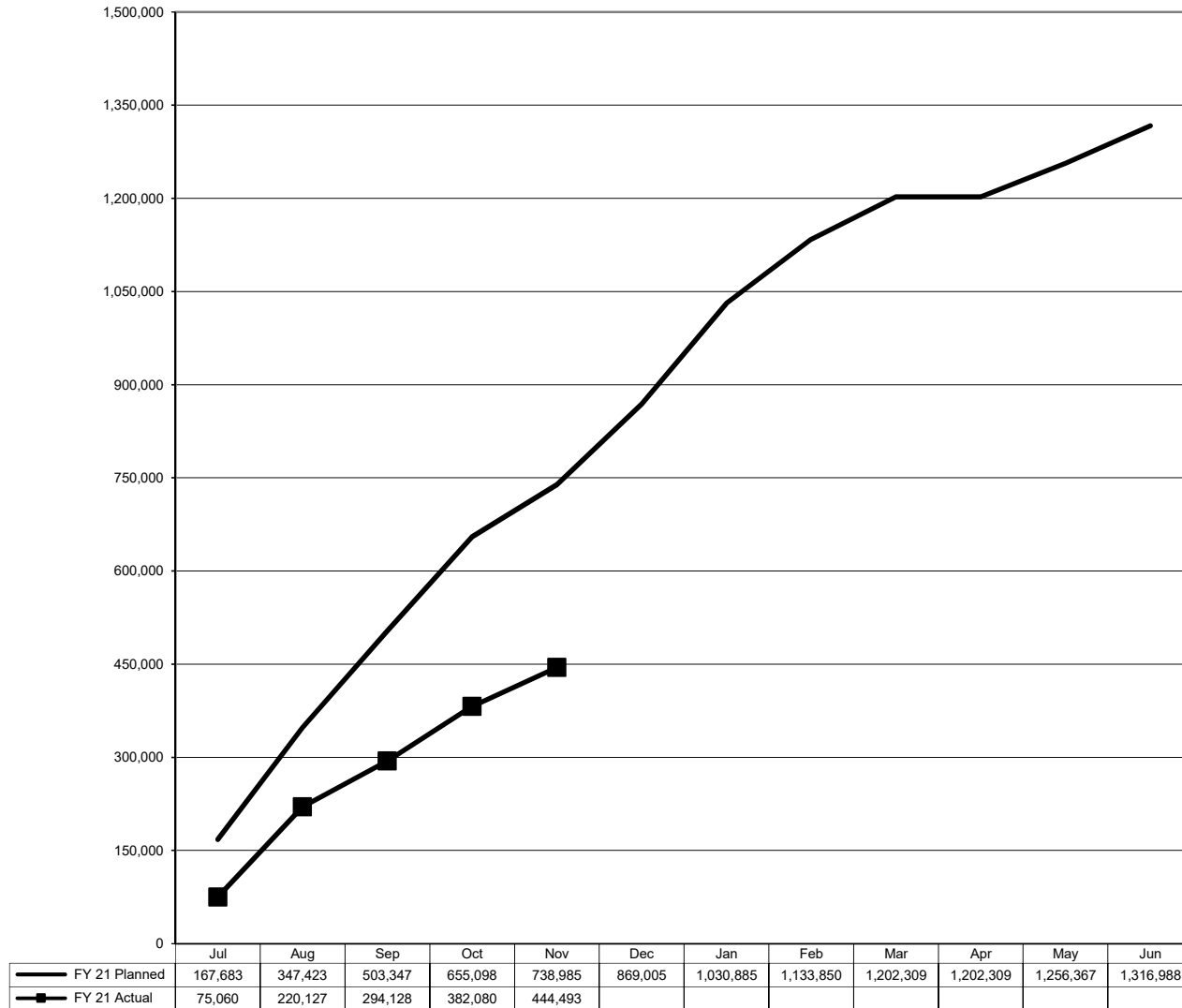
E - Additional unbudgeted costs to put Transformer in service.



Annual Budget LEC Generation Analysis Planned vs. Actual FY 2021

In MWh

Lodi Energy Center





Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 10

Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

NCPA All Resources Bill Imports GHG Obligation Report (Cumulative)														
January 2021														
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)	29,071	68,878	2,798	349,601	20,497	17,146	99,012	21,212	111,808	8,201	27,841	268,724	18,634	1,043,423
Current MT Compliance Instrument Account (MTA) Balance (MT)	29,071	69,242	3,361	425,667	21,210	17,232	128,742	21,293	135,443	8,582	26,934	311,311	20,191	1,218,279
MTA Shortfall (MT)	0	(364)	(563)	(76,066)	(713)	(86)	(29,730)	(81)	(23,635)	(381)	907	(42,587)	(1,557)	(174,856)
Monthly GHG Price \$/MT	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	16.64	
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	15,092	0	0	15,092
Current Month CCA Balance (\$)*	65,948	0	155	0	1,193	5,168	838	0	0	0	10,795	0	2,868	86,965
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	4,297	0	0	4,297

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

	CY 2021 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Estimated												CY 2021	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	170,795	117,386	55,687	0	30,164	70,389	0	0	0	0	0	0	444,421	9,084,953
Gas Schedule (MMBtu)	1,325,369	910,917	432,130	0	234,074	546,216	0	0	0	0	0	0	3,448,706	65,962,952
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054		
HVAC/Water Heater (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	6,315
Monthly MT Obligation (MTO)	71,524	49,158	23,320	0	12,632	29,477	0	0	0	0	0	0	186,111	3,567,744
Annual Cal e-GGRT/MT Obligation True Up (MTO)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cumulative MT Obligation (MTO)	1,042,330	1,091,488	1,114,808	1,114,808	1,127,440	1,156,917	1,156,917	1,156,917	1,156,917	1,156,917	1,156,917	1,156,917	1,156,917	1,156,917
Compliance Instrument Participant Transfers														
Carryover Allowances	37,000	0	0	0	0	0	0	0	0	0	0	0	37,000	69,263
Auction Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	3,495,918
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	37,000	0	0	0	0	0	0	0	0	0	0	0	37,000	3,565,181
NCPA Compliance Instrument Purchases														
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument NCPA Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Internal Transfers (LEC from/to STIG)	0	0	0	0	0	0	0	0	0	0	0	0	0	(678)
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	2,405,361
Total Monthly Activity (MT)	37,000	0	0	0	0	0	0	0	0	0	0	0	37,000	3,611,503
Cumulative MT Account Balance (MTA)	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820	1,206,820
MTA Shortfall (MT)	(164,490)	(115,332)	(92,012)	(92,012)	(79,380)	(49,903)	(49,903)	(49,903)	(49,903)	(49,903)	(49,903)	(49,903)	(49,903)	(49,903)
Current Month CCA Balance (\$)	86,964	0	0	0	0	0	0	0	0	0	0	0	0	86,964
Monthly GHG Price	16.64	16.72	16.75	16.79	16.83	16.87	16.92	16.98	17.03	17.08	17.12	17.18		



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 12

Date: January 6, 2021

Meeting Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Pacific Star Chemical LLC dba Northstar Chemical – Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities.

Proposal

Approve the General Manager or his designee to enter into a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Pacific Star Chemical LLC dba Northstar Chemical for chemical purchases, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years for use at all facilities owned and/or operated by NCPA.

Background

Chemical purchases are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA had a previous agreement in place with Pacific Star Chemical LLC dba Northstar Chemical, which is expiring. 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 with Apex Engineering Products, Brenntag Pacific, Hill Brothers, Thatcher Chemical and Univar USA, Inc. for similar purchases.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible. Bids are awarded to the 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 \$2,500,000 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:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Pacific Star Chemical LLC dba Northstar Chemical



**MULTI-TASK
AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PACIFIC STAR CHEMICAL, LLC DBA NORTHSTAR CHEMICAL, 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 Pacific Star Chemical, LLC dba Northstar Chemical, Inc., ("Supplier"), whose principal office is located at 14200 SW Tualatin-Sherwood Road, Sherwood, OR 97140 (together sometimes referred to as the "Parties") as of _____, 20__ (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. 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 TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. 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.

- 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

- 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 one million dollars (\$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/\$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 (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

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.

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

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 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) 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 are free from defects in design and workmanship; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and free from defects; are suitably safe and sufficient for the purpose for which they are normally used; and are not subject to any liens or encumbrances. Supplier shall provide all Goods in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof, unless Supplier's warranty is for greater than one (1) year, in which case Supplier's warranty shall be applied), the Goods provided by Supplier under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Supplier shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 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 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.

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

Pacific Star Chemical, LLC dba Northstar Chemical, Inc.
Attention: Matt Werger, General Manager
14200 SW Tualatin-Sherwood Road
Sherwood, OR 97140

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.

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

NORTHERN CALIFORNIA POWER AGENCY

PACIFIC STAR CHEMICAL, LLC dba
NORTHSTAR CHEMICAL, INC.

Date: _____

Date: _____

RANDY S. HOWARD,
General Manager

MATHEW WERGER,
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 Equipment, Materials and Supplies ("Goods") including:

Anhydrous Ammonia (R Grade)	No Bid
Aqueous Ammonia 19%	No Bid
Hydrated Lime 90%	No Bid
Magnesium Oxide \geq 93%	No Bid
Magnesium Sulfate 30%	\$0.20/Lb
Sodium Bisulfite 40%	No Bid
Sodium Hydroxide 15% (Caustic Soda)	\$0.97/Lb
Sodium Hypochlorite 12.5% (Bleach)	46K-Bulk \$0.109/Lb 12K-S-Bulk \$1.82/G
Sulfuric Acid 93%	\$0.089/Lb

Should additional chemicals be needed, pricing will be quoted at that time.

All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any and all jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change every six to twelve (6 -12) months. NCPA shall compensate Supplier in accordance with such price list revisions, provided, however, that (1) Supplier shall provide NCPA with written notice of such bi-annual revisions thirty (30) days in advance; and (2) regardless of such price list revisions, total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount 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

Pacific Star Chemical, LLC dba Northstar Chemical, 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 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,

Pacific Star Chemical, LLC dba Northstar Chemical, Inc.

(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.



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 13

Date: January 6, 2021

Meeting Date: January 6, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Basic Energy Services LP – Five Year Multi-Task General Services Agreement;
Applicable to the following projects: All Northern California Power Agency (NCPA).

Proposal

Approve the General Manager or his designee to enter into a Multi-Task General Services Agreement with Basic Energy Services LP for injection well related 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 all facilities owned and/or operated by NCPA.

Background

Injection well related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. This is a new vendor in which NCPA has not utilized in the past. Because of the nature of well drilling work, NCPA has had difficulty obtaining contracts with multiple vendors. 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 also has an agreement in place with C&J Well Services, Inc. (pending) and Halliburton Energy Services, Inc. for similar services, however Halliburton's DIR registration had lapsed and were not eligible to work at the time the services were bid. Numerous other vendors have refused to negotiate NCPA terms and conditions.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible. Bids are awarded to the 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:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Basic Energy Services LP



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BASIC ENERGY SERVICES, L.P.**

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 Basic Energy Services, LP, a limited partnership with offices located at 801 Cherry St, Suite 2100, Fort Worth Texas 76102 ("Contractor") (Agency and Contractor together sometimes referred to as the "Parties") as of _____, 20__ ("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 generally observed in the oilfield services industry 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** [Intentionally omitted.]
- 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. If Contractor does not agree to perform the Requested Work or does not begin to perform the

Requested Work within the seven-day period specified, then Contractor will be deemed to have declined to perform the Requested Work.

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

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

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

Invoices shall be sent to:

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

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work performed in accordance with the Agreement and applicable Purchase Order, 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 one hundred and twenty (120) days after completion of the Requested Work to submit its final initial invoice for the Requested Work. For the avoidance of doubt, this time period shall not apply to invoices which are being re-submitted at the request of Agency or upon the resolution of a dispute between Agency and Contractor concerning any such invoice. In the event Contractor fails to submit an invoice to Agency for any amounts due within the one hundred and twenty (120) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

- 4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (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 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 [Intentionally omitted.]

- 4.4 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed five hundred thousand dollars (\$500,000.00) 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 [Intentionally omitted.]

4.5.4 [Intentionally omitted.]

- 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.
- 4.7 Agency's Obligation.** The Parties hereto agree that Agency, in support of its indemnity obligations and other liabilities assumed under this Agreement, and for the benefit of Contractor, shall also have insurance obligations such that it shall have in effect at all times during the term of this Agreement coverages of the same type, in the same amounts, and on the same reciprocal terms stipulated to be carried by Contractor herein as set forth in Sections 4.1 and 4.2 hereof.

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 Contractor's Indemnity of Agency.** Contractor shall indemnify, defend, and hold harmless the Agency Group (as defined below) 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 (the "Claims") brought by, through, or derived from any member of Contractor Group (as defined below), where such Claims arise out of or in connection with any injury, illness or death, or the loss or damage to property of any member of Contractor Group, except as caused by the sole negligence of Agency.
- 5.3 Agency's Indemnity of Contractor.** Agency shall indemnify, defend, and hold harmless the Contractor Group from and against all Claims brought by, through, or derived from any member of Agency Group, where such claims arise out of or in connection with any injury, illness or death, or the loss or damage to property of any member of Agency Group, except as caused by the sole negligence of Contractor.

5.4 Pollution Indemnity and Responsibilities.

- (a) Contractor's Responsibilities:** Contractor shall assume all responsibility for and shall release, protect, defend, indemnify and hold harmless Agency Group from and against Claims for the cost of controlling, removing, or cleaning up pollution or contamination, that originates from Contractor Group's property, equipment, or vessels from spills or leaks of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballasts, bilge, garbage, sewerage, and any other liquids and materials which are under its sole custody and control and used in the performance of the Work.
- (b) Agency's Responsibilities:** Agency shall be liable for and shall release, protect, defend, indemnify and hold harmless Contractor Group from and against Claims for the cost of controlling, removing, or cleaning up all other pollution or contamination other than that which is described in Article 5.4(a).

5.5 Underground Property. Notwithstanding any other provision in this Agreement to the contrary, Agency shall assume and shall release, defend, indemnify, and hold harmless Contractor against any claim, liability, cost and expense, arising from or as a result of for (i) blowout, cratering, fire, explosion, and/or killing or control of any well which shall become out of control for any reason, including but not limited to debris removal; (ii) loss or damage to the well and/or wellbore (including casing and associated materials and services), and (iii) loss or damage of any subsurface geological formation or strata and loss of any oil or gas, except as caused by the sole negligence of Contractor.

5.6 Contractor's Downhole Equipment. Notwithstanding any other provision in this Agreement to the contrary, Agency agrees that it shall be liable at all times for all damages, destruction, or loss of any of Contractor's instruments, equipment or tools used below the rotary table, whether owned by, rented by or owned by a third party but under Contractor Group's control ("Downhole Equipment") occurring while such Downhole Equipment is in the wellbore, except to the extent such loss or damage is due to the sole negligence, gross negligence, or willful misconduct of Contractor Group. Agency, at its risk and expense, shall attempt to recover any lost or damaged Downhole Equipment, unless such lost or damaged Downhole Equipment is caused by the sole negligence, gross negligence, or willful misconduct of Contractor Group. In the event such Downhole Equipment is lost or destroyed or recovered damaged, Agency shall pay Contractor for either (i) the cost to repair such Downhole Equipment to its condition just prior to damage or (ii) Contractor's replacement cost for such Downhole Equipment, unless such lost or damaged Downhole Equipment is caused by the sole negligence, gross negligence, or willful misconduct of Contractor Group.

5.7 Contractor's Rental Equipment. Notwithstanding any other provision in this Agreement to the contrary, all other equipment rented or leased (not including Downhole Equipment, which shall be governed by Section 5.6) by Contractor to Agency that is lost or damaged while in Agency's sole care, custody and control, shall be paid by Agency to Contractor at either (i) Contractor's replacement cost or (ii) Contractor's cost for all repairs necessary to restore such equipment to its condition just prior to damage. Accrued rental charges cannot be applied against the purchase price or cost of repairs of such damaged or lost equipment.

5.8 EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES THAT ALL INDEMNITY OBLIGATIONS AND/OR LIABILITIES AND RELEASES ASSUMED BY SUCH PARTIES UNDER TERMS OF THIS ARTICLE 5 SHALL, UNLESS OTHERWISE PROVIDED IN THIS ARTICLE 5, APPLY TO ANY CLAIMS WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, INCLUDING PREEXISTING CONDITIONS, WHETHER SUCH CONDITIONS BE PATENT OR LATENT, THE UNSEAWORTHINESS OF ANY VESSEL OR VESSELS, IMPERFECTION OF MATERIAL, DEFECT OR FAILURE OF EQUIPMENT, BREACH OF REPRESENTATION (EXPRESS OR IMPLIED), ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, TORT, BREACH OF CONTRACT (INCLUDING BREACH OF THIS AGREEMENT), BREACH OF STATUTORY DUTY, BREACH OF ANY SAFETY REQUIREMENT OR REGULATION, DEFECT OF PREMISES, AND BREACHES OF EXPRESS OR IMPLIED WARRANTIES, OR THE NEGLIGENCE OF ANY OF THE PARTIES, INCLUDING THE INDEMNIFIED PARTY OR PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, CONTRIBUTORY, OR CONCURRENT, ACTIVE OR PASSIVE OR ANY OTHER THEORY OF LEGAL LIABILITY, AND EVEN IF CAUSED IN CONNECTION WITH THE INGRESS, EGRESS, LOADING, OR UNLOADING OF PERSONNEL OR CARGO.

5.9 For the purposes of this Agreement:

"Contractor Group" shall mean, whether individually or collectively: (i) the Contractor, its parent, subsidiary and affiliate or related companies; (ii) its and their joint owners, partners, joint venturers, co-licensees, if any, and their respective parents, subsidiary and affiliate or related companies, and vessels; (iii) the contractors and subcontractors of every tier of (i) and (ii); and (iv) the agents, consultants, underwriters, insurers, invitees and employees, directors and/or officers of all of the foregoing.

"Agency Group" shall mean, whether individually or collectively: (i) the Agency, its officers, officials, and commissioners; (ii) its and their joint owners, partners, joint venturers, non-operators, co-lessees, or co-licensees, who wholly or partially receive the benefits of the Work, and their respective parents, subsidiary and affiliate or related companies; (iii) the contractors and subcontractors of every tier of (i) and (ii) (other than members of the Contractor Group); and (iv) the agents, consultants, underwriters, insurers, invitees and employees, directors and/or officers of all of the foregoing.

- 5.10 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT NOR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT OR BUSINESS INTERRUPTIONS INCLUDING LOSS OR DELAY OF PRODUCTION, HOWEVER SAME MAY BE CAUSED. THE FOREGOING SHALL NOT AFFECT OR ALTER THE PARTIES' RESPECTIVE INDEMNITY OBLIGATIONS HEREUNDER.

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 completed in accordance with the Agreement and applicable Purchase Order 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 material 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. Such amount shall not exceed 150% of the amount originally invoiced or quoted to Company by Contractor under the original Purchase Order for such 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. Except as otherwise provided this Agreement, Agency shall 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. 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 the Agency shall not have liability therefor. Except as otherwise provided by this Agreement, 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. Notwithstanding any other provision of this Agreement, 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.

Section 11. WARRANTY.

- 11.1 Nature of Work.** Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including generally accepted oilfield servicing standards and practices, and in accordance with the terms of this Agreement. The foregoing warranty on Contractor's services shall be in effect for a period of thirty (30) days from the date such services are accepted in writing as complete by Agency

- 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 term of this Agreement or the applicable warranty period thirty (30) day period following completion of the Work, any services provided by Contractor under this Agreement fail due to defects in workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency during such applicable warranty period, replace or repair the same to Agency's reasonable satisfaction.

- 11.3 Assignment of Warranties.** Agency acknowledges and agrees that Contractor is not a manufacturer or merchant (as that term is defined in the Uniform Commercial Code) of any goods or materials which it may furnish to Agency incidental to its services. Notwithstanding anything to the contrary in this Agreement, with respect to any such goods or materials, Contractor's warranty liability shall be limited to the assignment of such third-party manufacturer's warranty to Agency upon the delivery or installation of such goods or materials, to the extent such warranties are assignable. Contractor agrees to assist Agency

in obtaining repairs or replacements if such goods or materials are covered by a warranty from such third-party manufacturer.

- 11.4 Warranty Limitation.** Contractor makes no warranty with regards to Work (i) that has been materially repaired or altered by Agency or a third party not under Contractor Group's control or direction, (ii) that has failed due to Agency's lack of compliance with recommended maintenance procedures provided by Contractor or (iii) which requires replacement due to normal wear and tear. **The warranties in this Agreement are exclusive and in lieu of all other representations, warranties and covenants, express, statutory or implied, with respect to the Work and any defects therein of any nature whatever, including without limitation warranties of merchantability or fitness for a particular purpose. Contractor's liability and Agency's sole remedy under these warranties shall be limited to the repair, replacement, or refund of the purchase price of such defective Work or parts thereof. Without limiting the foregoing, Contractor makes no warranty, express or implied, as to the results that may be obtained from the use of Contractor's services, data or materials provided hereunder.**

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.
- 12.10** [Intentionally omitted.]

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:

Legal Contracts
Basic Energy Services, LP
801 Cherry Street, Suite 2100
Fort Worth, TX 76102
notices@basices.com

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* nor shall it be interpreted to prevent Contractor from claiming, filing, or enforcing any liens.
- 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

BASIC ENERGY SERVICES, LP
By: Basic Energy Services GP, LLC
Its sole general partner

Date_____

Date_____

RANDY S. HOWARD,
General Manager

MICHAEL STURM,
Vice President, Marketing

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Ruthann G. Ziegler, Assistant General Counsel

EXHIBIT A
SCOPE OF WORK

Basic Energy Services LP ("Contractor") shall provide injection well related services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency.

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

- Drilling / Production / Workover Rigs – Singles and doubles
- Initial Completion of new wells
- Re-completion of existing wells
- Lateral drilling and completions
- Full-Service Kill Trucks 5K-15K PSI for well killing
- Re-Drilling of existing wells
- Mechanical tubing and casing maintenance
- Maintenance work related to downhole equipment

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:

Pricing for projects will be quoted at time services are needed.

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

(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,

(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.: 14

Date: January 6, 2021

Meeting Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: C&J Well Services, Inc. – Five Year Multi-Task General Services Agreement;
Applicable to the following projects: All Northern California Power Agency (NCPA).

Proposal

Approve the General Manager or his designee to enter into a Multi-Task General Services Agreement with C&J Well Services, Inc. for injection well related 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 all facilities owned and/or operated by NCPA.

Background

Injection well related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. This is a new vendor in which NCPA has not utilized in the past. Because of the nature of well drilling work, NCPA has had difficulty obtaining contracts with multiple vendors. 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 also has an agreement in place with Basic Energy Services LP (pending) and Halliburton Energy Services, Inc. for similar services, however Halliburton's DIR registration had lapsed and were not eligible to work at the time the services were bid. Numerous other vendors have refused to negotiate NCPA terms and conditions.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from as many qualified providers as possible. Bids are awarded to the 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:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with C&J Well Services, Inc.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
C&J WELL SERVICES, 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 C&J Well Services, Inc., a Delaware Corporation with offices located at 801 Cherry St, Suite 2100, Fort Worth Texas 76102 ("Contractor") (Agency and Contractor together sometimes referred to as the "Parties") as of _____, 20__ ("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 generally observed in the oilfield services industry 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** [Intentionally omitted.]
- 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. If Contractor does not agree to perform the Requested Work or does not begin to perform the

Requested Work within the seven-day period specified, then Contractor will be deemed to have declined to perform the Requested Work.

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

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

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

Invoices shall be sent to:

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

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work performed in accordance with the Agreement and applicable Purchase Order, 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 one hundred and twenty (120) days after completion of the Requested Work to submit its final initial invoice for the Requested Work. For the avoidance of doubt, this time period shall not apply to invoices which are being re-submitted at the request of Agency or upon the resolution of a dispute between Agency and Contractor concerning any such invoice. In the event Contractor fails to submit an invoice to Agency for any amounts due within the one hundred and twenty (120) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

- 4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (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 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 [Intentionally omitted.]

- 4.4 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed five hundred thousand dollars (\$500,000.00) 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 [Intentionally omitted.]

4.5.4 [Intentionally omitted.]

- 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.
- 4.7 Agency's Obligation.** The Parties hereto agree that Agency, in support of its indemnity obligations and other liabilities assumed under this Agreement, and for the benefit of Contractor, shall also have insurance obligations such that it shall have in effect at all times during the term of this Agreement coverages of the same type, in the same amounts, and on the same reciprocal terms stipulated to be carried by Contractor herein as set forth in Sections 4.1 and 4.2 hereof.

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 Contractor's Indemnity of Agency.** Contractor shall indemnify, defend, and hold harmless the Agency Group (as defined below) 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 (the "Claims") brought by, through, or derived from any member of Contractor Group (as defined below), where such Claims arise out of or in connection with any injury, illness or death, or the loss or damage to property of any member of Contractor Group, except as caused by the sole negligence of Agency.
- 5.3 Agency's Indemnity of Contractor.** Agency shall indemnify, defend, and hold harmless the Contractor Group from and against all Claims brought by, through, or derived from any member of Agency Group, where such claims arise out of or in connection with any injury, illness or death, or the loss or damage to property of any member of Agency Group, except as caused by the sole negligence of Contractor.

5.4 Pollution Indemnity and Responsibilities.

- (a) Contractor's Responsibilities:** Contractor shall assume all responsibility for and shall release, protect, defend, indemnify and hold harmless Agency Group from and against Claims for the cost of controlling, removing, or cleaning up pollution or contamination, that originates from Contractor Group's property, equipment, or vessels from spills or leaks of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballasts, bilge, garbage, sewerage, and any other liquids and materials which are under its sole custody and control and used in the performance of the Work.
- (b) Agency's Responsibilities:** Agency shall be liable for and shall release, protect, defend, indemnify and hold harmless Contractor Group from and against Claims for the cost of controlling, removing, or cleaning up all other pollution or contamination other than that which is described in Article 5.4(a).

5.5 Underground Property. Notwithstanding any other provision in this Agreement to the contrary, Agency shall assume and shall release, defend, indemnify, and hold harmless Contractor against any claim, liability, cost and expense, arising from or as a result of for (i) blowout, cratering, fire, explosion, and/or killing or control of any well which shall become out of control for any reason, including but not limited to debris removal; (ii) loss or damage to the well and/or wellbore (including casing and associated materials and services), and (iii) loss or damage of any subsurface geological formation or strata and loss of any oil or gas, except as caused by the sole negligence of Contractor.

5.6 Contractor's Downhole Equipment. Notwithstanding any other provision in this Agreement to the contrary, Agency agrees that it shall be liable at all times for all damages, destruction, or loss of any of Contractor's instruments, equipment or tools used below the rotary table, whether owned by, rented by or owned by a third party but under Contractor Group's control ("Downhole Equipment") occurring while such Downhole Equipment is in the wellbore, except to the extent such loss or damage is due to the sole negligence, gross negligence, or willful misconduct of Contractor Group. Agency, at its risk and expense, shall attempt to recover any lost or damaged Downhole Equipment, unless such lost or damaged Downhole Equipment is caused by the sole negligence, gross negligence, or willful misconduct of Contractor Group. In the event such Downhole Equipment is lost or destroyed or recovered damaged, Agency shall pay Contractor for either (i) the cost to repair such Downhole Equipment to its condition just prior to damage or (ii) Contractor's replacement cost for such Downhole Equipment, unless such lost or damaged Downhole Equipment is caused by the sole negligence, gross negligence, or willful misconduct of Contractor Group.

5.7 Contractor's Rental Equipment. Notwithstanding any other provision in this Agreement to the contrary, all other equipment rented or leased (not including Downhole Equipment, which shall be governed by Section 5.6) by Contractor to Agency that is lost or damaged while in Agency's sole care, custody and control, shall be paid by Agency to Contractor at either (i) Contractor's replacement cost or (ii) Contractor's cost for all repairs necessary to restore such equipment to its condition just prior to damage. Accrued rental charges cannot be applied against the purchase price or cost of repairs of such damaged or lost equipment.

5.8 EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES THAT ALL INDEMNITY OBLIGATIONS AND/OR LIABILITIES AND RELEASES ASSUMED BY SUCH PARTIES UNDER TERMS OF THIS ARTICLE 5 SHALL, UNLESS OTHERWISE PROVIDED IN THIS ARTICLE 5, APPLY TO ANY CLAIMS WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, INCLUDING PREEXISTING CONDITIONS, WHETHER SUCH CONDITIONS BE PATENT OR LATENT, THE UNSEAWORTHINESS OF ANY VESSEL OR VESSELS, IMPERFECTION OF MATERIAL, DEFECT OR FAILURE OF EQUIPMENT, BREACH OF REPRESENTATION (EXPRESS OR IMPLIED), ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, TORT, BREACH OF CONTRACT (INCLUDING BREACH OF THIS AGREEMENT), BREACH OF STATUTORY DUTY, BREACH OF ANY SAFETY REQUIREMENT OR REGULATION, DEFECT OF PREMISES, AND BREACHES OF EXPRESS OR IMPLIED WARRANTIES, OR THE NEGLIGENCE OF ANY OF THE PARTIES, INCLUDING THE INDEMNIFIED PARTY OR PARTIES, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, CONTRIBUTORY, OR CONCURRENT, ACTIVE OR PASSIVE OR ANY OTHER THEORY OF LEGAL LIABILITY, AND EVEN IF CAUSED IN CONNECTION WITH THE INGRESS, EGRESS, LOADING, OR UNLOADING OF PERSONNEL OR CARGO.

5.9 For the purposes of this Agreement:

"Contractor Group" shall mean, whether individually or collectively: (i) the Contractor, its parent, subsidiary and affiliate or related companies; (ii) its and their joint owners, partners, joint venturers, co-licensees, if any, and their respective parents, subsidiary and affiliate or related companies, and vessels; (iii) the contractors and subcontractors of every tier of (i) and (ii); and (iv) the agents, consultants, underwriters, insurers, invitees and employees, directors and/or officers of all of the foregoing.

"Agency Group" shall mean, whether individually or collectively: (i) the Agency, its officers, officials, and commissioners; (ii) its and their joint owners, partners, joint venturers, non-operators, co-lessees, or co-licensees, who wholly or partially receive the benefits of the Work, and their respective parents, subsidiary and affiliate or related companies; (iii) the contractors and subcontractors of every tier of (i) and (ii) (other than members of the Contractor Group); and (iv) the agents, consultants, underwriters, insurers, invitees and employees, directors and/or officers of all of the foregoing.

- 5.10 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT NOR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT OR BUSINESS INTERRUPTIONS INCLUDING LOSS OR DELAY OF PRODUCTION, HOWEVER SAME MAY BE CAUSED. THE FOREGOING SHALL NOT AFFECT OR ALTER THE PARTIES' RESPECTIVE INDEMNITY OBLIGATIONS HEREUNDER.

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 completed in accordance with the Agreement and applicable Purchase Order 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 material 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. Such amount shall not exceed 150% of the amount originally invoiced or quoted to Company by Contractor under the original Purchase Order for such 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. Except as otherwise provided this Agreement, Agency shall 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. 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 the Agency shall not have liability therefor. Except as otherwise provided by this Agreement, 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. Notwithstanding any other provision of this Agreement, 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.

Section 11. WARRANTY.

- 11.1 Nature of Work.** Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including generally accepted oilfield servicing standards and practices, and in accordance with the terms of this Agreement. The foregoing warranty on Contractor's services shall be in effect for a period of thirty (30) days from the date such services are accepted in writing as complete by Agency

- 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 term of this Agreement or the applicable warranty period thirty (30) day period following completion of the Work, any services provided by Contractor under this Agreement fail due to defects in workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency during such applicable warranty period, replace or repair the same to Agency's reasonable satisfaction.

- 11.3 Assignment of Warranties.** Agency acknowledges and agrees that Contractor is not a manufacturer or merchant (as that term is defined in the Uniform Commercial Code) of any goods or materials which it may furnish to Agency incidental to its services. Notwithstanding anything to the contrary in this Agreement, with respect to any such goods or materials, Contractor's warranty liability shall be limited to the assignment of such third-party manufacturer's warranty to Agency upon the delivery or installation of such goods or materials, to the extent such warranties are assignable. Contractor agrees to assist Agency

in obtaining repairs or replacements if such goods or materials are covered by a warranty from such third-party manufacturer.

- 11.4 Warranty Limitation.** Contractor makes no warranty with regards to Work (i) that has been materially repaired or altered by Agency or a third party not under Contractor Group's control or direction, (ii) that has failed due to Agency's lack of compliance with recommended maintenance procedures provided by Contractor or (iii) which requires replacement due to normal wear and tear. **The warranties in this Agreement are exclusive and in lieu of all other representations, warranties and covenants, express, statutory or implied, with respect to the Work and any defects therein of any nature whatever, including without limitation warranties of merchantability or fitness for a particular purpose. Contractor's liability and Agency's sole remedy under these warranties shall be limited to the repair, replacement, or refund of the purchase price of such defective Work or parts thereof. Without limiting the foregoing, Contractor makes no warranty, express or implied, as to the results that may be obtained from the use of Contractor's services, data or materials provided hereunder.**

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.
- 12.10** [Intentionally omitted.]

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:

Legal Contracts
C&J Well Services, Inc.
801 Cherry Street, Suite 2100
Fort Worth, TX 76102
notices@basices.com

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* nor shall it be interpreted to prevent Contractor from claiming, filing, or enforcing any liens.
- 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

C&J WELL SERVICES, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

MICHAEL STURM,
Vice President, Marketing

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Ruthann G. Ziegler, Assistant General Counsel

EXHIBIT A
SCOPE OF WORK

C&J Well Services, Inc. ("Contractor") shall provide injection well related services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency.

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

- Plug and Abandonment Services
- Single and Double Rigs
- On Locations Management and Design
- Location Restoration
- Fishing Tool Rental and Services
- Well Bore Cleanout
- Plug Setting and Retrieval
- Tubing Conveyed Perforating
- Drill Pipe and Tubing Rental
- Pressure-and-Flow Control Rental
- Pipe and Downhole Tool Retrieval
- Pipe Testing Support/Equipment (tanks, roll-offs, fluids)
- BOP Rentals
- Roustabout Services
- Coil Tubing Services
- Foaming Services
- Nitrogen Services

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:

Pricing for projects will be quoted at time services are needed.

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

C&J Well Services, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

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,

C&J Well Services, Inc.

(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.: 15

Date: January 6, 2021

Meeting Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Petro-Analytical, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities.

Proposal

Approve the General Manager of his designee to enter into a Multi-Task General Services Agreement with Petro Analytical, Inc., for general fuel tank storage maintenance services, including UST system leak detection, monthly designated operator services, tank, piping, apparatus system, etc., 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

General fuel tank storage maintenance 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 the vendor. MP Environmental Services, Inc. will be one of the prospective bidders. NCPA has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into a multi-task enabling agreement with Petro-Analytical, Inc., so established terms and conditions are in place should this vendor be the successful bidder on future projects. Execution of this enabling agreement will also increase the pool of qualified and proven vendors for these types of services. NCPA currently has agreements in place with similar services with Stroupe Petroleum Maintenance, Inc.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place Petro-Analytical, Inc. for similar services and seeks bids from as many qualified providers as possible. Bids are awarded to the vendor providing the overall best 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:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Petro-Analytical, Inc.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PETRO-ANALYTICAL, 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 Petro-Analytical, Inc., a corporation with its office located at P.O. Box 2301, Orinda, CA 94563 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2020 ("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 consistent with the terms of this Agreement.
- 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** ONE MILLION dollars (\$1,000,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

2.5 Timing for Submittal of Final Invoice. Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for

any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

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

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

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; 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. 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 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:

K.W. "Bud" McCuaig
President
Petro-Analytical, Inc.
P.O. Box 2301
Orinda, CA 94563

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

PETRO-ANALYTICAL, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

K.W. McCUAIG, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Petro-Analytical, Inc. ("contractor") shall provide routine, recurring, and usual fuel tank storage maintenance services to perform services as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency.

Services include but not limited to the following:

- UST System Leak Detection
- Monthly Designated Operator Services
- Veeder Root Alarm Services
- Provide Monitoring Certification and Spill Bucket Test
- Tank, Piping, Apparatus System
- Aboveground/Underground Fuel Storage Tank Services
- Underground Storage Tank Abandonment In-Place.

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:

The following labor and expense rates and compensation for services are valid for the NCPA Geothermal facility. Prices are subject to change with 30 days advance written notice to NCPA. If Contractor provides services under the Agreement which are subject to the payment of prevailing wages, Contractor will conform to prevailing wage rates.

Rates- Hours will be charged portal to portal at the following per hour rates:

- Journeymen -Straight Time- \$160.00; Over Time- \$240.00; Double Time- \$320.00
- Apprentice - Straight Time- \$120.00; Over Time- \$180.00; Double Time- \$240.00
- Rented Equipment will be billed at 20% above invoice.
- Purchased supplies, materials and rented equipment will be billed at 20% above invoice.
- Delivery charges will be billed at 20% above invoice.

Special Services- per task upon request:

- Designated Operator visits- \$170.00/visit
- UST system training- \$500.00/session
- Monitoring Certification and spill bucket testing- \$1,050.00/test
- Senior Consultant- \$350.00/hr.
- Mechanical Engineer- \$210.00/hr.
- Electrical Engineer- \$210.00/hr.
- Fuel System Project Manager- \$175.00/hr.
- Fuel System Technician- \$150.00/hr.
- Drafter- \$95.00/hr.
- Per Diem- \$220.00 per person

Pricing for services to be performed at other NCPA facility locations will be quoted at the time services re 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

(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,

(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.: 16

Date: January 11, 2021
To: Lodi Energy Center Project Participant Committee
Subject: GreatBlue Research – 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

Delegate approval to the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with GreatBlue Research for market research and surveys, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$250,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

Background

GreatBlue Research is a Hometown Connections partner providing innovative solutions in a cost-effective manner to meet the unique needs of community-owned utilities. GreatBlue Research is a full-service market research firm using quantitative and qualitative research methodologies and offer studies on customer perception and satisfaction, employee satisfaction, product awareness and interest, market visibility, needs assessment, and marketing effectiveness. Utilities receive statistically reliable data with thoughtful, concise insights and detailed recommendations.

GreatBlue Research is considered a leader in tracking customer opinion data across the public power sector, able to show individual utilities how they compare to peer organizations nationwide. The services offered can be used at facilities owned and/or operated by NCPA, NCPA Members, SCPPA, or SCPPA Members.

Fiscal Impact

Upon execution, the total cost of the agreement will not exceed \$250,000. 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:



Monty Hanks
AGM Administrative Services

Attachments:

- Multi-Task Consulting Services Agreement with GreatBlue Research



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND GREATBLUE RESEARCH, 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 GreatBlue Research, a S Corporation with its office located at 20 Western Boulevard, First Floor, Glastonbury CT 06033 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2020 ("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 Hundred and Fifty Thousand dollars (\$250,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering 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. Not applicable

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

Section 6. STATUS OF CONSULTANT.

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

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the

payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

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

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

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

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

Michael Vigeant
CEO
GreatBlue Research
20 Western Boulevard, First Floor
Glastonbury, CT 06033

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

GREAT BLUE RESEARCH, INC.

Date _____

Date _____

RANDY S. HOWARD

MICHAEL VIGEANT, CEO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

GreatBlue's Utility Industry Experience

GreatBlue provides reliable, actionable research and analytics to help organizations identify, address, and improve their offerings to key constituents (customers, employees, the market). With over 40 years of experience in utility specific market research, GreatBlue effectively harnesses this knowledge to correlate general attitudes and perceptions with the behavioral trends seen within our clients' studied populations.

Our time tested and constantly refined research processes coupled with our deep understanding of the diverse and complicated utilities space provides our clients the opportunity to understand their customers and employees with extreme detail.

GreatBlue has conducted and reported on millions of completed respondent surveys and thousands of focus groups, and we have worked closely with utility organizations of all types, sizes and geographic locations. Regardless, GreatBlue approaches each and every project with the same level of detail and attention.

Research Methodologies

GreatBlue's core competencies leverage a full suite of in-house assets. While we are a "boutique" firm in many ways with 40 employees, GreatBlue has a strong solution set under its roof, including best-in-class survey software, updated focus group / IDI facilities, and a fully staffed, bilingual telephone call center. In the same building, we have a team of researchers, programmers, data processors, and recruitment capabilities. GreatBlue's methodologies include:

- Telephone Surveys
 - Digital Surveys
 - Traditional Mail Surveys
- Focus Groups (In-Person and Digital)
 - Journey Mapping
- In-Depth Interviews (In-Person and Digital)

Study Types

Our research methodologies enable the design and implementation of studies that seek to identify, assess and explain key perceptions, satisfaction levels, trends and other indicators that matter to our clients' specific business needs. Studies GreatBlue offers include:

- Customer satisfaction and perception surveys
 - Customer transaction surveys
- Customer program participation surveys
 - Awareness Studies
- Market, new product, new service assessments
 - Marketing Effectiveness
 - Operational Efficiency
 - Employee assessment surveys

Please note, GreatBlue conducts studies among Residential, Commercial & Industrial and Key Account Customers.

Understanding and Applying the Collected Data

The outcome is statistically reliable data with thoughtful, concise insight into how the findings answer the study objective(s). All GreatBlue projects include formal presentations and optional training for management and staff. Our key takeaway for clients is actionable recommendations that can ultimately help guide clients' strategic initiatives.

Schedule and Timeline

GreatBlue's research process is highly collaborative. GreatBlue works closely with our Clients in order to ensure the goals and objectives of each individual study are met. As part of this process GreatBlue will develop each study custom to meet each member utility's needs. Each study will include:

- Pre-Study / Project Initiation Meeting
- Study Design and Development
 - Participant Recruitment
 - Fielding / Data Collection
- Data Analysis and Reporting
- Final Report Presentation

DRAFT

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed \$250,000. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

GreatBlue utilizes an all-inclusive pricing model of all tasks and deliverables included in each research study undertaken.

Customer Research :: \$10,000 - \$50,000

Dependent upon organization's specific needs including but not limited to the number of completed surveys or focus groups, methodology of collecting data (email, telephone, in-person) length of survey instrument (number of questions), availability and/or ability to provide customer contact records (telephone numbers, email addresses)

Employee Research :: \$5,000 - \$15,000

Dependent upon organizations specific needs including but not limited to the number of completed surveys or focus groups, length of survey instrument (number of questions) and number of employees.

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, Michael Vigeant, CEO

(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
Great Blue Research, 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.: ____

Date: January 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: RFI Enterprises, Inc. dba RFI Communications & Security Systems – 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

Delegate approval to the General Manager or his designee to enter into a Multi-Task General Services Agreement with RFI Enterprises, Inc. dba RFI Communications & Security Systems for integrated security services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

Background

In September 2020, staff issued an RFP soliciting proposals from integrated security solution providers to perform all manner of security services, including but not limited to intrusion, door access, CCTV systems, 24/7 monitoring, design and engineering. Integrated security services are required from time to time for the operation and maintenance of security systems at facilities owned and/or operated by NCPA, NCPA Members, SCPPA, or SCPPA Members.

NCPA has utilized this vendor in the past and has a good working relationship with them. NCPA desires to enter into a five-year, multi-task agreement with RFI Enterprises, Inc. dba RFI Communications & Security Systems providing ongoing comprehensive maintenance at each NCPA property and facility. These activities are intended to provide a safe and secure environment for NCPA employees and properties.

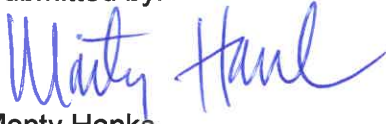
Fiscal Impact

Upon execution, the total cost of the agreement will not exceed \$500,000. 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:



Monty Hanks
AGM Administrative Services

Attachments:

- Multi-Task General Services Agreement with RFI Enterprises, Inc. dba RFI Communications & Security Systems



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
RFI ENTERPRISES, INC. dba RFI COMMUNICATIONS & SECURITY SYSTEMS**

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 RFI Enterprises, Inc. dba RFI Communications & Security Systems, a corporation with its office located at 360 Turtle Creek Court, San Jose, CA 95125-1315 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2021 ("Effective Date") in Roseville, California.

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

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

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

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

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

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

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

2.5 Timing for Submittal of Final Invoice. Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for

any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

4.3 Professional Liability Insurance. Not applicable.

4.4 Pollution Insurance. Not applicable.

4.5 All Policies Requirements.

- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.5.5 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By

execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

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

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 Monty Hanks, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:

Toni Alhambra
RFI Communications & Security Systems
360 Turtle Creek Court
San Jose, CA 95125

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

RFI Enterprises, Inc. dba RFI
COMMUNICATIONS & SECURITY
SYSTEMS

Date_____

Date_____

RANDY S. HOWARD, General Manager

BRAD J. WILSON, CPP, President, COO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

RFI COMMUNICATIONS & SECURITY SYSTEMS, ("Contractor") shall perform the following services, not including work requiring bidding under the California Public Contract Code, as requested by the Northern California Power Agency ("Agency") at all NCPA locations and Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members, including, without limitation:

- Video surveillance and analytics
- Digital and network video recorders
- Access control systems
- Photo ID and card management
- Intrusion and alarm systems
- Perimeter protection
- Network infrastructure
- IP and cellular based infrastructure
- Field service and support
- Fire/Life safety
- Maintenance
- Inspections

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:

Standard Time and Material Service Labor Rates

	Service Technician (Per Hour)	Systems Analyst (Per Hour)
Monday - Friday, 7:00 am to 5:00 pm (local time)*	\$150.00	\$170.00
Monday - Friday, 5:00 pm to 7:00 am *	\$225.00	\$255.00
Saturday *	\$225.00	\$255.00
Sunday *	\$300.00	\$340.00
RFI Holidays *	\$300.00	\$340.00

* 2 - hour minimum, No Trip Charge. Charges are billed in ½ hour increments for all subsequent time.

Portal to Portal and Travel charges may apply for T&M Customers outside the immediate Sacramento coverage area

NCPA TIME AND MATERIAL LABOR RATES, Plan 2

	Service Technician (Per Hour)	Systems Analyst (Per Hour)
Monday - Friday, 7:00 am to 5:00 pm (local time)*	\$140.00	\$160.00
Monday - Friday, 5:00 pm to 8:00 am *	\$195.00	\$240.00
Saturday *	\$195.00	\$240.00
Sunday *	\$260.00	\$320.00
RFI Holidays *	\$260.00	\$320.00

*2 - hour minimum, No Trip Charge. Charges are billed in ½ hour increments for all subsequent time.

Portal to Portal and Travel charges may apply for NCPA Facilities outside the immediate Sacramento coverage area, T&M Charges and Portal to Portal waived if under full plan service agreement.

RFI Holiday Schedule

The following is a list of holiday's observed by RFI:

- January 1.....New Year's Day
- February 17.....President's Day
- May 25.....Memorial Day
- July 3.....Independence Day (observed)
- September 7.....Labor Day
- November 11.....Veterans Day
- December 24.....Christmas Eve
- December 25.....Christmas Day

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

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242
(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

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)
