



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
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LEC PPC Agenda

Subject: March 6, 2023 Lodi Energy Center Project Participant Committee Meeting

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

Time: 10:00 a.m. Pacific Standard Time

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

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| | | |
|---|---|---|
| NCPA 651 Commerce Drive Roseville, CA 95678 | NCPA 12745 N. Thornton Road Lodi, CA 95241 | CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448 |
| BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16 th Floor Oakland, CA 94612 | CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948 | CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438 |
| CITY OF BIGGS 465 "C" Street Biggs, CA 95917 | PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122 | POWER & WATER RESOURCES POOLING AUTHORITY 106 Polo Rd Glenwood Springs, CO 81601 |
| CALIFORNIA DEPARTMENT OF WATER RESOURCES 1425 River Park Drive, Suite 300 Sacramento, CA 95825 | SILICON VALLEY POWER/CITY OF SANTA CLARA 881 Martin Avenue Santa Clara, CA 95050 | CITY OF UKIAH 300 Seminary Avenue Ukiah, CA 95482 |
| CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702 | | |

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

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

- 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 February 6, 2023 Regular Meeting Minutes**

MONTHLY REPORTS

- 4. Operational Report for February 2023**
- 5. Market Data Report for February 2023**
- 6. Monthly Asset Report for January 2023**
- 7. Bidding Strategies Report**

CONSENT CALENDAR

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

- 8. Treasurer's Report for January 2023 – Accept by all Participants**
- 9. Financial Report for January 2023 – Approve by all Participants**
- 10. GHG Reports (excerpted from Monthly ARB) – Accept by all Participants**
- 11. PMOA Schedule 6.00 Updates – Staff is seeking approval of revisions to Schedule 6.00 of the Project Management and Operations Agreement to update the contact information for City of Lodi and for NCPA's Lodi Energy Center Plant Manager and the Assistant General Manager of Generation Services.**

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.

12. **Reliability Optimization, Inc. First Amendment to MTCSA** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task Consulting Services Agreement with Reliability Optimization, Inc. for predictive maintenance testing services, accepting assignment to RTS Reliability Testing Services, LLC, with no change to the contract term or not-to-exceed amount, for continued use at all facilities owned and/or operated by NCPA, its Members, by SCPPA, and SCPPA Members.
13. **HRST, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with HRST, Inc. for HRSG related inspection services, with a not-to-exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, by SCPPA, and SCPPA Members.
14. **Swaim Biological Incorporated MTPSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Professional Services Agreement with Swaim Biological Incorporated for biological monitoring and support services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
15. **Control Components, Inc. First Amendment to MTGSA-EMS** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc. for valve and vent maintenance services, accepting assignment to IMI Critical Engineering, LLC, with no changes to the contract term or not-to-exceed amount, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
16. **PMOA Schedule 1.00, Exhibit 5.00 Updates** – Staff is seeking a recommendation for approval of updates to PMOA Schedule 1.00, Exhibit 5.00 CAISO charges.

Consent Items pulled for discussion: _____

INFORMATIONAL/ DISCUSSION ITEMS

17. **FY2024 Budget Presentation** – Staff to present an updated draft of the FY2024 budget for Committee review/comment.
18. **NCPA Natural Gas Services Agreements** – Staff will lead a discussion regarding whether to pursue modifications to the current PMOA to allow renewable natural gas services agreements.
19. **Additional Operational Updates** – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: April 10, 2023 at 10:00 a.m. Pacific Standard Time.

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



651 Commerce Drive
Roseville, CA 95678

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LEC PPC Meeting Minutes

Date: Monday, February 6, 2023
Time: 10:00 a.m. Pacific Standard Time
Location: via Teleconference
Subject: Lodi Energy Center Project Participant Committee Meeting

1. Review Safety Procedures

Due to continued remote meetings, the Safety Procedures Review was not necessary.

2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:04 a.m. Pacific Standard Time by Chairman Brock Costalupes. 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 - Schmidt | Present | 0.2679% |
| CDWR - Burk | Present | 33.5000% |
| Gridley - Wagner | Absent | 1.9643% |
| Healdsburg - Crowley | Absent | 1.6428% |
| Lodi - Chiang | Present | 9.5000% |
| Lompoc - McDonald | Absent | 2.0357% |
| MID - Costalupes | Present | 10.7143% |
| Plumas-Sierra - Brozo | Absent | 0.7857% |
| PWRPA - Bradley | Absent | 2.6679% |
| SVP - Wong | Present | 25.7500% |
| Ukiah - | Absent | 1.7857% |
| Summary | | |
| Present | 5 | 79.7322% |
| Absent | 8 | 20.2678% |
| Quorum by #: | No | |
| Quorum by GES: | Yes | |
| Meeting Date: | February 6, 2023 | |

Public Forum

Chairman Costalupes asked if any members of the public were present 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. Dean Burke mentioned that he did not see approval of the Chair/Vice Chair or the 2023 LEC Outage in the December 12, 2022 Meeting Minutes. Jane Luckhardt recommended that review of the December LEC PPC Minutes be added to the next meeting if further discussion/revisions are needed. Chairman Costalupes stated that the election of Chair and Vice Chair and approval of the 2023 LEC Outage took place in the November 7, 2022 LEC PPC Meeting. As such, this issue was deemed resolved, and no further action is necessary.

Chairman Costalupes requested a volunteer who could Chair the remainder of the meeting due to a personal situation which would require him to step away a points in the meeting. Jiayo Chiang volunteered to act as the Temporary Chairman.

3. Meeting Minutes

The draft minutes from the January 9, 2023 Regular Meeting were considered. The LEC PPC considered the following motion:

Date: 2/6/2023

Motion: The PPC approves the minutes from the January 9, 2023 Regular Meeting.

Moved by:

MID

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 | Absent | 2.6679% |
| Silicon Valley Power | Yes | 25.7500% |
| Ukiah | Absent | 1.7857% |
| Vote Summary | | |
| Total Ayes | 5 | 79.7322% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 8 | 20.2678% |
| Result: | | Motion Passes |

MONTHLY REPORTS

4. Operational Reports for January 2023

Ryan Johnson presented the Operational Report for January. There were no OSHA recordable accidents, no NERC/WECC or permit violations, and no forced outages. There are no changes to the 2023 outage schedule.

The operational report reflected monthly production of 166,178 MWH, 609 service hours, and equivalent operating availability of 100%. The report set for the Capacity Factor @ 302MW Pmax of 74%. There were 7 hot starts, 5 warm starts, and 1 cold start during the month.

5. Market Data Report for January 2023

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 30 out of 31 available days. Most startups were for long-term runs, with 17 24-hour runs in the month of January. The CAISO Commitment runs, DA Energy LMP values, and Daily and Monthly Margins were reviewed with the Committee.

6. Monthly Asset Report

Rafael Santana presented the monthly asset report for December 2022. Rafael reviewed the Budget chart. He noted that the chart shows that LEC is above budget by 228.70%; this increase is the result of staff correcting an error in the calculation spreadsheet. Rafael reviewed the monthly historical comparisons as well as the 12-month history. He noted that December 2022 was the best December on record since LEC has been in service.

7. Bidding Strategies Report

Jesse Shields presented the Bidding Strategies Report for January 2023. Jesse reviewed bidding and calculating net start-up costs. Regulation services were not bid for January due to the ongoing performance measurement issue. Jesse reviewed DA and RT net revenues over the month with the Committee.

Consent Calendar (Items 8-12)

The consent calendar was considered. Temporary Chairman Chiang 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: 2/6/2023

Motion: The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for December 2022; **9.** Financial Report for December 2022; **10.** GHG Reports (excerpted from the Monthly ARB); **11.** PMOA Schedule 6.00 - Revisions to update the contact information for the City of Gridley and the California Department of Water Resources; **12.** NCPA Casualty Insurance Renewals - Approval for the renewals of the Agency's excess liability, worker's compensation, and automobile insurance programs for March 2023 to March 2024.

Moved by:

SVP

Seconded by:

DWR

Discussion:

There was no further discussion.

| Vote Summary on Motion | | |
|-------------------------------|---------------|--------------------------|
| Participant | Vote | Particulars / GES |
| Azusa | Absent | 2.7857% |
| BART | Absent | 6.6000% |
| Biggs | Absent | 0.2679% |
| CDWR | Yes | 33.5000% |
| Gridley | Absent | 1.9643% |
| Healdsburg | Absent | 1.6428% |
| Lodi | Yes | 9.5000% |
| Lompoc | Absent | 2.0357% |
| Modesto | Yes | 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 | 79.4643% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 9 | 20.5357% |
| | | |
| Result: | Motion Passes | |

INFORMATIONAL ITEMS

13. FY2024 Budget Presentation

Rafael Santana presented the PowerPoint for the LEC FY2024 Budget. The proposed budget values were reviewed. Variable O&M costs are up 22% due to inflation, with fuel costs up 77%. Routine Fixed Costs for Inventory reflect a \$500,000 increase due to the need to purchase critical valve parts which are reaching end of life. Insurance costs have increased 35% due to an updated appraisal of the LEC, as well as increases in Property/Liability coverages. Rafael also reviewed each of the FY2024 proposed projects and their associated costs.

There was a question as to whether the budget would be re-run based on updated market forecasts, however, staff stated there are no plans to re-run the budget for LEC at this time. Michelle will publish the FY2024 Budget PowerPoint to NCPA Connect for Members to review, and this item will be brought back to LEC next month for further discussion.

14. Additional Operational Updates

Rafael Santana shared a PowerPoint presentation regarding the status of LEC's hydrogen grant request. NCPA submitted the concept paper for the LEC Hydrogen Project to ARCHES in November 2022, and received positive feedback. The official project application was recently submitted to ARCHES. A number of questions were returned and NCPA is expected to submit its final application by April. The funding level and share, as well as potential State contributions, are unknown at this time. NCPA is proposing the project costs be shared between current LEC Participants. Rafael shared an Excel table which detailed the estimated cost per Participant based on current GES percentages. NCPA has hired consultants to draft projected O&M costs and electrical studies; this work should be complete by the end of March. Rafael confirmed that NCPA staff will continue to provide timely updates to LEC Participants as further information is made available.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, March 6, 2023 at 10:00 a.m. Pacific Standard Time.

The meeting was adjourned at 10:58 a.m.

Submitted by: MICHELLE SCHELLENTRAGER

Lodi Energy Center Project Participant Committee

Operational Report

Agenda Item No.: 4

Date: 03/06/2023

To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents.

Notice of Violations

- Permits: 1 Notice of Violation Issued, by: SJVAPCD, for: water wash NOx exceedance.
- NERC/WECC: 0 Violations Issued.

Outage Summaries:

- 2/11 @ 00:00 - 23:59; HRSG lining repair, OMS 13111008

Planned Outage Summaries:

- April 1-30, 2023; ST HP Gearbox Replacement & Annual Maintenance Outage

Generating Unit Statistics:**Date:** 2/1/2023

1. Monthly Production
2. Productivity Factor
 - a. Service Hours
 - b. Service Factor
 - c. Capacity Factor @ 302MW Pmax
 - d. Hours/days load > 240 MW

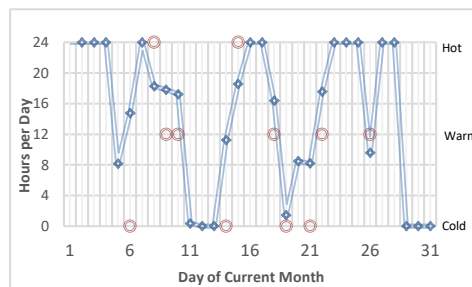
121,823 MWh

456 Hours

67.9 %

60.0 %

337/24 h/d



3. Equivalent Operating Availability (EOA) 96.4 %
4. Forced Outage Rate (FOR) 5.0 %

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 | 6,967 | 1.71% | 89 | \$42 |
| Seg. 2 284 - 296 | 6870 | 7,003 | 1.94% | 90,301 | \$48,068 |
| Seg. 3 275 - 284 | 6971 | 7,091 | 1.72% | 4,837 | \$2,317 |
| Seg. 4 250 - 275 | 7081 | 7,067 | -0.20% | 8,980 | -\$496 |
| Seg. 5 225 - 250 | 7130 | 7,126 | -0.06% | 7,001 | -\$120 |
| Seg. 6 200 - 225 | 7200 | 7,263 | 0.88% | 5,370 | \$1,360 |
| Seg. 7 175 - 225 | 7450 | 7,547 | 1.31% | 2,181 | \$850 |
| Seg. 8 165 - 175 | 7760 | 7,860 | 1.29% | 299 | \$120 |
| | 7,164 | 7,241 | 0.82% | 119,059 | \$52,140 |

6. AGC Control Deviation

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

7. Starting Reliability

| Start Type | Hot Starts | Warm Starts | Cold Starts |
|------------------------------------|------------|-------------|-------------|
| Number of Starts | 2 | 5 | 4 |
| Start Time Benchmark (Minutes) | 20 | | |
| Start Time Actual (Average Minute) | 17 | 17 | 17 |
| Start Time Deviation (%) | -18% | -16% | -13% |
| Start Fuel Benchmark (mmBTU) | 250 | | |
| Start Fuel Actual (Average mmBTU) | 166 | 171 | 214 |
| Fuel Deviation (%) | -34% | -32% | -14% |
| Costs of Fuel Deviations (\$) | -\$671 | -\$1,587 | -\$576 |



LEC PPC Meeting

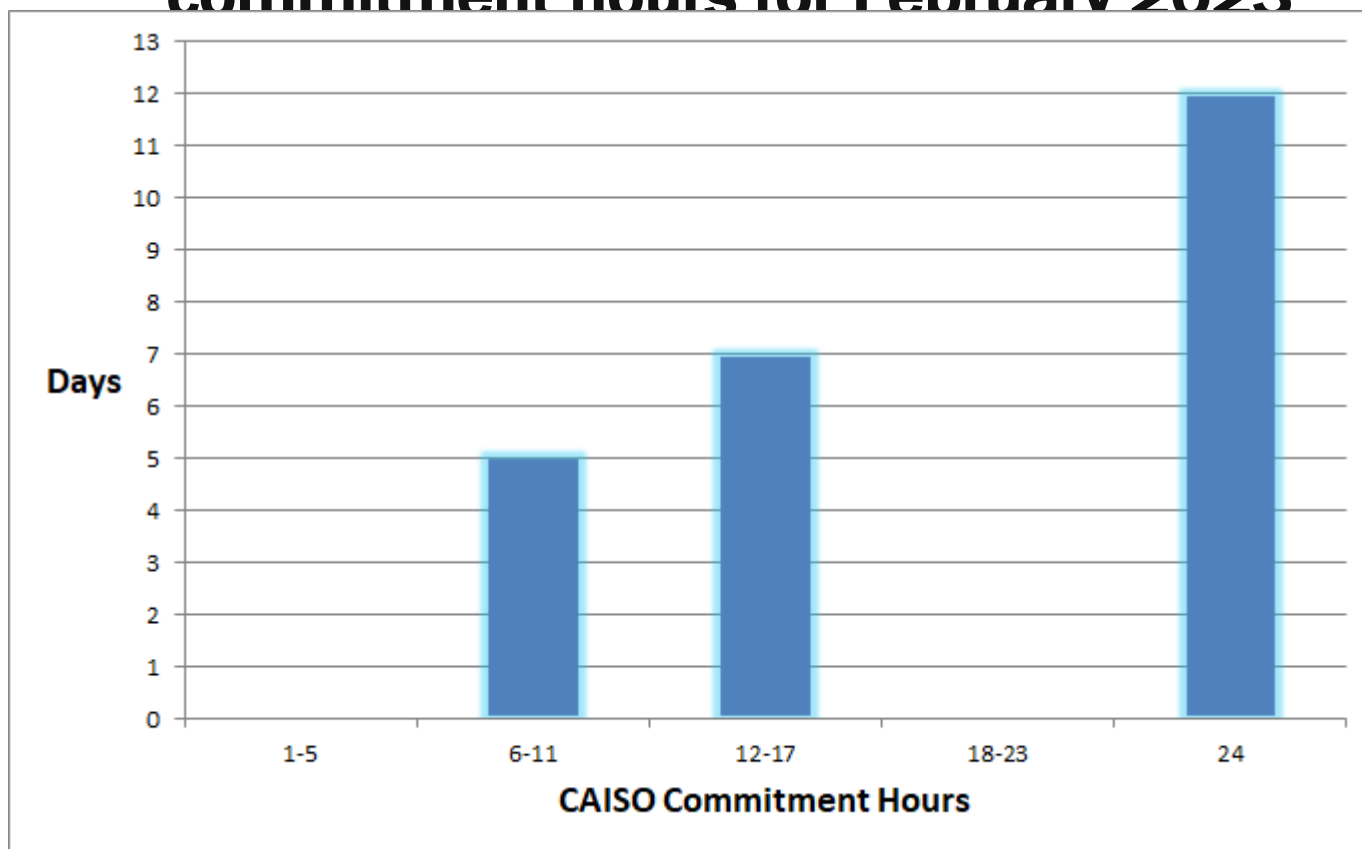
March 6, 2023

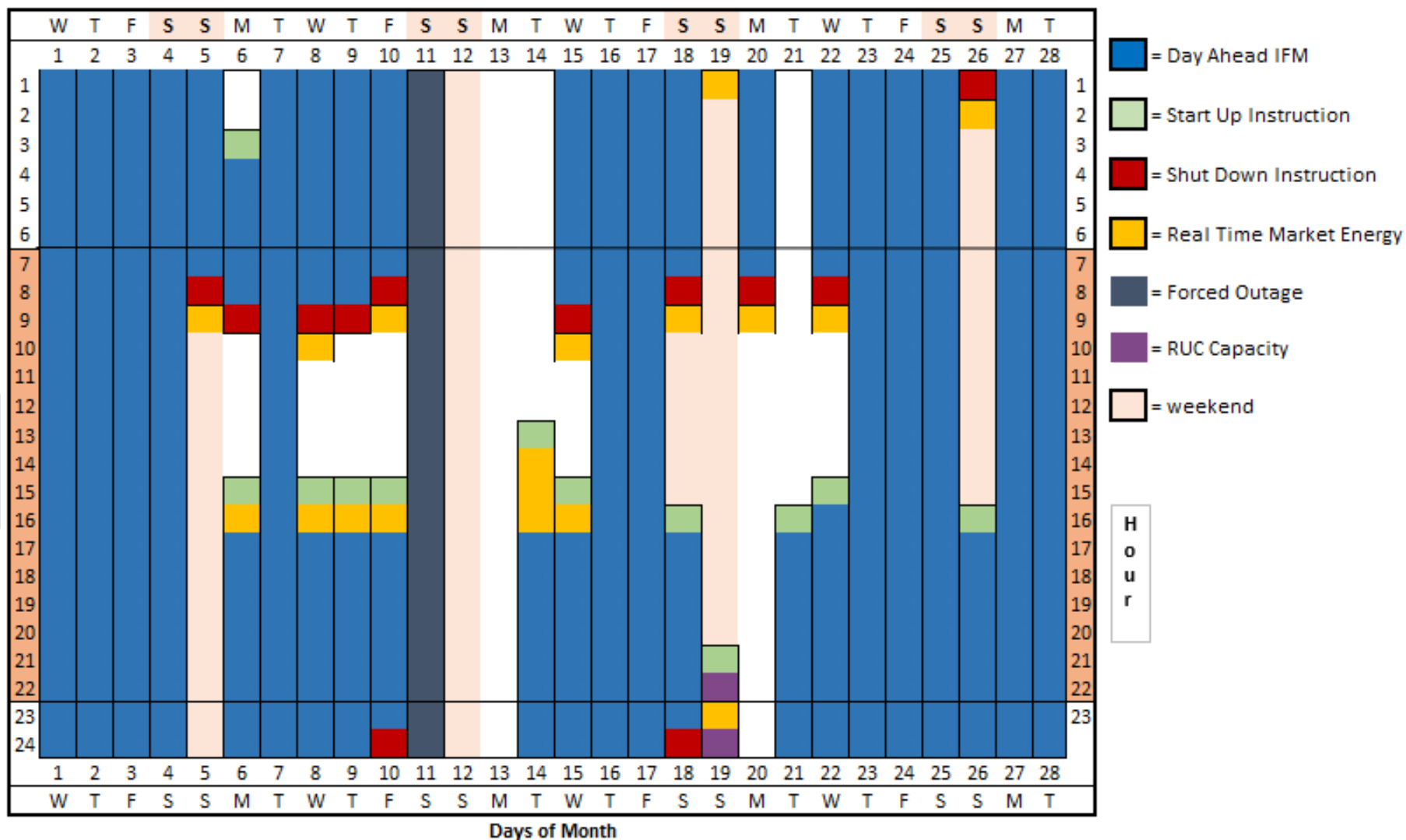
February 2023 Market Financial Results

LEC Operational Results for February 2023

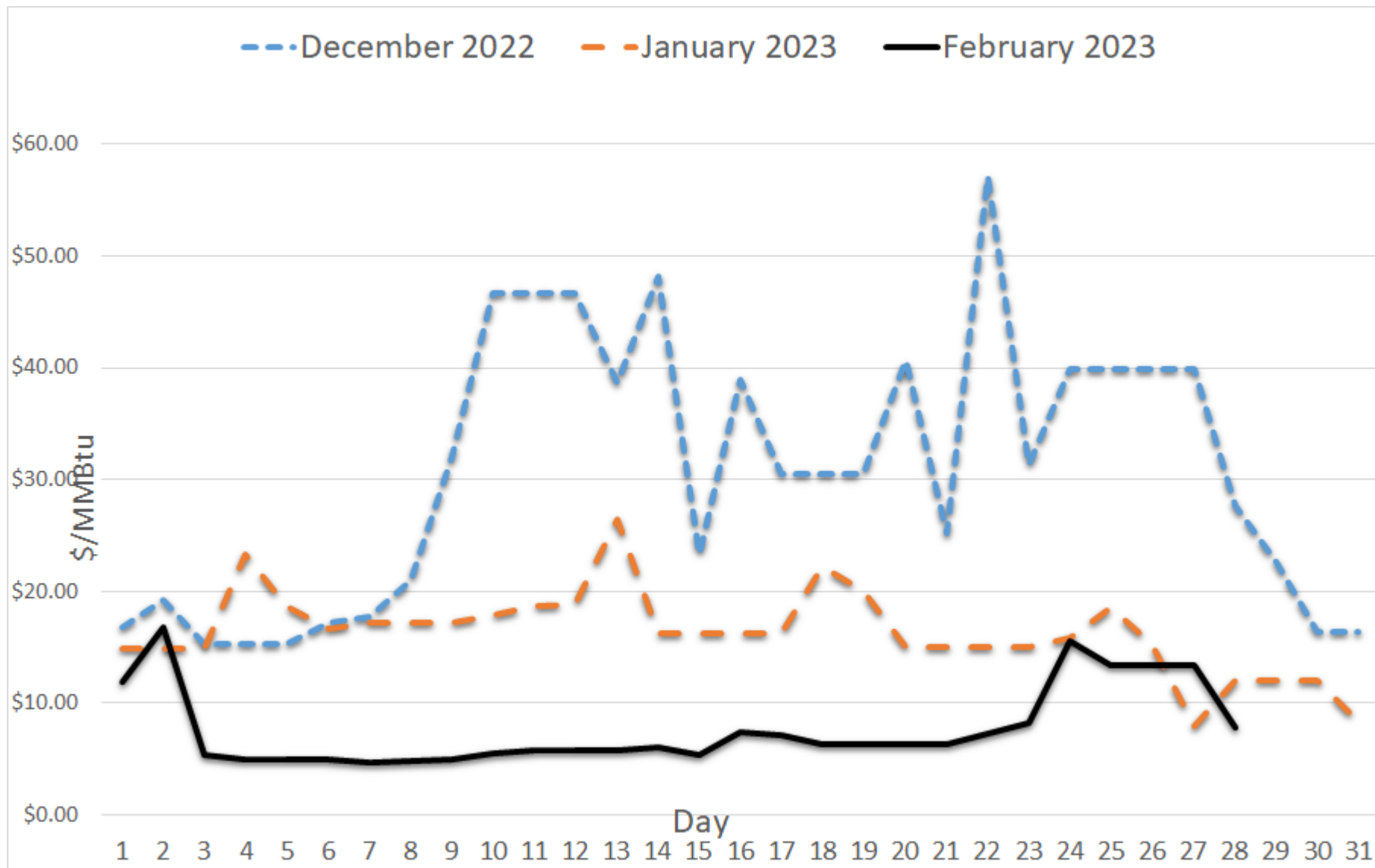
- Resource Adequacy Availability Metrics:
 - 100% - Monthly Assessment Generic Performance
 - 100% - Monthly Assessment Flexible Performance Vs
 - 96.5% Availability Standard
- Estimated RAAIM Availability Incentive Payment depending on CAISO RAAIM incentive payment rate:
 - \$3.0k - \$9.2k for Generic RA based on claimed 48.59 – 70.59 MW
 - \$ 5k - \$15k for Flexible RA based on claimed 92.22 MW
- LEC was committed by CAISO for Market energy 23 days of 27 available days
 - Twelve (12) days of uninterrupted operations
 - One (1) day where LEC was on a forced outage
 - Three (3) days where LEC was uneconomic
 - There were twelve (12) starts during the month

Frequency Tabulation of Daily CAISO commitment hours for February 2023

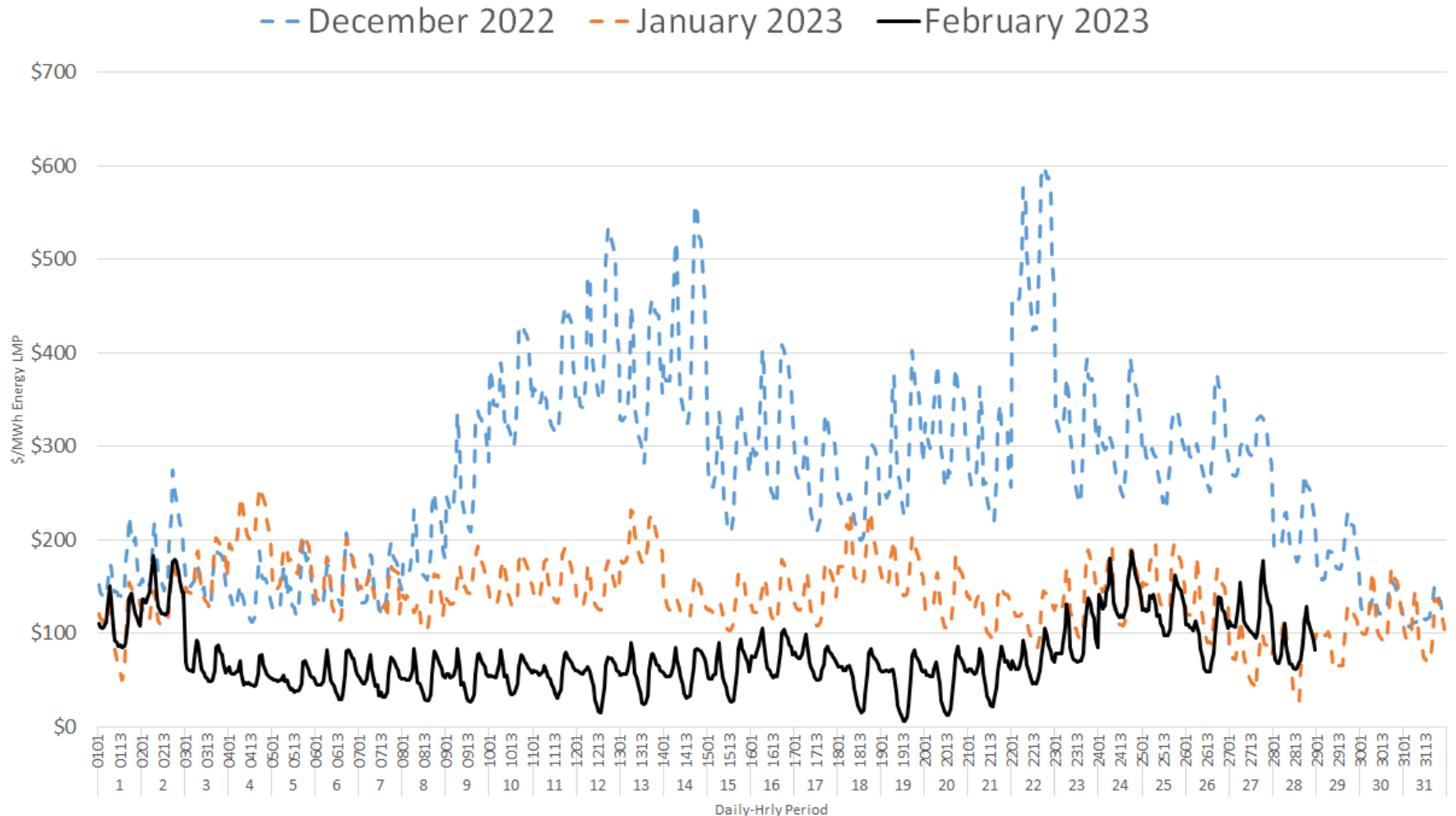




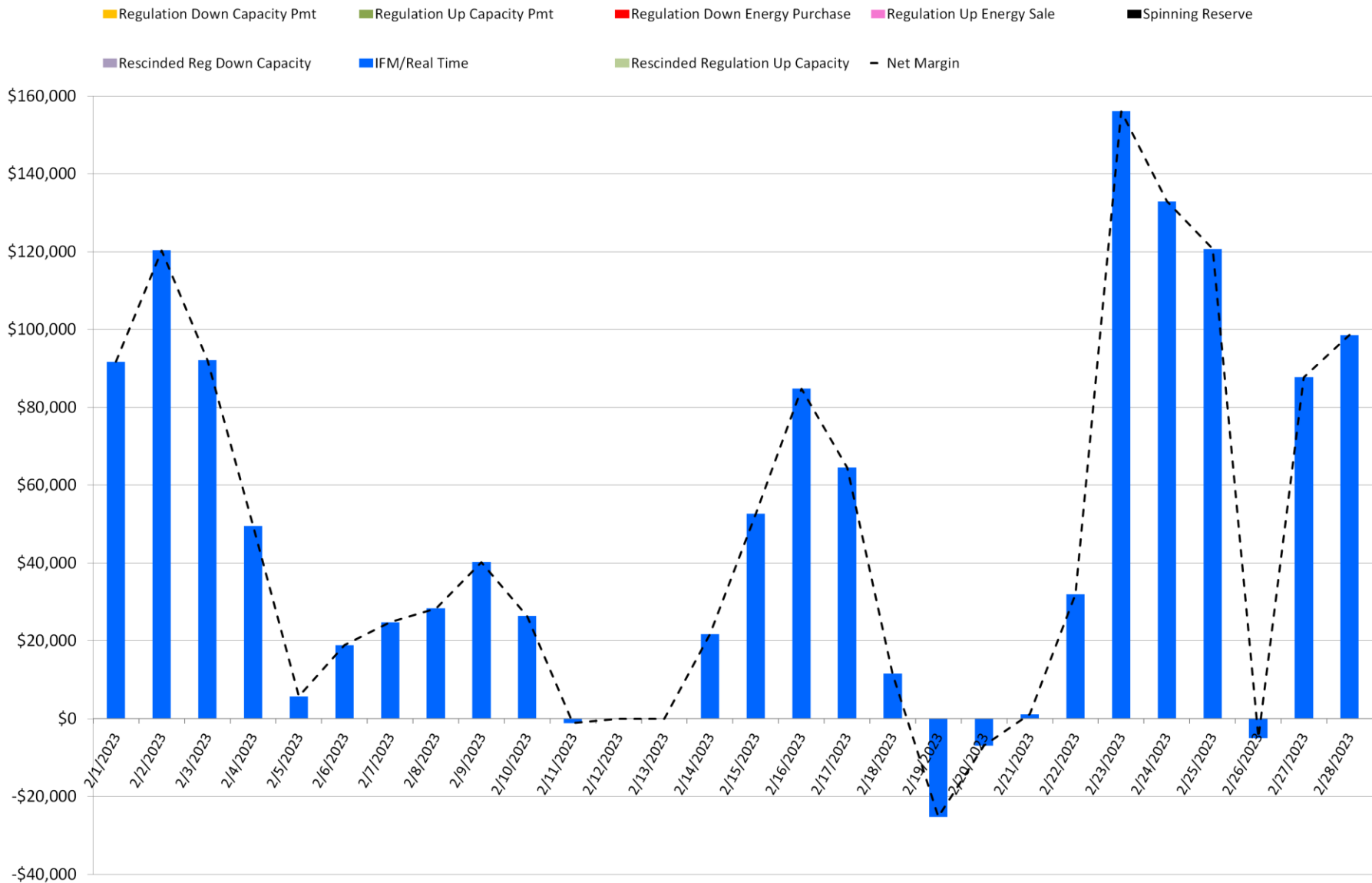
February 2023 Daily PG&E City Gate Gas Index



DA Energy LMP values by Month



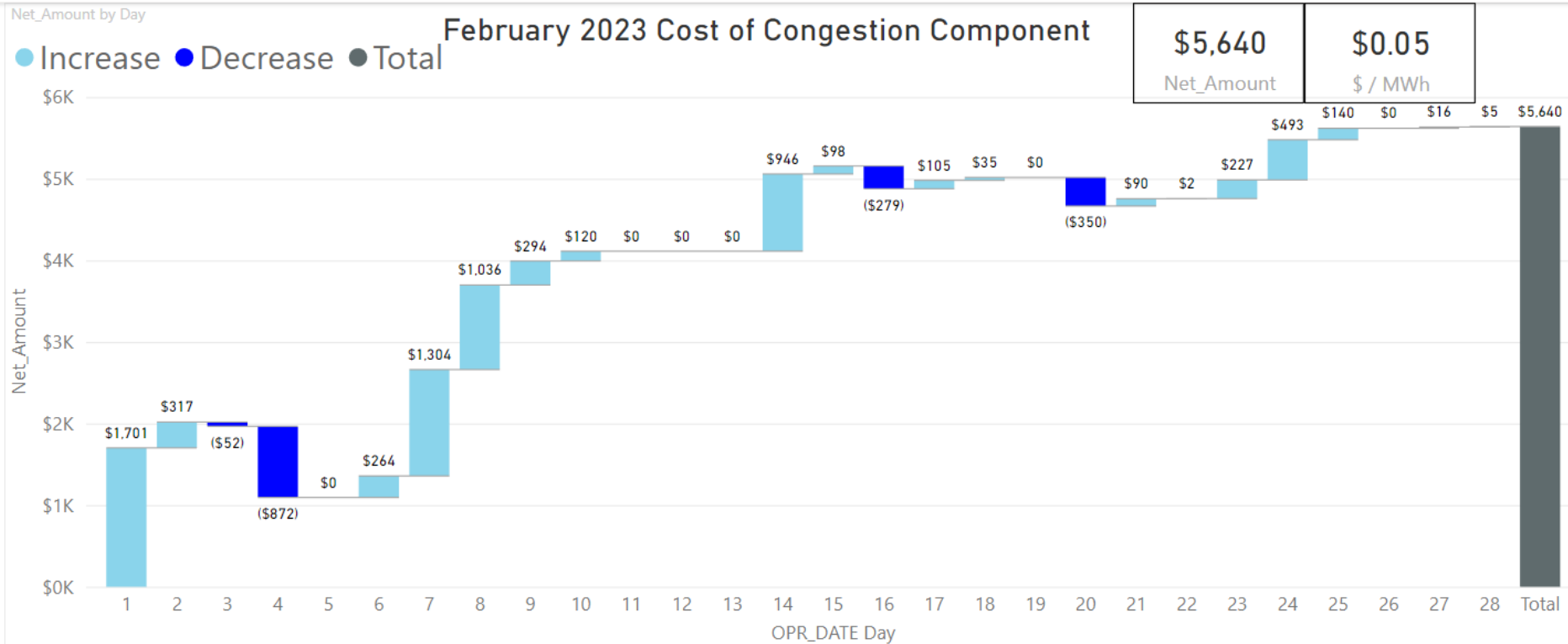
February 2023 LEC Daily Margin Profile by Product



February 2023 LEC Project Cumulative Monthly Margin

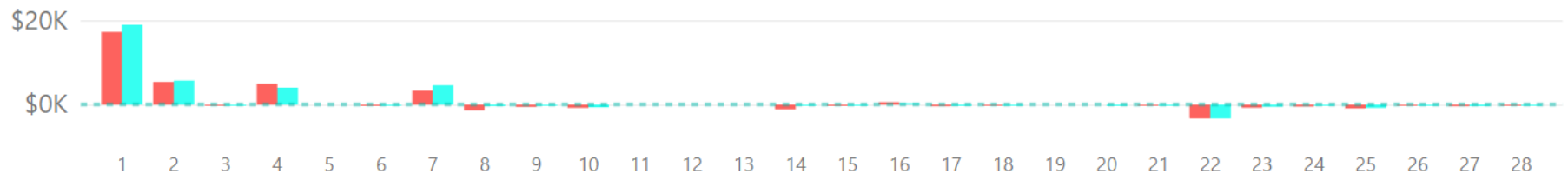
| | | |
|--|----------------|-----------------------|
| IFM/RTM Gross Revenues | \$ 11,130,100 | |
| Regulation Up Capacity | \$ - | |
| Regulation Down Capacity | \$ - | |
| Spinning Reserve | \$ 100 | |
| Total Gross LEC Revenue | | \$ 11,130,200 |
| | | |
| LEC CAISO GMC Costs | \$ (45,500) | |
| CAISO Energy & Capacity Buyback Costs | \$ (406,500) | |
| Total Monthly LEC Fuel Cost | \$ (7,651,200) | |
| Total Monthly GHG Obligation | \$ (1,403,200) | |
| Variable Operations & Maintenance Cost | \$ (311,000) | |
| Total Gross Costs | | \$ (9,817,400) |
| | | |
| Cumulative Monthly Margin | | \$ 1,312,800 |
| | | |
| 12 Days of Accrued LT Maintenance Costs | \$ (182,169) | |
| | | |
| Net Cumulative Monthly Margin | | \$ 1,130,631 |
| | | |
| Average Net Margin \$/MWh | | \$ 9.3 |

Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub



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

February 2023 Cost of Loss Component

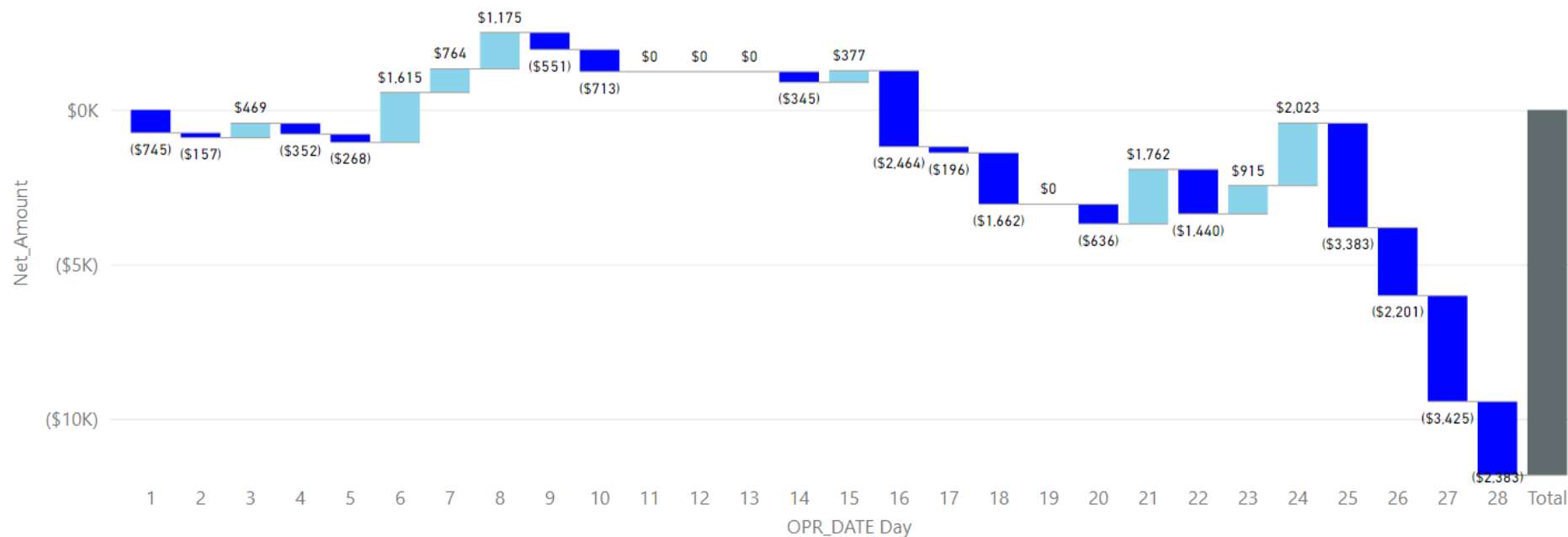
(\$11,822)

(\$0.10)

Net_Amount

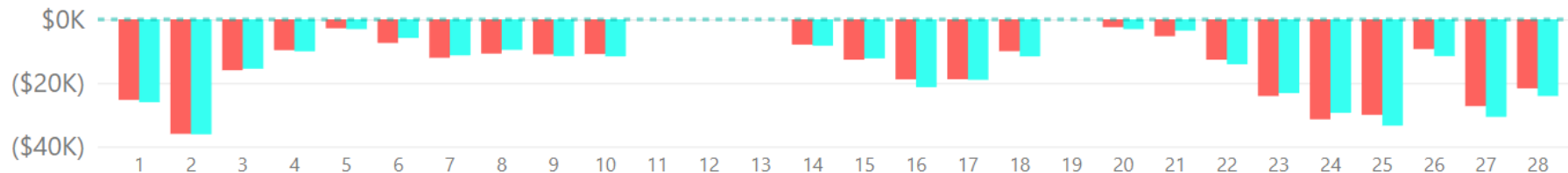
\$ / MWh

● Increase ● Decrease ● Total



NP15_Cost and LEC_Cost by Day

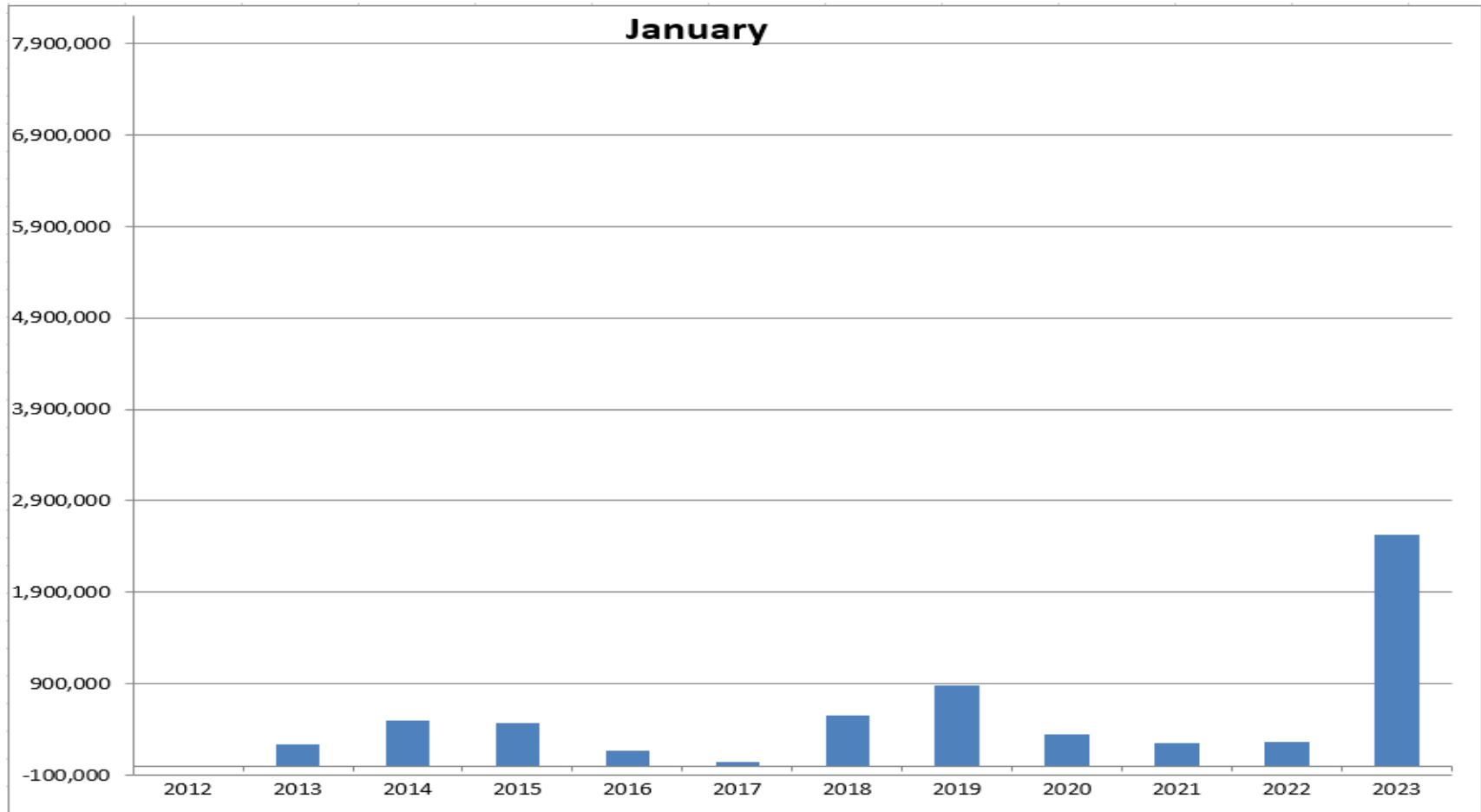
● NP15_Cost ● LEC_Cost



January Asset Report

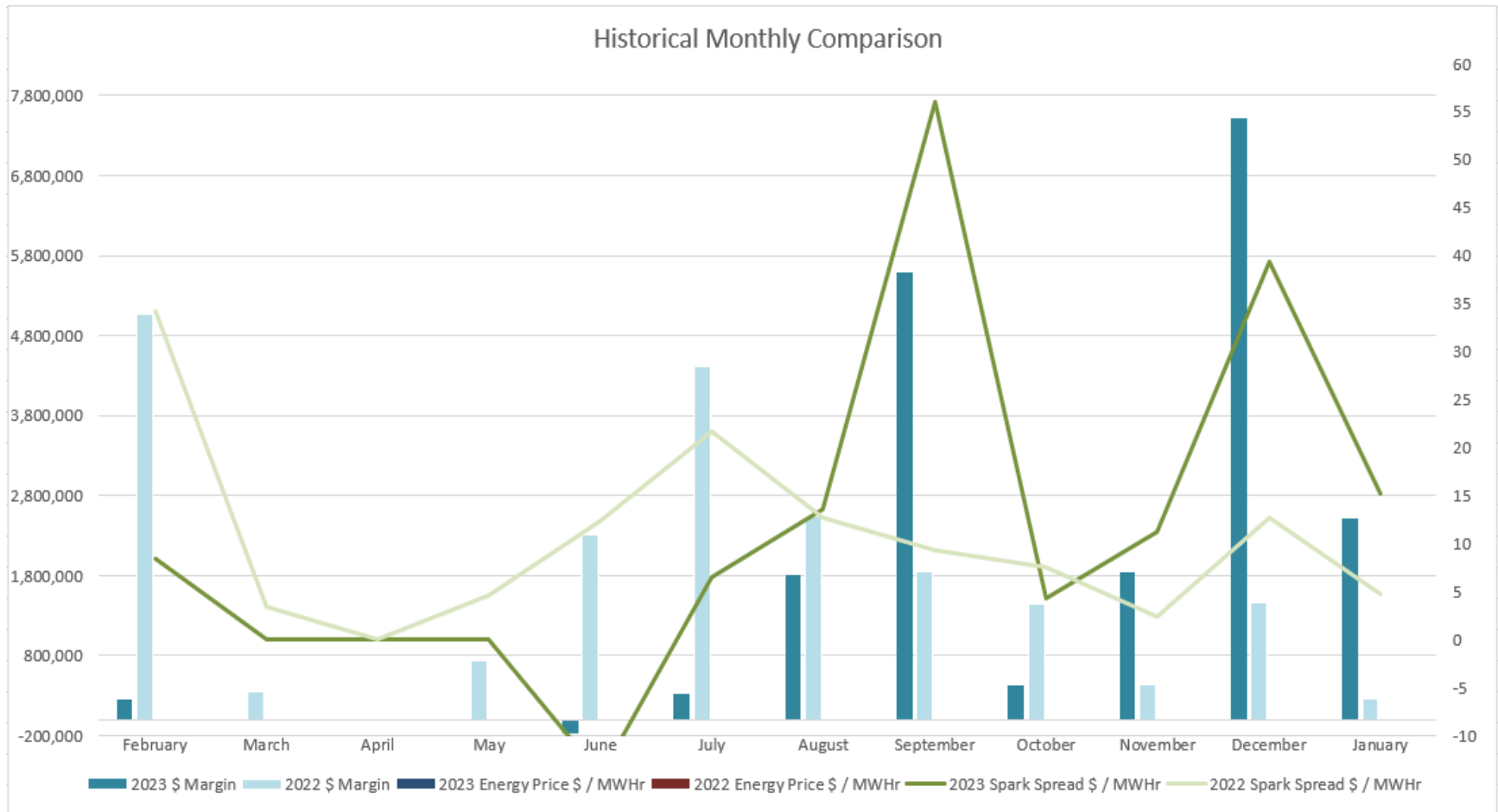
| | | Most Recent | | Above / (below) | Percent Difference | |
|-----------------|-------------|--------------|-------------|-------------------------|--------------------|----------------------------------|
| | Actual | Forecast | Budget | Forecast | Above / (below) | |
| Revenue | 25,969,377 | 37,966,238 | 13,470,199 | (11,966,861) | -32% | |
| VOM | 23,959,683 | 29,397,878 | 11,945,198 | (5,438,195) | -18% | |
| Fixed | 1,049,669 | 1,219,501 | 1,185,364 | (169,832) | -14% | |
| Projects | 118,016 | 279,280 | 279,280 | (161,264) | -58% | Credit from Voith (TQ Converter) |
| A&G | 224,210 | 224,217 | 224,217 | (7) | 0% | |
| Debt | 2,166,350 | 2,166,350 | 2,166,350 | (0) | 0% | |
| Net Cost | (1,548,551) | 4,679,011 | (2,330,210) | (6,227,562) | -133% | |
| | | | | | | |
| Net Annual Cost | | (12,266,333) | 4,709,224 | (\$16,975,557) | | |
| | | | | Above budget by 360.47% | | |

Historical Margins



- Historical Margins for January 2023 was (2.5m) vs January 2022 (266k)

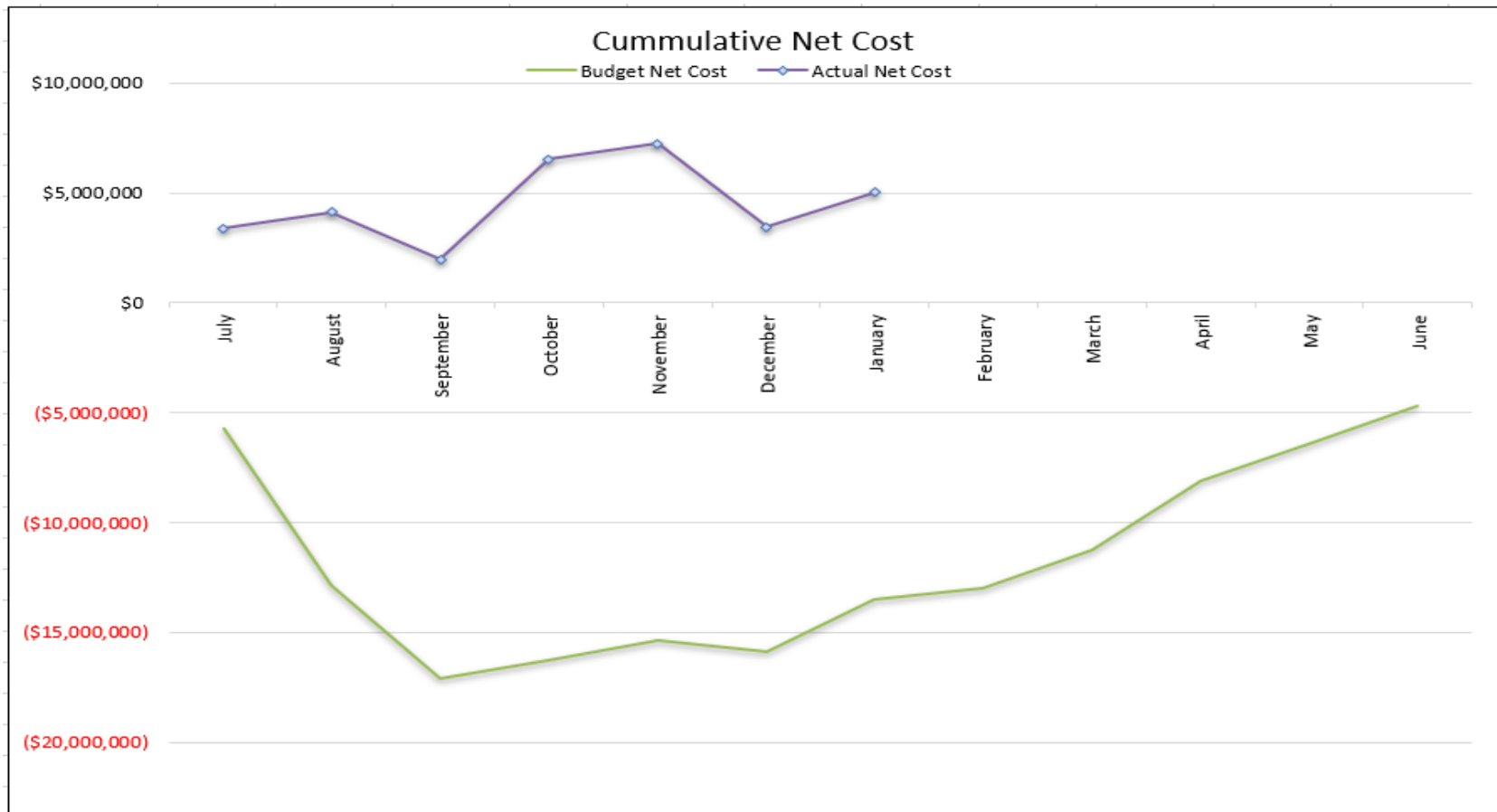
Historical Monthly Comparison



* Spark Spread lower from (Dec 2022) @ \$39.33 vs. (Jan 2023) @ \$15.17= Δ \$24.16 \$/MWhr

* January 2022 Spark Spread was \$4.77 \$/MWhr

* Margin comparison from January 2022 (266k) vs January 2023 (2.5m)



**** On the cumulative chart, January was a strong month when compared to historical results. Actual Net Cost \$3,452,249 vs Budget Net Cost \$15,854,111.**

| | July | August | September | October | November | December | January | February | March | April | May | June | Year | FY2023 Budget | Percent Used | Comments |
|--------------------------------------|---------------|-------------|-------------|---------------|-------------|-------------|---------------|-------------|-------------|---------------|---------------|---------------|----------------|------------------|-------------------------|--------------------------------|
| VOM | 4,095,484 | 12,532,232 | 10,546,727 | 8,160,201 | 14,074,428 | 45,954,494 | 23,959,683 | 23,610,652 | 13,388,171 | 0 | 8,997,669 | 11,621,043 | 176,940,783 | 94,127,609 | 188.0% | |
| Capacity Factor | 23% | 60% | 46% | 45% | 75% | 85% | 74% | 63% | 76% | 0% | 62% | 79% | 57% | 57% | 100.0% | |
| Fuel Consumed (mmBTU, estimated) | 383,556 | 967,914 | 736,096 | 727,663 | 1,159,760 | 1,357,546 | 1,180,502 | 963,008 | 1,214,852 | 0 | 1,018,559 | 1,214,192 | 10,923,648 | 11,557,251 | 94.5% | |
| Avg Fuel Cost (\$/mmBTU) | 8.02 | 10.24 | 9.82 | 8.09 | 10.09 | 31.00 | 16.88 | 22.62 | 9.12 | 0.00 | 6.94 | 7.12 | 13.58 | 5.61 | 242.2% | |
| Power Produced (MWhr, estimated) | 50,612 | 133,579 | 100,059 | 100,923 | 163,586 | 191,229 | 166,180 | 133,118 | 171,371 | 0 | 139,311 | 171,021 | 1,520,990 | 1,627,093 | 93.5% | |
| Avg Power Price (\$/MWhr) | 94.27 | 108.38 | 163.05 | 79.50 | 100.32 | 281.24 | 155.44 | 205.29 | 89.67 | 0.00 | 64.42 | 73.70 | 134.05 | 74.75 | 179.3% | |
| Operations / Variable / LTSA | 61,202 | 505,263 | 199,312 | 966,327 | 78,481 | 342,047 | 1,282,613 | 133,630 | 168,398 | 0 | 140,013 | 833,483 | 4,710,769 | 6,088,236 | 77.4% | Siemens LTSA Payment |
| Fuel (estimated) | 3,077,263 | 9,916,156 | 7,228,629 | 5,884,049 | 11,700,884 | 42,083,647 | 19,923,300 | 21,783,936 | 11,077,637 | 0 | 7,069,617 | 8,647,056 | 148,392,173 | 64,819,215 | 228.9% | |
| AB32 GHG Offset (estimated) | 608,065 | 1,590,908 | 1,085,290 | 1,093,708 | 1,732,208 | 2,041,050 | 1,902,939 | 1,450,144 | 1,829,385 | 0 | 1,533,796 | 1,828,390 | 16,695,883 | 20,249,959 | 82.4% | |
| CA ISO Charges (estimated) | 348,954 | 519,905 | 2,033,496 | 216,117 | 562,855 | 1,487,750 | 850,831 | 242,941 | 312,752 | 0 | 254,243 | 312,114 | 7,141,958 | 2,970,199 | 240.5% | |
| Routine O&M (Fixed) | 1,488,545 | 341,261 | 1,087,702 | 1,473,470 | 937,987 | 1,591,776 | 1,049,669 | 956,026 | 971,663 | 1,253,663 | 1,019,532 | 1,279,406 | 13,450,700 | 12,741,784 | 105.6% | |
| Maintenance / Fixed | 511,311 | -394,386 | 390,161 | 784,407 | 263,116 | 694,287 | 362,151 | 260,863 | 255,000 | 385,000 | 265,000 | 265,863 | 4,042,773 | 3,151,902 | 128.3% | Cooling Tower UF Filters |
| Administration | 8,661 | 7,798 | 6,346 | 5,837 | 20,556 | 20,439 | 12,876 | 10,000 | 10,000 | 10,000 | 35,869 | 10,000 | 158,382 | 195,869 | 80.9% | |
| Mandatory Costs | 57,504 | 32,740 | 17,496 | 12,537 | 4,861 | 24,562 | 8,850 | 8,500 | 30,000 | 32,000 | 42,000 | 26,880 | 297,930 | 365,380 | 81.5% | |
| Inventory Stock | 0 | 0 | 0 | 0 | 0 | -2,229 | 0 | 0 | 0 | 0 | 0 | 0 | -2,229 | - | 0.0% | |
| Labor | 680,683 | 430,671 | 430,326 | 418,394 | 405,326 | 624,331 | 423,775 | 433,677 | 433,677 | 583,677 | 433,677 | 733,677 | 6,031,889 | 6,112,796 | 98.7% | |
| Insurance | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 109,492 | 1,313,903 | 1,313,901 | 100.0% | |
| Power Management & Settlements | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 120,894 | 1,450,728 | 1,450,728 | 100.0% | |
| Other Costs | 0 | 34,052 | 12,987 | 21,909 | 13,742 | 0 | 11,631 | 12,601 | 12,601 | 12,601 | 12,601 | 12,601 | 157,324 | 151,208 | 104.0% | |
| Projects | 192,549 | -14,837 | 214,028 | 638,342 | -185,137 | 172,468 | 118,016 | 309,280 | 279,280 | 529,280 | 279,280 | 279,280 | 2,811,830 | 3,631,362 | 77.4% | |
| Maintenance Reserve | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 167,366 | 2,008,392 | 2,008,392 | 100.0% | |
| Operations & Maintenance Projects | 25,183 | -182,203 | 46,662 | 14,745 | 39,113 | 5,102 | 28,973 | 111,914 | 111,914 | 111,914 | 111,914 | 111,914 | 537,146 | 1,342,970 | 40.0% | |
| Capital Projects | 0 | 0 | 0 | 456,231 | -391,616 | 0 | -78,323 | 30,000 | 0 | 250,000 | 0 | 0 | 266,292 | 280,000 | 95.1% | Credit back to NCPA from Voith |
| A&G | 224,210 | 224,210 | 224,210 | 224,210 | 224,210 | 224,210 | 224,210 | 224,217 | 224,217 | 224,217 | 224,217 | 224,217 | 2,690,557 | 2,690,608 | 100.0% | |
| Administrative & General (Allocated) | 189,197 | 189,197 | 189,197 | 189,197 | 189,197 | 189,197 | 189,197 | 189,198 | 189,198 | 189,198 | 189,198 | 189,198 | 2,270,369 | 2,270,375 | 100.0% | |
| Generation Services Shared | 35,013 | 35,013 | 35,013 | 35,013 | 35,013 | 35,013 | 35,013 | 35,019 | 35,019 | 35,019 | 35,019 | 35,019 | 420,188 | 420,233 | 100.0% | |
| Total O&M Cost | 6,000,788 | 13,082,866 | 12,072,667 | 10,496,223 | 15,051,488 | 47,942,948 | 25,351,578 | 25,100,175 | 14,863,331 | 2,007,161 | 10,520,699 | 13,403,946 | 195,893,870 | 113,191,363 | 173.1% | |
| Debt Service | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 2,166,350 | 25,996,201 | 25,996,203 | 100.0% | |
| Revenues | 4,796,596 | 14,514,876 | 16,379,659 | 8,105,410 | 16,509,933 | 53,886,357 | 25,969,377 | 29,136,808 | 16,669,664 | 0 | 9,979,607 | 13,675,451 | 209,623,738 | 143,896,790 | 145.7% | |
| ISO Energy Sales (estimated) | 4,771,209 | 14,476,684 | 16,314,404 | 8,023,396 | 16,411,049 | 53,782,014 | 25,831,649 | 27,328,494 | 15,365,993 | 0 | 8,974,125 | 12,604,286 | 203,883,303 | 121,619,515 | 167.6% | |
| Other Income | 25,387 | 38,192 | 65,255 | 82,014 | 98,884 | 104,343 | 137,728 | 1,808,314 | 1,303,671 | 0 | 1,005,482 | 1,071,165 | 5,740,435 | 22,277,275 | | |
| Net | (\$3,370,542) | (\$734,340) | \$2,140,642 | (\$4,557,163) | (\$707,905) | \$3,777,059 | (\$1,548,551) | \$1,870,282 | (\$360,017) | (\$4,173,511) | (\$2,707,442) | (\$1,894,846) | (\$12,266,333) | \$4,709,224 | Above budget by 360.47% | |



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LEC Treasurer's Report

AGENDA ITEM NO.: 8

Date: March 6, 2023
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended January 31, 2023

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

Cash - At month end cash totaled \$1,067.

Investments - The carrying value of the LEC's investment portfolio totaled \$36,156,181 at month end. The current market value of the portfolio totaled \$34,812,981.

The overall portfolio had a combined weighted average interest rate of 3.222% with a bond equivalent yield (yield to maturity) of 3.269%. Investments with a maturity greater than one year totaled \$18,994,000. During the month \$2,436,589 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 increased 27 basis points from 4.45% to 4.72% and rates on one year T-Bills decreased 4 basis points from 4.73% to 4.69%.

To the best of my knowledge and belief, all securities held by LEC as of January 31, 2023 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

Environmental Analysis

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

Respectfully submitted,

MONTY HANKS
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH
Treasurer-Controller

Attachments

LODI ENERGY CENTER

TREASURER'S REPORT

JANUARY 31, 2023

TABLE OF CONTENTS

| | <u>PAGE</u> |
|---------------------------------------|--------------------|
| CASH & INVESTMENT BALANCE | 1 |
| CASH ACTIVITY SUMMARY | 2 |
| INVESTMENT ACTIVITY SUMMARY | 3 |
| 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
January 31, 2023

| | CASH | INVESTMENTS | TOTAL | PERCENT | INVESTMENTS at MARKET |
|---------------------------------|-----------------|----------------------|----------------------|----------------|--------------------------|
| MANDATORY FUNDS | | | | | |
| Debt Service Account | \$ 1,067 | \$ 11,014,986 | \$ 11,016,053 | 30.47% | \$ 11,011,720 |
| Debt Service Reserve | - | 12,601,952 | 12,601,952 | 34.85% | 12,158,659 |
| O & M Reserve | - | 11,819,452 | 11,819,452 | 32.69% | 10,922,811 |
| | 1,067 | 35,436,390 | 35,437,457 | 98.01% | 34,093,190 |
| ADDITIONAL PROJECT FUNDS | | | | | |
| GHG Cash Account | - | 719,791 | 719,791 | 1.99% | 719,791 |
| Participant Deposit Account | - | - | - | - | - |
| | \$ 1,067 | \$ 36,156,181 | \$ 36,157,248 | 100.00% | \$ 34,812,981 |

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
January 31, 2023

| | RECEIPTS | | | EXPENDITURES | | | CASH |
|---------------------------------|-------------------|------------------|---------------|--------------|-----------------------|----------------------------------|--------------------------|
| | OPS/CONSTR | INTEREST | INVESTMENTS | OPS/CONSTR | INVESTMENTS | INTER-COMPANY/ FUND TRANSFERS | INCREASE / (DECREASE) |
| | | (NOTE B) | (NOTE A) | | (NOTE B) | | |
| MANDATORY FUNDS | | | | | | | |
| Debt Service Account | \$ - | \$ 3 | \$ - | \$ - | \$ (2,165,473) | \$ 2,166,379 | \$ 909 |
| Debt Service Reserve | - | 20 | - | - | (20) | - | - |
| O & M Reserve | - | 18,938 | 613 | - | (19,551) | - | - |
| | - | 18,961 | 613 | - | (2,185,044) | 2,166,379 | 909 |
| ADDITIONAL PROJECT FUNDS | | | | | | | |
| GHG Cash Account | 249,683 | 1,862 | - | - | (251,545) | - | - |
| Participant Deposit Account | - | - | - | - | - | - | - |
| TOTAL | \$ 249,683 | \$ 20,823 | \$ 613 | \$ - | \$ (2,436,589) | \$ 2,166,379 | \$ 909 |

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
January 31, 2023

| | PURCHASED | SOLD OR MATURED | (NON-CASH) DISC/(PREM) AMORT | (NON-CASH) GAIN/(LOSS) ON SALE | INVESTMENTS | |
|---------------------------------|---------------------|--------------------|------------------------------------|--------------------------------------|-------------|--------------------------|
| | | | | | TRANSFERS | INCREASE / (DECREASE) |
| MANDATORY FUNDS | | | | | | |
| Debt Service Account | \$ 2,165,473 | \$ - | \$ 35,921 | \$ - | \$ - | \$ 2,201,394 |
| Debt Service Reserve | 20 | - | 12,876 | - | - | 12,896 |
| O & M Reserve | 19,551 | (613) | (448) | - | - | 18,490 |
| | <u>2,185,044</u> | <u>(613)</u> | <u>48,349</u> | <u>-</u> | <u>-</u> | <u>2,232,780</u> |
| ADDITIONAL PROJECT FUNDS | | | | | | |
| GHG Cash Account | 251,545 | - | - | - | - | 251,545 |
| Participant Deposit Acct. | - | - | - | - | - | - |
| TOTAL | <u>\$ 2,436,589</u> | <u>\$ (613)</u> | <u>\$ 48,349</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 2,484,325</u> |

Less Non- Cash Activity

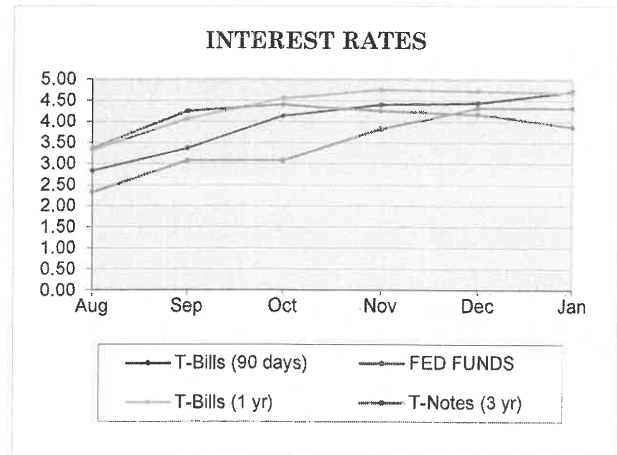
| | |
|---|---------------------|
| Disc/(Prem) Amortization & Gain/(Loss) on Sale | (48,349) |
| Net Change in Investment --Before Non-Cash Activity | <u>\$ 2,435,976</u> |

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Interest Rate/Yield Analysis
January 31, 2023

| | WEIGHTED AVERAGE INTEREST RATE | BOND EQUIVALENT YIELD |
|-------------------------|---|--------------------------------------|
| OVERALL COMBINED | 3.222% | 3.269% |
| Debt Service Account | 4.587% | 4.748% |
| Debt Service Reserve | 3.384% | 3.426% |
| O & M Reserve | 1.712% | 1.661% |
| GHG Cash Account | 4.300% | 4.300% |

| KEY INTEREST RATES | | |
|---------------------------|----------------|-----------------------|
| | CURRENT | PRIOR YEAR |
| Fed Funds (Overnight) | 4.33% | 0.08% |
| T-Bills (90da.) | 4.72% | 0.19% |
| Agency Disc (90da.) | 4.69% | 0.27% |
| T-Bills (1yr.) | 4.69% | 0.69% |
| Agency Disc (1yr.) | 4.67% | 0.53% |
| T-Notes (3yr.) | 3.87% | 1.35% |

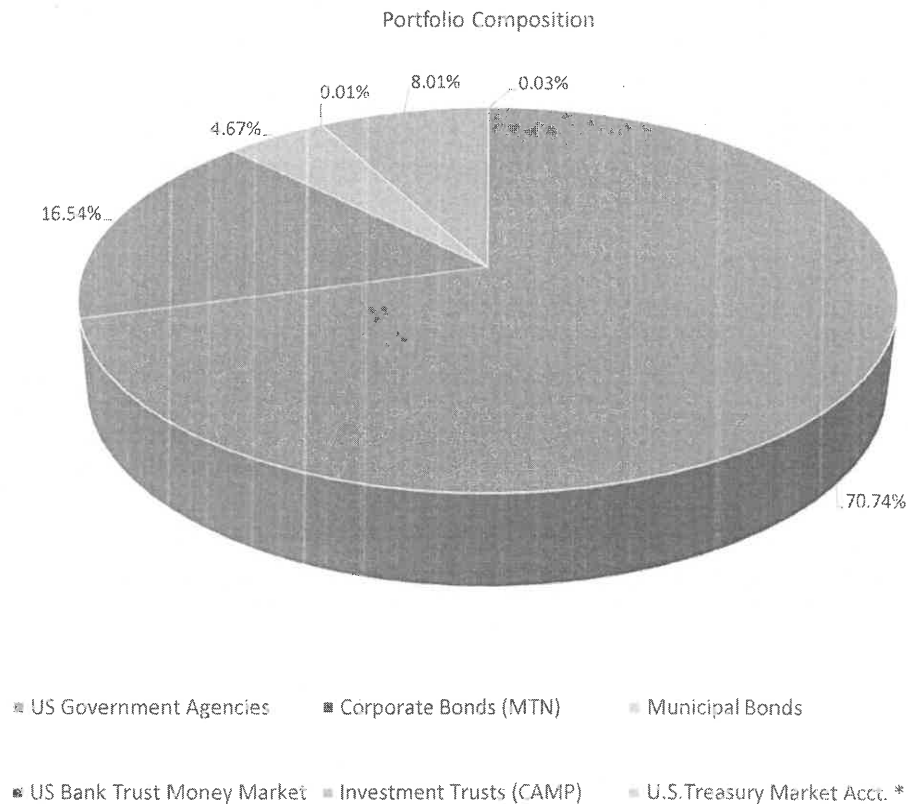


**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
January 31, 2023**

| Type | 0-7 Days | 8-90 Days | 91-180 Days | 181-270 Days | 271-365 Days | 1-5 Years | 6-10 Years | Total | Percent |
|-----------------------------|-----------------|--------------|-----------------|-----------------|-----------------|-----------------|---------------|------------------|----------------|
| US Government Agencies | \$ - | \$ - | \$ 12,926 | \$ - | \$ - | \$ 12,800 | \$ - | \$ 25,726 | 70.74% |
| Corporate Bonds (MTN) | - | - | 1,523 | - | - | 4,494 | - | 6,017 | 16.54% |
| Municipal Bonds | - | - | - | - | - | 1,700 | - | 1,700 | 4.67% |
| US Bank Trust Money Market | 5 | - | - | - | - | - | - | 5 | 0.01% |
| Investment Trusts (CAMP) | 2,912 | - | - | - | - | - | - | 2,912 | 8.01% |
| U.S.Treasury Market Acct. * | 9 | - | - | - | - | - | - | 9 | 0.03% |
| Total Dollars | \$ 2,926 | \$0 | \$14,449 | \$0 | \$ - | \$18,994 | \$0 | \$ 36,369 | 100.00% |
| Total Percents | 8.04% | 0.00% | 39.73% | 0.00% | 0.00% | 52.23% | 0.00% | 100.00% | |

Investments are shown at Face Value, in thousands.

* The cash balance held at US Bank includes outstanding checks that have not yet cleared. This cash balance is invested nightly in a fully collateralized (U.S. Government Securities) repurchase agreement. Cash held by US Bank is invested nightly in fully collateralized U.S. Treasury Securities.



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

01/31/2023

LEC Issue #1 2010B DS Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|-----------|--------------|----------------|
| US Bank Trust | USB | 551 | 0.005 | | 551 | | 1 | 0.005 | 551 | SYS79004 | 79004 | 551 |
| Federal Home Loan Ba | USBT | 736,000 | 4.540 | 12/28/2022 | 721,799 | 05/30/2023 | 118 | 4.693 | 724,717 | 313384GFO | 27502 | 725,048 |
| Federal Home Loan Ba | USBT | 732,000 | 4.659 | 01/30/2023 | 720,535 | 05/31/2023 | 119 | 4.799 | 720,683 | 313384GG8 | 27535 | 720,724 |
| Fund Total and Average | | \$ 1,465,551 | 4.598 | | \$ 1,442,885 | | 118 | 4.745 | \$ 1,445,951 | | | \$ 1,446,323 |

LEC Issue #2 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|------|--------------|-------|------------|--------------|------------|-----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 874 | 0.005 | | 874 | | 1 | 0.005 | 874 | SYS79012 | 79012 | 874 |
| Federal Home Loan Ba | USBT | 2,950,000 | 4.580 | 12/06/2022 | 2,884,322 | 05/30/2023 | 118 | 4.749 | 2,904,777 | 313384GFO | 27493 | 2,905,714 |
| Federal Home Loan Ba | USBT | 795,000 | 4.539 | 12/28/2022 | 779,860 | 05/30/2023 | 118 | 4.693 | 782,813 | 313384GFO | 27503 | 783,170 |
| Federal Home Loan Ba | USBT | 791,000 | 4.660 | 01/30/2023 | 778,611 | 05/31/2023 | 119 | 4.799 | 778,771 | 313384GG8 | 27536 | 778,816 |
| Fund Total and Average | | \$ 4,536,874 | 4.586 | | \$ 4,443,467 | | 118 | 4.747 | \$ 4,467,235 | | | \$ 4,468,574 |

LEC Issue#1 2017A DS Fund

| | | | | | | | | | | | | |
|------------------------|------|---------------|-------|------------|---------------|------------|-----|-------|---------------|-----------|-------|---------------|
| Federal Home Loan Ba | USBT | 3,822,000 | 4.580 | 12/06/2022 | 3,736,907 | 05/30/2023 | 118 | 4.749 | 3,763,409 | 313384GFO | 27494 | 3,764,623 |
| Federal Home Loan Ba | USBT | 680,000 | 4.540 | 12/28/2022 | 666,879 | 05/30/2023 | 118 | 4.693 | 669,576 | 313384GFO | 27504 | 669,881 |
| Federal Home Loan Ba | USBT | 676,000 | 4.660 | 01/30/2023 | 665,412 | 05/31/2023 | 119 | 4.799 | 665,549 | 313384GG8 | 27537 | 665,587 |
| Fund Total and Average | | \$ 5,178,000 | 4.585 | | \$ 5,069,198 | | 118 | 4.749 | \$ 5,098,534 | | | \$ 5,100,091 |
| GRAND TOTALS: | | \$ 11,183,425 | 4.587 | | \$ 10,955,550 | | 118 | 4.748 | \$ 11,011,720 | | | \$ 11,014,988 |

*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 01/31/2023



Northern California Power Agency
Treasurer's Report

01/31/2023

LEC Issue #1 2010 DSR Fund

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|------------------------|---------------------|--------------|---------------|---------------|-----------------|---------------|------------------|-------------------|--------------|------------|--------------|----------------|
| US Bank Trust | USB | 1,834 | 0.005 | | 1,834 | | 1 | 0.005 | 1,834 | SYS79005 | 79005 | 1,834 |
| Federal Home Loan Mt | USBT | 4,800,000 | 5.010 | 12/29/2022 | 4,800,000 | 12/29/2025 | 1,062 | 5.010 | 4,794,240 | 3134GY7C0 | 27506 | 4,800,000 |
| Federal Farm Credit | USBT | 4,430,000 | 0.840 | 03/02/2021 | 4,430,000 | 03/02/2026 | 1,125 | 0.840 | 4,008,087 | 3133EIMSK9 | 27199 | 4,430,000 |
| Federal Home Loan Ba | USBT | 150,000 | 0.875 | 08/27/2021 | 150,528 | 08/12/2026 | 1,227 | 0.799 | 135,789 | 3130AN4T4 | 27270 | 150,371 |
| Fund Total and Average | | \$ 9,381,834 | 2.974 | | \$ 9,382,362 | | 1094 | 2.973 | \$ 8,939,950 | | | \$ 9,382,206 |

LEC Iss#1 2010B BABS Subs Resv

| | | | | | | | | | | | | |
|------------------------|------|--------------|-------|------------|--------------|------------|-----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 769 | 0.005 | | 769 | | 1 | 0.005 | 769 | SYS79006 | 79006 | 769 |
| Federal Home Loan Ba | USBT | 2,311,000 | 4.580 | 12/06/2022 | 2,259,548 | 05/30/2023 | 118 | 4.749 | 2,275,572 | 313384GF0 | 27495 | 2,276,307 |
| Fund Total and Average | | \$ 2,311,769 | 4.578 | | \$ 2,260,317 | | 118 | 4.748 | \$ 2,276,341 | | | \$ 2,277,076 |

LEC Issue #2 2010B DSR BABS

| | | | | | | | | | | | | |
|------------------------|------|---------------|-------|------------|---------------|------------|-----|-------|---------------|-----------|-------|---------------|
| US Bank Trust | USB | 1,023 | 0.005 | | 1,023 | | 1 | 0.005 | 1,023 | SYS79013 | 79013 | 1,023 |
| Federal Home Loan Ba | USBT | 956,000 | 4.580 | 12/06/2022 | 934,716 | 05/30/2023 | 118 | 4.749 | 941,345 | 313384GF0 | 27496 | 941,648 |
| Fund Total and Average | | \$ 957,023 | 4.575 | | \$ 935,739 | | 118 | 4.744 | \$ 942,368 | | | \$ 942,671 |
| GRAND TOTALS: | | \$ 12,650,626 | 3.384 | | \$ 12,578,418 | | 845 | 3.426 | \$ 12,168,659 | | | \$ 12,601,952 |

*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 01/31/2023

Callable Dates:

| | |
|-------|------------------|
| Inv # | |
| 27199 | FFCB Anytime |
| 27506 | FHLMC 12/29/2023 |



Northern California Power Agency
Treasurer's Report

01/31/2023

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 | | 0 | 1.329 | | 0 | | 1 | 1.329 | | 0 | 70047 | 0 |
| First American Govt. | USBGC | 9,000 | 4.060 | | 9,000 | | 1 | 4.060 | 9,000 | SYS70041 | 70041 | 9,000 |
| California Asset Mgm | CMP | 2,191,913 | 4.300 | 09/09/2022 | 2,191,913 | | 1 | 4.300 | 2,191,913 | SYS70075 | 70075 | 2,191,913 |
| Caterpillar Financia | USBGC | 465,000 | 3.250 | 02/03/2020 | 496,569 | 12/01/2024 | 689 | 1.776 | 454,412 | 14912L6G1 | 26952 | 476,988 |
| Nashville Met Gov | USBGC | 500,000 | 0.610 | 02/18/2021 | 500,000 | 07/01/2025 | 881 | 0.610 | 456,360 | 592112UB0 | 27176 | 500,000 |
| Federal National Mtg | USBGC | 1,000,000 | 0.600 | 07/30/2020 | 1,001,000 | 07/29/2025 | 909 | 0.579 | 914,980 | 3136G4D75 | 27047 | 1,000,499 |
| Federal National Mtg | USBGC | 1,000,000 | 0.600 | 08/18/2020 | 1,000,000 | 08/18/2025 | 929 | 0.600 | 913,790 | 3136G4G72 | 27057 | 1,000,000 |
| Federal Farm Credit | USBGC | 750,000 | 0.530 | 09/29/2020 | 750,000 | 09/29/2025 | 971 | 0.530 | 681,760 | 3133EMBH4 | 27083 | 750,000 |
| Federal Farm Credit | USBGC | 670,000 | 0.530 | 09/29/2020 | 670,000 | 09/29/2025 | 971 | 0.530 | 609,057 | 3133EMBJ0 | 27084 | 670,000 |
| Apple Inc. | USBGC | 500,000 | 0.700 | 02/17/2021 | 500,000 | 02/08/2026 | 1,103 | 0.699 | 450,505 | 037833EB2 | 27170 | 500,000 |
| JP Morgan | USBGC | 500,000 | 1.200 | 04/30/2021 | 500,000 | 04/30/2026 | 1,184 | 1.200 | 438,180 | 48126G3G3 | 27222 | 500,000 |
| MassMutual Global Fu | USBGC | 1,000,000 | 1.200 | 08/02/2021 | 1,007,220 | 07/16/2026 | 1,261 | 1.050 | 895,050 | 57629WDE7 | 27250 | 1,005,039 |
| Bank of America Corp | USBGC | 100,000 | 1.250 | 08/26/2021 | 100,000 | 08/26/2026 | 1,302 | 1.250 | 86,867 | 06048WN22 | 27259 | 100,000 |
| Caterpillar Financia | USBGC | 500,000 | 1.150 | 10/13/2021 | 498,165 | 09/14/2026 | 1,321 | 1.227 | 447,275 | 14913R2Q9 | 27290 | 498,650 |
| TSMC Arizona Corp. | USBGC | 850,000 | 1.750 | 12/08/2021 | 857,242 | 10/25/2026 | 1,362 | 1.567 | 769,446 | 872898AA9 | 27335 | 855,540 |
| Public Storage | USBGC | 515,000 | 1.500 | 11/15/2021 | 515,242 | 11/09/2026 | 1,377 | 1.490 | 465,756 | 74460DAG4 | 27310 | 515,183 |
| Public Storage | USBGC | 1,064,000 | 1.500 | 12/08/2021 | 1,065,234 | 11/09/2026 | 1,377 | 1.475 | 962,260 | 74460DAG4 | 27341 | 1,064,946 |
| City of Beverly Hill | USBGC | 200,000 | 1.327 | 06/28/2022 | 179,194 | 06/01/2027 | 1,581 | 3.654 | 176,170 | 088006KB6 | 27424 | 181,694 |
| Fund Total and Average | | \$ 11,814,913 | 1.712 | | \$ 11,840,779 | | 914 | 1.661 | \$ 10,922,811 | | | \$ 11,819,452 |
| GRAND TOTALS: | | \$ 11,814,913 | 1.712 | | \$ 11,840,779 | | 914 | 1.661 | \$ 10,922,811. | | | \$ 11,819,452 |

*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 01/31/2023

Callable Dates:

| Inv # | |
|-------|-----------------------------|
| 27047 | FHLMC |
| 27057 | Quarterly |
| 27083 | Quarterly |
| 27084 | FFCB |
| 27170 | Anytime |
| 27170 | Anytime |
| 27222 | Anytime starting 1/8/2026 |
| 27259 | Annually starting 4/30/2023 |
| | Semi-annually |



Northern California Power Agency
Treasurer's Report

01/31/2023

LEC GHG Auction Acct

| Issuer | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP | Investment # | Carrying Value |
|--|---------------------|--------------|----------------|---------------|-----------------|---------------|------------------|-------------------|--------------|---------------------------|----------------|----------------|
| Local Agency Investm California Asset Mgm | CMP | 0 719,791 | 1.329 4.300 | 09/13/2022 | 0 719,791 | | 1 1 | 1.329 4.300 | 0 719,791 | 0 SYS70046 SYS70077 | 70046 70077 | 0 719,791 |
| Fund Total and Average | | \$ 719,791 | 4.300 | | \$ 719,791 | | 1 | 4.300 | \$ 719,791 | | | \$ 719,791 |
| GRAND TOTALS: | | \$ 719,791 | 4.300 | | \$ 719,791 | | 1 | 4.300 | \$ 719,791. | | | \$ 719,791 |

*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 : 01/31/2023



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 9

Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

Subject: January 31, 2023 Financial Reports (Unaudited)

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

| | | January | |
|--|-----------|--------------------|-----------------------|
| | | 2023 | 2022 |
| ASSETS | | | |
| CURRENT ASSETS | | | |
| Cash and cash equivalents | \$ | 719,791 | \$ 1,181,700 |
| Interest receivable | | 21,432 | 27,501 |
| Inventory and supplies - at average cost | | 2,628,051 | 4,494,359 |
| Prepaid insurance | | 1,092,213 | 1,091,524 |
| Due from (to) Agency, net | | 71,627,106 | 32,684,004 |
| TOTAL CURRENT ASSETS | | 76,088,593 | 39,479,088 |
| RESTRICTED ASSETS | | | |
| Cash and cash equivalents | | 2,207,031 | 2,986,957 |
| Investments | | 33,230,425 | 35,526,181 |
| Interest receivable | | 36,958 | 27,958 |
| TOTAL RESTRICTED ASSETS | | 35,474,414 | 38,541,096 |
| ELECTRIC PLANT | | | |
| Electric plant in service | | 447,458,697 | 410,208,080 |
| Less: accumulated depreciation | | (132,489,683) | (117,272,377) |
| TOTAL ELECTRIC PLANT | | 314,969,014 | 292,935,703 |
| OTHER ASSETS | | | |
| Regulatory assets | | 29,385,892 | 21,734,687 |
| TOTAL OTHER ASSETS | | 29,385,892 | 21,734,687 |
| TOTAL ASSETS | | 455,917,913 | 392,690,574 |
| DEFERRED OUTFLOWS OF RESOURCES | | | |
| Unamortized excess cost on advance refunding of debt, net | | 659,215 | 993,040 |
| Asset retirement obligations | | 195,226 | 190,314 |
| TOTAL DEFERRED OUTFLOWS OF RESOURCES | | 854,441 | 1,183,354 |
| TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES | \$ | 456,772,354 | \$ 393,873,928 |

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

| | January | |
|--|-----------------------|-----------------------|
| | 2023 | 2022 |
| LIABILITIES & NET POSITION | | |
| CURRENT LIABILITIES | | |
| Accounts and retentions payable | \$ 19,923,494 | \$ 2,385,947 |
| Operating reserves | 13,653,832 | 17,087,950 |
| Current portion of long-term debt | 13,842,676 | 12,880,000 |
| Accrued interest payable | 2,120,245 | 2,176,881 |
| TOTAL CURRENT LIABILITIES | 49,540,247 | 34,530,778 |
| NON-CURRENT LIABILITIES | | |
| Operating reserves and other deposits | 711,668 | 1,195,412 |
| Asset retirement obligations | 195,226 | 190,314 |
| Long-term debt, net | 315,948,765 | 293,655,000 |
| TOTAL NON-CURRENT LIABILITIES | 316,855,659 | 295,040,726 |
| TOTAL LIABILITIES | 366,395,906 | 329,571,504 |
| DEFERRED INFLOWS OF RESOURCES | | |
| Regulatory credits | 38,817,410 | 43,247,948 |
| NET POSITION | | |
| Invested in capital assets, net of related debt | (1,561,260) | 164,549 |
| Restricted | 8,932,766 | 11,921,647 |
| Unrestricted | 44,187,532 | 8,968,280 |
| TOTAL NET POSITION | 51,559,038 | 21,054,476 |
| TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION | \$ 456,772,354 | \$ 393,873,928 |

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

| | | Seven Months Ended January | |
|--|----|----------------------------|--------------------|
| | | 2023 | 2022 |
| SALES FOR RESALE | | | |
| Participants | \$ | 40,315,222 | \$ 20,420,513 |
| Other | | 140,308,992 | 81,830,326 |
| TOTAL SALES FOR RESALE | | 180,624,214 | 102,250,839 |
| OPERATING EXPENSES | | | |
| Operations | | 115,998,249 | 70,970,074 |
| Depreciation | | 8,255,408 | 8,254,194 |
| Purchased power | | 4,856,698 | 2,652,244 |
| Maintenance | | 2,974,294 | 2,782,058 |
| Administrative and general | | 3,271,657 | 3,325,622 |
| Transmission | | 1,937,219 | 497,273 |
| Intercompany (sales) purchases | | 184,851 | 240,859 |
| TOTAL OPERATING EXPENSES | | 137,478,376 | 88,722,324 |
| NET OPERATING REVENUES | | 43,145,838 | 13,528,515 |
| OTHER REVENUES (EXPENSES) | | | |
| Interest expense | | (7,616,035) | (7,832,600) |
| Interest income | | 1,847,515 | 154,237 |
| Other | | 7,491,166 | 6,353,919 |
| TOTAL OTHER REVENUES (EXPENSES) | | 1,722,646 | (1,324,444) |
| FUTURE RECOVERABLE AMOUNTS | | (332,667) | (8,070,094) |
| REFUNDS TO PARTICIPANTS | | 80,601 | 459,473 |
| INCREASE IN NET POSITION | | 44,616,418 | 4,593,450 |
| NET POSITION | | | |
| Beginning of year | | 6,942,620 | 16,461,026 |
| End of period | \$ | 51,559,038 | \$ 21,054,476 |

**Lodi Energy Center
FY 2023 Operating Costs
As of January 31, 2023**

| | Annual Budget | Actual | Remaining | YTD % Remaining | Notes |
|---|-----------------------|-----------------------|-----------------------|--------------------|-------|
| Variable Costs | | | | | |
| Variable | \$ 6,088,236 | \$ 3,435,394 | \$ 2,652,842 | 44% | |
| Fuel & LDC Costs | 64,819,215 | 102,156,033 | (37,336,818) | 0% | A |
| GHG Allowance Costs | 20,249,959 | 6,204,195 | 14,045,764 | 69% | |
| CA ISO Charges | 1,080,335 | 1,937,219 | (856,884) | 0% | B |
| CA ISO Energy Purchases | 1,889,864 | 4,856,698 | (2,966,834) | 0% | B |
| Total Variable Costs | 94,127,609 | 118,589,539 | (24,461,930) | 0% | |
| Routine O&M Costs | | | | | |
| Fixed O&M | 3,151,902 | 2,611,125 | 540,777 | 17% | |
| Administration | 195,869 | 82,513 | 113,356 | 58% | C |
| Mandatory Costs | 365,380 | 158,550 | 206,830 | 57% | |
| Routine O&M Costs without Labor | 3,713,151 | 2,849,959 | 863,192 | 23% | |
| Labor | 6,112,796 | 3,413,508 | 2,699,288 | 44% | |
| Total Routine O&M Cost | 9,825,947 | 6,263,467 | 3,562,480 | 36% | |
| Other Plant Costs | | | | | |
| Debt Service | 25,996,203 | 15,164,452 | 10,831,751 | 42% | |
| Insurance | 1,313,901 | 766,442 | 547,459 | 42% | |
| Other Costs | 151,208 | 94,321 | 56,887 | 38% | D |
| Generation Services Shared | 420,233 | 245,091 | 175,142 | 42% | |
| Administrative & General (Allocated) | 2,270,375 | 1,324,378 | 945,997 | 42% | |
| Power Management Allocated Costs | 1,450,728 | 846,258 | 604,470 | 42% | |
| Total Other Plant Costs | 31,602,648 | 18,440,942 | 13,161,706 | 42% | |
| Total O&M Costs | 135,556,204 | 143,293,948 | (7,737,744) | 0% | |
| Projects | | | | | |
| Operations & Maintenance | 1,342,970 | 40,826 | 1,302,144 | 97% | |
| Capital | 280,000 | - | 280,000 | 100% | |
| Maintenance Reserve | 2,008,392 | 1,171,562 | 836,830 | 42% | |
| Total Projects | 3,631,362 | 1,212,388 | 2,418,974 | 67% | |
| Annual Cost | 139,187,566 | 144,506,336 | (5,318,770) | 0% | |
| Less: Third Party Revenue | | | | | |
| Interest Income | 250,000 | 551,804 | (301,804) | 0% | |
| ISO Energy Sales | 121,619,515 | 140,078,508 | (18,458,993) | 0% | |
| Ancillary Services Sales | 2,317,565 | 230,484 | 2,087,081 | 90% | |
| Other Income | - | 8,890 | (8,890) | 0% | |
| | 124,187,080 | 140,869,686 | (16,682,606) | 0% | |
| Net Annual Cost to Participants (without GHG Transfer Credits) | 15,000,486 | 3,636,650 | 11,363,836 | | |
| GHG Allowance Credits | 19,709,710 | 6,204,195 | 13,505,515 | 69% | |
| Net Annual Cost to Participants (with GHG Transfer Credits) | \$ (4,709,224) | \$ (2,567,545) | \$ (2,141,679) | 45% | |
| Total Variable Costs | 94,127,609 | 118,589,539 | (24,461,930) | | |
| Total Fixed Costs | 45,059,957 | 25,916,797 | 19,143,160 | | |
| | \$ 139,187,566 | \$ 144,506,336 | \$ (5,318,770) | | |
| Net Cumulative Generation (MWh) | 1,626,895 | 906,154 | | | |
| Total O&M Cost Per MWh | \$ 83.32 | \$ 158.13 | | | |
| Net Annual Cost Per MWh | \$ (2.89) | \$ (2.83) | | | |
| Net Annual Cost Per KW Month | \$ (1.30) | \$ (0.71) | | | |

Footnotes:

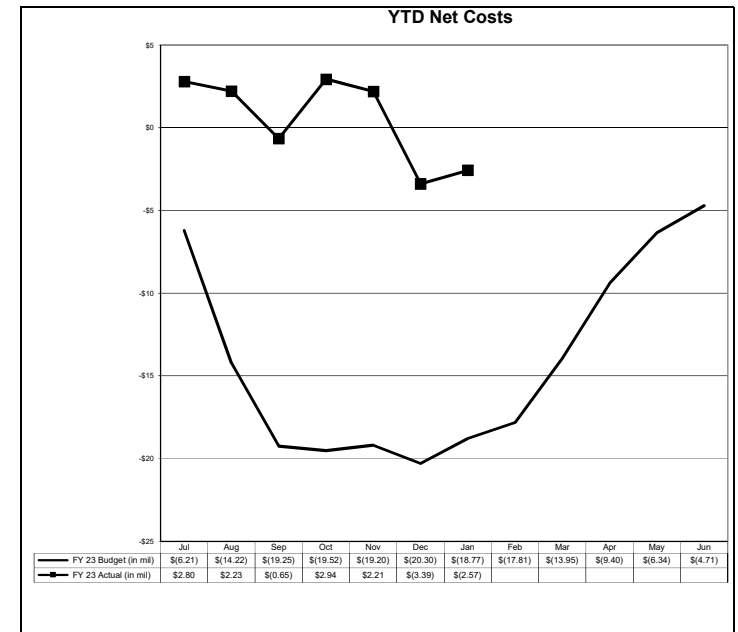
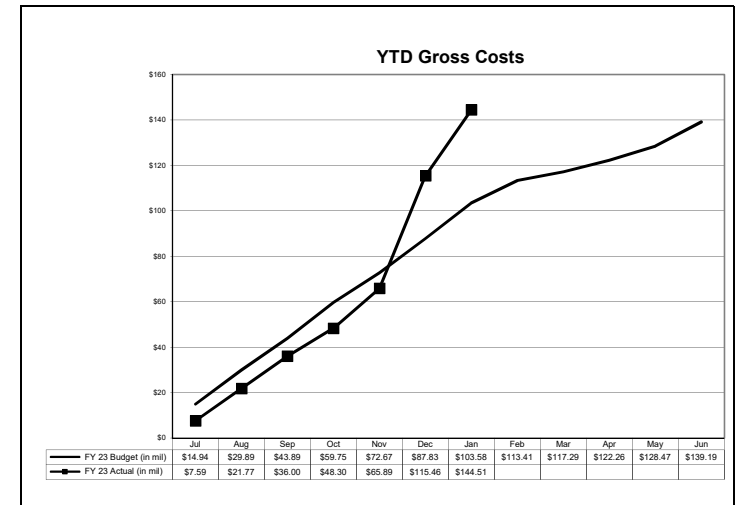
General - The plant ran 30 out of 31 days during the month.

A - Higher fuel costs due to higher prices on natural gas as costs averaged \$17/mmBtu in January.

B - Higher CAISO costs due to higher rates in during November through January.

C - Expenditure for materials and supplies for annual outage and expected to levelize by year end.

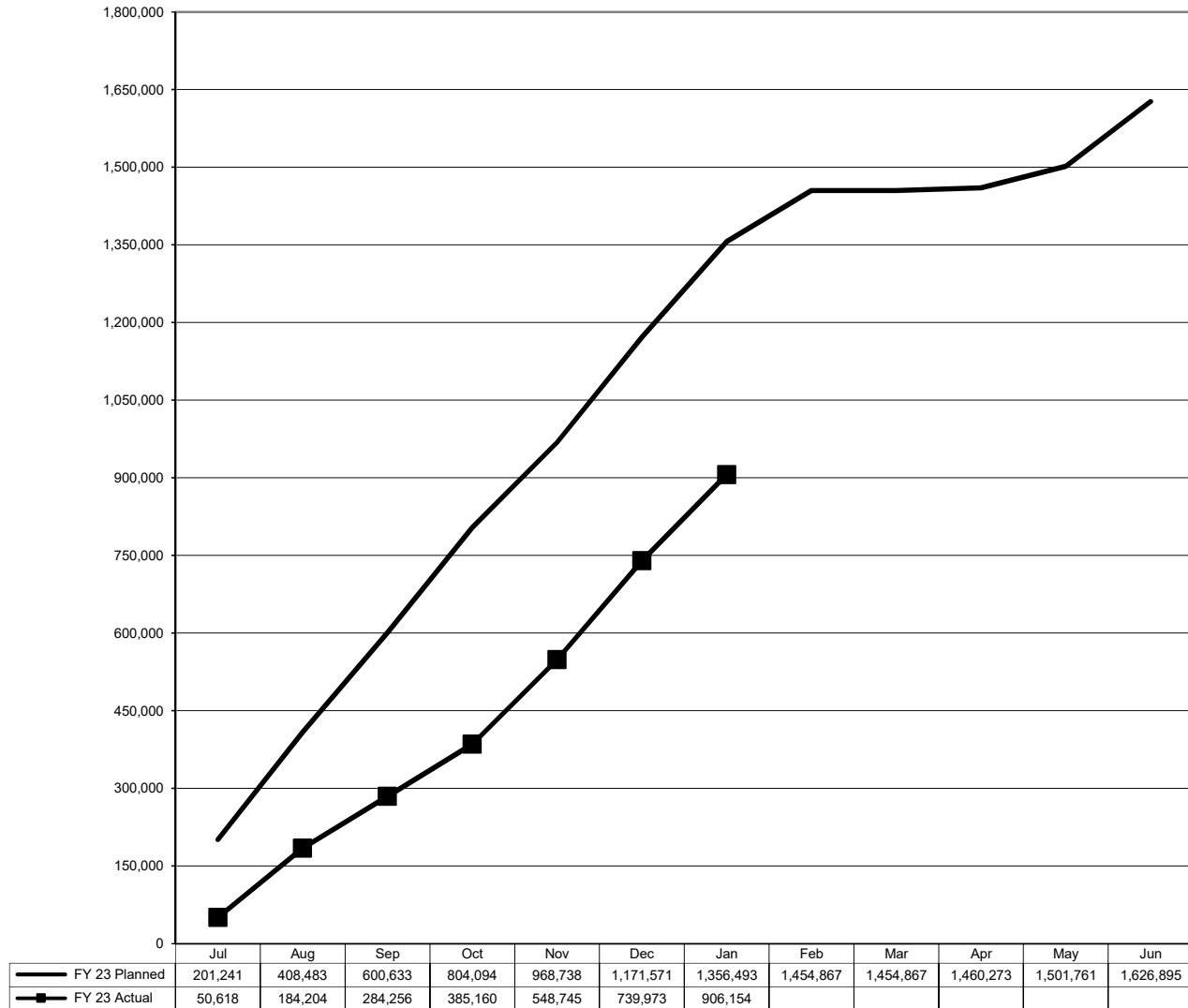
D - Expenditure for trustee and debt fees which are expected to levelize by year end.



Annual Budget LEC Generation Analysis Planned vs. Actual FY 2023

In MWh

Lodi Energy Center





Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 10

Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

[illegible]

| | CY 2023 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center | | | | | | | | | | | | | |
|--|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| | Actual | Estimated | | | | | | | | | | | CY 2023 | Cumulative |
| IDENTIFIER | January | February | March | April | May | June | July | August | September | October | November | December | Total | Total |
| | | | | | | | | | | | | | | |
| Energy (MWh) | 166,180 | 154,946 | 171,373 | 0 | 0 | 68,407 | 0 | 0 | 0 | 0 | 0 | 0 | 560,906 | 11,784,481 |
| Gas Schedule (MMBtu) | 1,184,796 | 1,202,382 | 1,329,852 | 0 | 0 | 530,842 | 0 | 0 | 0 | 0 | 0 | 0 | 4,247,872 | 84,968,777 |
| 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) | 63,938 | 64,887 | 71,765 | 0 | 0 | 28,647 | 0 | 0 | 0 | 0 | 0 | 0 | 229,237 | 4,593,391 |
| 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) | 1,003,773 | 1,068,660 | 1,140,425 | 1,140,425 | 1,140,425 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 | 1,169,072 |
| | | | | | | | | | | | | | | |
| Compliance Instrument Participant Transfers | | | | | | | | | | | | | | |
| Carryover Allowances | 30,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 30,000 | 99,263 |
| Auction Allowances | 14,857 | 317,268 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 332,125 | 4,908,024 |
| 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) | 44,857 | 317,268 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 362,125 | 5,007,287 |
| | | | | | | | | | | | | | | |
| 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 | 3,418,853 |
| | | | | | | | | | | | | | | |
| Total Monthly Activity (MT) | 44,857 | 317,268 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 362,125 | 5,053,609 |
| Cumulative MT Account Balance (MTA) | 1,318,166 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 | 1,635,434 |
| MTA Shortfall (MT) | (314,393) | (566,774) | (495,009) | (495,009) | (495,009) | (466,362) | (466,362) | (466,362) | (466,362) | (466,362) | (466,362) | (466,362) | (466,362) | (466,362) |
| Current Month CCA Balance (\$) | 0 | 0 | 468,246 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 468,246 |
| Monthly GHG Price | 29.65 | 29.81 | 33.94 | 30.14 | 30.31 | 34.43 | 30.64 | 30.80 | 34.93 | 31.13 | 31.30 | 35.42 | | |



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 11

Meeting Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

Subject: Approval of Updated Lodi Energy Center (LEC) Project Management and Operations Agreement Schedule 6.00 – Contact List

Proposal

Approval of revised Project Management and Operations Agreement (“PMOA”) Schedule 6.00 to a requested update to the designated contacts for the City of Gridley and the California Department of Water Resources.

Background

NCPA and the LEC Project Participants executed the LEC PMOA, which became effective on August 1, 2010. The PMOA contains multiple Schedules which provide procedures, protocols, and guidelines regarding Project operations. Pursuant to the PMOA, Schedules may be revised, deleted or added from time to time based on then existing operating or market conditions, and subject to the approval of the Project Participant Committee (PPC). Certain Schedules also require approval by the NCPA Commission when such Schedules “...could be reasonably viewed as having an impact on other NCPA projects.” (PMOA, Article 10).

Staff is recommending changes to PMOA Schedule 6.00, “Contact List” which provides the contact information for each of the Project Participants. These changes will update the title of the designated contact for the City of Lodi, and update the designated contacts for NCPA’s Lodi Energy Center Plant Manager and Assistant General Manager of Generation Services. Schedule 6.00 does not require approval by the NCPA Commission.

Fiscal Impact

No significant costs will be incurred to implement the change to the PMOA Schedule 6.00 and funds are available in the Project Budget to support the work associated with this update.

Environmental Analysis

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

Recommendation

NCPA staff recommends that the PPC approve the requested revisions to LEC PMOA Schedule 6.00.

Submitted by:

MICHAEL DEBORTOLI
Assistant General Manager Generation Services

Attachments: (1)
PMOA Schedule 6.00 Contact List

Agreement Schedule 6.00

Contact List

Northern California Power Agency

Northern California Power Agency
Attn: ~~Michael DeBortoli~~Rafael Santana, Lodi Energy Center Manager
651 Commerce Drive
Roseville, California, 95678
Telephone: (209) 210-5000
Facsimile: (209) 333-5215
Email: ~~michael.debortoli@ncpa.com~~ rafael.santana@ncpa.com

With copies to:

Northern California Power Agency
Attn: ~~VACANT~~Michael DeBortoli, Assistant General Manager – Generation Services
651 Commerce Drive
Roseville, California, 95678
Telephone: (916) 781-4201
Facsimile: (916) 783-7693
Email: michael.debortoli@ncpa.com

Northern California Power Agency
Attn: Tony Zimmer, Assistant General Manager – Power Management
651 Commerce Drive
Roseville, California, 95678
Telephone: (916) 781-4246
Facsimile: (916) 783-4252
Email: tony.zimmer@ncpa.com

City of Azusa

City of Azusa
Azusa Light & Water Department
Attn: Richard Torres, Interim Electric Utility Director
729 N. Azusa Avenue
P.O. Box 9500
Azusa, California 91702-9500
Telephone: (626) 812-5211
Facsimile: (626) 334-3163
Email: rtorres@azusaca.gov

San Francisco Bay Area Rapid Transit District

San Francisco Bay Area Rapid Transit District
Attn: Paul Bostrom, Energy Division Manager
2150 Webster Street, 8th Floor
Oakland, California 94612-3534
Telephone: (510) 464-6435 or (510) 915-2509
Facsimile: (510) 464-6118
Email: pbostro@bart.gov

Modesto Irrigation District

Modesto Irrigation District
Attn: James McFall, Resource Planning and Development Manager
P.O. Box 4060
1231 Eleventh Street
Modesto, California 95352
Telephone: (209) 526-1521
Facsimile: (209) 526-7575
Email: jamesm@mid.org

California Department of Water Resources:

Department of Water Resources
Attention: Mike Ramsey, Acting Manager
2135 Butano Drive, Suite 100
Sacramento, California 95835
Telephone: (916) 820-7871
Facsimile: (916) 574-0660
Email: mike.ramsey@water.ca.gov

Plumas-Sierra Rural Electric Cooperative

Plumas-Sierra REC
Attn: Bob Marshall, General Manager
73233 Highway 70
Portola, California 96122-7064
Telephone: (530) 832-4261
Facsimile: (530) 832-6070
Email: marshall@psln.com

City of Biggs

City of Biggs
Attn: Mark Sorensen, City Administrator
465 "C" Street
P.O. Box 307
Biggs, California 95917-0307
Telephone: (530) 868-5493
Facsimile: (530) 868-5239
Email: biggs1@biggs-ca.gov

City of Gridley

City of Gridley
Attn: Jake Carter, Electric Utility Director
685 Kentucky Street
Gridley, California 95948-2117
Telephone: (530) 846-3631
Facsimile: (530) 846-3229
Email: jcarter@gridley.ca.us

City of Healdsburg

City of Healdsburg
Attn: Terry Crowley, Electric Utility Director
401 Grove Street
Healdsburg, California 95448
Telephone: (707) 431-3340
Facsimile: (707) 431-2710
Email: tcrowley@ci.healdsburg.ca.us

City of Lodi

City of Lodi
Attn: Melissa Price, ~~Interim Utility Director~~ Rates & Resources Manager
1331 S. Ham Lane
Lodi, California 95242
Telephone: (209) 333-6811 or (209) 639-1543
Facsimile: (209) 333-6839
Email: mprice@lodi.gov

City of Lompoc

City of Lompoc
Attn: Charles Berry
100 Civic Center Plaza
P.O. Box 8001
Lompoc, California 93438-8001
Telephone: (805) 875-8299 (switchboard)
Facsimile: (805) 875-8399
Email: c_berry@ci.lompoc.ca.us

Silicon Valley Power

Silicon Valley Power
Attn: Steve Hance, Senior Electric Division Manager
1500 Warburton Avenue
Santa Clara, California 95050
Telephone: (408) 615-6691
Facsimile: (408) 249-0217
Email: shance@svpower.com

City of Ukiah

City of Ukiah
Attn: Cindy Sauers, Utility Director
300 Seminary Avenue
Ukiah, California 95482
Telephone: (707) 463-6286 or (707) 972-7695
Facsimile: (707) 463-6740
Email: csauers@cityofukiah.com

Power and Water Resources Pooling Authority

Power and Water Resources Pooling Authority
Attn: Bruce McLaughlin
Cameron – Daniel, PC950 Reserve Drive, Suite 160
Roseville, CA 95678
Telephone: (916) 531-5566 (direct)
Email: bcm@cameron-daniel.com



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 12

Meeting Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

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

Proposal

Approve the First Amendment to the Multi-Task Consulting Services Agreement with Reliability Optimization, Inc. for predictive maintenance testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, accepting assignment to RTS Reliability Testing Services, LLC, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Predictive maintenance testing services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task Consulting Services Agreement with Reliability Optimization, Inc. effective December 6, 2019, for use at all NCPA, NCPA Member, SCPPA, and SCPPA Member facilities.

Effective December 1, 2022, Reliability Optimization, Inc. was acquired by RTS Reliability Testing Services, LLC. NCPA now desires to enter into a First Amendment to the Multi-Task Consulting Services Agreement accepting assignment to RTS Reliability Testing Services, LLC.

Selection Process

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA does not have other agreements for similar services at this time. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

MICHAEL DEBORTOLI
Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task Consulting Services Agreement with Reliability Optimization, Inc.
- First Amendment to Multi-Task Consulting Services Agreement with Reliability Optimization, Inc. Accepting Assignment to RTS Reliability Testing Services, LLC



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND RELIABILITY OPTIMIZATION, 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 Reliability Optimization, Inc., a corporation with its office located at 325 Park Drive, Aptos, CA 95003 ("Consultant") (together sometimes referred to as the "Parties") as of December 6, 2019 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

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

4.3 Professional Liability Insurance. 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 confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

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

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

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

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

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

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

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

Reliability Optimization, Inc.
Attention: Kevin Nordenstrom, President
325 Park Drive
Aptos, CA 95003

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

Date 12/6/19



RANDY S. HOWARD,
General Manager

RELIABILITY OPTIMIZATION, INC.

Date 18 OCT 19


KEVIN NORDENSTROM,
President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Reliability Optimization, Inc. ("Consultant") shall provide predictive maintenance testing services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Vibration Testing
- On-Line/Off-Line Motor Analysis
- Infrared Thermographic Imaging
- Airborne Ultrasonic Testing
- Corona Survey
- Lubrication Oil Analysis
- Transformer Oil Analysis
- SF6 Gas Analysis
- Generator & Generator Step Up Transformer Partial Discharge Analysis
- PdM Testing Reporting

List of Subcontractors to include the following:

- Industrial Tests, Inc.
- SDMyers, LLC
- Sean Nordenstrom

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Pricing for CT facilities:

- Lodi Energy Center – \$84,498 annually, billed at \$7,041.50 monthly
- CT1 Lodi – \$12,023 annually, billed at \$6,011.50 semi-annually
- CT1 Alameda – \$17,100 annually, billed at \$8,550.00 semi-annually
- STIG – \$20,962 annually, billed at \$10,481.00 semi-annually

If additional work is needed outside of the standard scope of predictive maintenance, the pricing will be agreed upon at the time a Purchase Order is issued.

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, KEVIN NORDENSTROM, PRESIDENT
(Name of person signing affidavit)(Title)

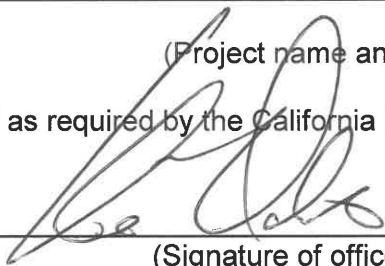
do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

RELIABILITY OPTIMIZATION, 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 18 day of OCTOBER, 20 19.

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.



**FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND RELIABILITY OPTIMIZATION, INC.
ACCEPTING ASSIGNMENT TO RTS RELIABILITY TESTING SERVICES, LLC**

This First Amendment ("Amendment") to the Multi-Task Consulting Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and RTS Reliability Testing Services, LLC ("Consultant") (collectively referred to as "the Parties") as of _____, 2023.

WHEREAS, the Agency and Reliability Optimization, Inc. entered into a Multi-Task Consulting Services Agreement dated effective December 6, 2019, (the "Agreement") for Consultant to provide predictive maintenance testing services for the Agency, Agency Members, the Southern California Public Power Authority (SCPPA) or SCPPA Members; and

WHEREAS, effective December 1, 2022, Reliability Optimization, Inc. was acquired by RTS Reliability Testing Services, LLC and the Parties now desire to assign the Agreement to RTS Reliability Testing Services, LLC; and

WHEREAS, the Parties now desire to amend Section 10.7 entitled "Contract Administrator" of the Agreement to reflect the change of the administrator's name; and

WHEREAS, the Parties now desire to amend Section 10.8 entitled "Notices" of the Agreement to reflect the change of the Consultant's name; and

WHEREAS, the Agency now desires to amend Exhibit A entitled "Scope of Services" of the Agreement to reflect the change of the Consultant's name; and

WHEREAS, the Parties now desire to amend Exhibit C entitled "Affidavit of Compliance for Contractors" of the Agreement to reflect the change of the Consultant's name; and

WHEREAS, the Parties and Reliability Optimization, Inc. agree to the assignment of the Agreement to RTS Reliability Testing Services, LLC; and

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

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

NOW, THEREFORE, the Parties agree as follows:

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

"This Multi-Task 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 RTS Reliability Testing

Services, LLC, an Arkansas limited liability company, with its office located at 1049 Triad Court, Marietta, GA 30062 ("Consultant") (together sometimes referred to as the "Parties") as of December 6, 2019 ("Effective Date") in Roseville, California."

2. Section 10.7 Contract Administrator is replaced in its entirety as follows:

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

3. Section 10.8 Notices is replaced in its entirety as follows:

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

RTS Reliability Testing Services, LLC
Attn: Kevin Nordenstrom
1049 Triad Court
Marietta, GA 30062

With a copy to: mholbrook@atslab.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 Luckhardt
General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

4. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
5. **Exhibit C – CERTIFICATION – Affidavit of Compliance for Contractors** is amended to include RTS Reliability Testing Services, LLC and shall be executed as set forth in the attached Exhibit C.
6. Agency hereby approves the name change of the Agreement from Reliability Optimization, Inc. to RTS Reliability Testing Services, LLC, Consultant.
7. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

Date:_____

RTS RELIABILITY TESTING SERVICES, LLC

RANDY S. HOWARD, General Manager

CHARLES R. SCOTT, President

Date:_____

RELAIBILITY OPTIMIZATION, INC. consents to the foregoing.

KEVIN NORDENSTROM,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

RTS Reliability Testing Services, LLC ("Consultant") shall provide predictive maintenance testing services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Vibration Testing
- On-Line/Off-Line Motor Analysis
- Infrared Thermographic Imaging
- Airborne Ultrasonic Testing
- Corona Survey
- Lubrication Oil Analysis
- Transformer Oil Analysis
- SF6 Gas Analysis
- Generator & Generator Step Up Transformer Partial Discharge Analysis
- PdM Testing Reporting

List of Subcontractors to include the following:

- Industrial Tests, Inc.
- SDMyers, LLC
- Sean Nordenstrom

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

RTS RELIABILITY TESTING SERVICES, LLC
(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 13

Meeting Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

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

Proposal

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

Background

Various HRSG related inspection services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with Groome Industrial, Nooter Eriksen (pending) and Tetra Engineering.

Selection Process

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

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with HRST, Inc.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
HRST, 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 HRST, Inc., a corporation with its office located at 6557 City West Parkway, Eden Prairie, MN 55344 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2023 ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency 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 to 'orders@hrstinc.com'. 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 (\$1,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 T&M Invoices. Contractor shall submit T&M 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 Fixed Price Invoices. Contractor shall submit all Fixed Price invoices pursuant to the payment schedule outlined on the pertinent Purchase Order or, if lacking therein, Contractor's proposal.

2.3 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 one million dollars (\$1,000,000) 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. 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 LIMITATION OF LIABILITY.

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. Not Applicable.

5.4 Limitation of Liability. Anything in this Agreement to the contrary notwithstanding, either party's total liability to the other party for breaches of this Agreement, other than any liability resulting from a willful or grossly negligent refusal by a party to perform its obligations hereunder, shall in no event exceed the greater of the amounts of insurance required by this Agreement.

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

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

- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

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

- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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.
- 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 with the usual professional standard of care and in accordance with generally accepted practices in effect at the time the services are rendered and 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 or any failure of a Product in accordance with the standards required by this Agreement. If during the one (1) year period following (i) completion of the Work (including any equipment, supplies or other materials used or provided), or (ii) delivery of any Products, any Work or Products 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 so it complies with this warranty. All replaced Products become the property of Contractor. All replaced Work and/or Products are warranted as outlined above for the remainder of the original applicable warranty period.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance,

provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

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

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

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

HRST, Inc.
Attention: Contracts Department
6557 City West Parkway
Eden Prairie, MN 55344

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

HRST, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

JERED C. JACKSON,
Contracts Administrator

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

HRST, Inc. ("Contractor") shall provide HRSG related inspection services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

General services to include, but not be limited to the following:

- Heat Recovery Steam Generator Warranty Inspections
- Heat Recovery Steam Generator Consulting Engineering
- Power Piping Inspections
- Power Piping Design Engineering
- Steam Plant Condition Assessments and Fitness-for-Service Evaluations
- Root Cause Failure Assessments

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 of the Agreement. This Exhibit B pricing may be updated annual by Contractor upon providing the Agency an updated break down for approval with 60 days' notice. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

2023 SERVICE RATES

Effective January 1, 2023 to December 31, 2023

Services Provided Under Time and Expense Contracts with HRST, Inc.

Rates

The following hourly rates shall apply for services, including inspections, meetings, analysis, and generation of reports. Minimum charge for field hours is 4 hours per day. All rates and contract prices are in US dollars. For countries that do not have a tax treaty with USA and require non-resident withholdings tax, the rates shown are net (after the withholdings).

| | |
|---|--------|
| Principal | \$ 335 |
| Engineer / Consultant / Project Manager | \$ 275 |
| Technical Advisor | \$ 230 |
| Design / Drafting | \$ 210 |
| Standby ¹ / Travel Time ² | \$ 150 |

¹ Standby time will be charged at a maximum of 8 hours per day when an HRST employee must remain in close proximity to the jobsite in order to provide additional service, for example, when Sunday is not a workday at the jobsite and travelling home is not viable for the HRST employee. The Purchaser shall remain responsible for expenses incurred while on standby.

² Travel time will be charged at a maximum of 8 hours per day for projects in the continental US. When travel and services occur in the same day, actual service time will be charged at the service rate and actual travel time will be charged at the travel rate.

Overtime / Weekend / Holiday / Emergency

A 40% premium shall apply to all rates. Overtime rates apply when more than 10 hours per day are worked on weekdays and apply to any hours worked on a weekend or holiday, or if the nature of the work is supported by HRST's Emergency Engineer or Technical Advisor.

Expenses

Travel and consumable expenses will be billed at cost plus 10%. Typical expenses include:

- Transportation (airfare, car/fuel/tolls, taxi, parking, etc.)
- Meals & Incidental Expenses (M&IE)³
- Lodging
- Shipping charges

³ Meals and incidental expenses shall be based on the current local M&IE rate: GSA (CONUS), DOD (AK/HI) or USDOS (non-USA).

Equipment Rental & Subcontract Professional Service Rates

Equipment rental required to support HRST Service in North America will be billed per the pricing below. Minimum rental of 2 days applies, which covers all shipping time, and the day equipment arrives onsite. Shipping charges are not included.

- Borescope with 25' (100') foot probe: \$650 (\$1,200)/day
- Positive Material Identification Analyzer: \$400/day
- Acoustic Leak Detection Probe: \$250/day
- HRST Supplied Truck: \$150/day plus fuel
- FLIR Thermal Imaging Camera: \$250/day
- Thermocouple DataLogger: \$150/week
- Thermocouple Welder: \$250/week
- Equipment Rented by HRST: Cost plus 20%

Professional Service subcontracted by HRST and approved by client will be invoiced at cost plus 15%. Examples include: metallurgical analysis, chemistry specialist, gas side equipment cleaning, specialty engineering, NDE technicians and design/drafting

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

HRST, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 14

Meeting Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

Subject: Swaim Biological Incorporated – Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

Proposal

Approve the Multi-Task Professional Services Agreement with Swaim Biological Incorporated for biological monitoring and support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Various biological monitoring and support services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. The current agreement with CH2M Hill Engineers, our current vendor for these services, is expiring. CH2M is no longer offering these services and recommended Swaim Biological Incorporated. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Stratus Environmental.

Selection Process

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

Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$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:

Michael DeBortoli
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task Professional Services Agreement with Swaim Biological Incorporated



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND SWAIM BIOLOGICAL INCORPORATED

This Professional 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 Swaim Biological Incorporated, corporation with its office located at 4556 Contractors Place, Livermore, CA 94551 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2023 ("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) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services or does not respond within the seven day period

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and

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

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

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

4.4 All Policies Requirements.

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

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

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

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific

Agency member, SCPPA or Agency member for which the Services are to be performed.

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

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

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

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel

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

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

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

8.4.1 Immediately terminate the Agreement;

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

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

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

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

Swaim Biological Incorporated
Attention: Karen Swaim
4435 First Street PMB #312
Livermore, CA 94551

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

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

NORTHERN CALIFORNIA POWER AGENCY

SWAIM BIOLOGICAL INCORPORATED

Date_____

Date_____

RANDY S. HOWARD,
General Manager

KAREN E. SWAIM,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Swaim Biological Incorporated ("Consultant") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, NCPA Members, SCPPA, or SCPPA Members, including:

- Environmental and geological consulting;
- On-call biological compliance support;
- On-call biological monitoring;
- Regulatory compliance support;
- Sampling and analysis;
- Data review and evaluation; and
- Other miscellaneous consulting as requested.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Swaim Biological, Inc. (SBI) Jan 1-Dec 31, 2023 - Hourly Rates- Consulting

| Title | Hourly Rate |
|---------------------------------|--------------------|
| Principal | \$170- \$210 |
| Program Manager | \$155-\$165 |
| Principal Regulatory Specialist | \$145-\$160 |
| Project Manager | \$145-\$160 |
| Assistant Project Manager | \$125-\$140 |
| Biologist III | \$120-\$140 |
| Biologist II | \$105-\$120 |
| Biologist I | \$90-\$100 |
| Field Scientist II | \$80-\$90 |
| Field Scientist I | \$70- \$85 |

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, _____

(Name of person signing affidavit)(Title)

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

Swaim Biological Incorporated

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 15

Meeting Date: March 6, 2023

To: Lodi Energy Center Project Participant Committee

Subject: Control Components, Inc. – First Amendment to Five Year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

Proposal

Approve the First Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc. for valve and vent maintenance services and parts, with any non-substantial changes recommended and approved by the NCPA General Counsel, accepting assignment to IMI Critical Engineering LLC, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Valve and vent maintenance services and parts are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc. effective January 26, 2022, for use at all NCPA, NCPA Member, SCPPA, and SCPPA Member facilities.

Effective January 1, 2023, Control Components, Inc. changed their name to IMI Critical Engineering LLC. NCPA now desires to enter into a First Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies accepting assignment to IMI Critical Engineering LLC.

Selection Process

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has one other agreement pending for similar services with Carter Process Control. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

MICHAEL DEBORTOLI
Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc.
- First Amendment to Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Control Components, Inc. Accepting Assignment to IMI Critical Engineering LLC



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

This agreement for general services and purchase of equipment, materials, and supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Control Components Inc., a corporation with its office located at 22591 Avenida Empresa, Rancho Santa Margarita, CA 92688 ("Contractor") (together sometimes referred to as the "Parties") as of January 26, 2022 ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. 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 or monetary cap on Requested Work and all related expenditures authorized by that

Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor begins to perform the Requested Work and provides written notification of such to Agency, within the seven day period, then Contractor actions shall indicate that they agree 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 (\$1,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices.

For Services: Contractor shall submit invoices, 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.

For Goods: Contractor shall submit an invoice upon delivery of the Goods per the delivery terms of the Agreement Contractor shall include the number of the Purchase Order which authorized the Goods for which Contractor is seeking payment.

All invoices shall be sent to:

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

- 2.2 Monthly Payment.** Agency shall make payments, based on invoices received, for Work satisfactorily performed and for authorized reimbursable costs incurred, or for delivery of the Goods, per the delivery terms of this Agreement. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 Payment of Taxes.** Contractor is solely responsible for the payment of all 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. The site is responsible for providing and installing scaffolding and cranes if required.

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. Intentionally left blank.

4.4 Pollution Insurance. Intentionally left blank.

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.5, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.5.2 Notice of Reduction in or Cancellation of Coverage. Contractor shall provide at least thirty (30) days prior written notice to Agency of any cancellation, or other material modification adverse to Agency of the policies referenced in Section 4, including, but not limited to, a reduction in scope, or amount below the scope, or amounts.

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 and 4.5.5, 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, to the extent caused by the negligent acts or omissions of 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 as well as compensation for work performed prior to the notice of termination, including Contractor's actual, direct, unavoidable direct costs resulting from such termination. "Actual, direct, unavoidable costs" include staff hours expended and materials acquired as of the date of termination, expenses incurred by reason of termination or cancellation of agreements between Contractor and its sub-suppliers, and other similar costs, but shall not include profit or overhead expenses of Contractor. Contractor shall make every reasonable effort to

minimize such costs upon termination. In no event shall the compensation of Contractor provided for in this Section exceed the cost of the applicable Purchase Order(s). All cost claimed must be documented by including, but not limited to, contracts, timesheets, purchase orders, etc. Agency, however, may condition payment of the compensation provided for in this Section 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 for services shall be free from defects in design and workmanship, for a period of one hundred and eighty (180) days and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

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

Contractor shall be under no liability in respect of any defects arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow Contractor's instructions, storage, installation, start up, maintenance and repair guidelines, modification, disassembly, alteration or repair of the Goods without Contractor's written approval or where the Goods have been subject to corrosion or have been misused, mishandled or improperly installed. The above warranties do not extend to the supply of soft goods (i.e., balance seals, gaskets, pistons) required to inspect or maintain any part of the Goods supplied unless the repair or replacement of the Goods also requires replacement of associated soft

goods. Goods repaired and parts replaced during the warranty period shall be in warranty for the remainder of the original warranty period.

Contractor's warranty liability is limited solely to repair or replacement of nonconforming Work. Alternatively, at Agency's option to: 1) refund to Agency the purchase price allocable to the nonconforming or warranty portion of the Contract; or 2) reimburse Agency for such repair or replacement performed by a third party mutually selected and approved by Contractor and Agency.

- 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 one hundred and eighty (180) days 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. In the event of a defect, Agency shall provide clear access to the Work at the installation site (including scaffolding); and any information available to support detecting the cause of the defect; provided, however, that Contractor shall be responsible for any cost related to uncovering, disassembly or reassembly of parts or hardware required for Contractor to perform its warranty obligations.

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

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

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13 MISCELLANEOUS PROVISIONS.

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this

Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

- 13.7 Contract Administrator.** This Agreement shall be administered by the Assistant General Manager, Generation Services, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:

Control Components, Inc.
Attention: Gil Ramirez
22591 Avenida Empresa
Rancho Santa Margarita, CA 92688

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. Not applicable.

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.

13.16 Limitation of Liability. Notwithstanding any other clause in this Agreement to the contrary, and except in the case of Contractor's gross negligence and/or willful misconduct and claims for personal injury including death, violation of laws or intellectual property infringement, Contractor's maximum aggregate liability for any and all other damages and losses shall not exceed the value of this Agreement as specified in Section 2.

Neither Party shall under any circumstances whatsoever be liable to the other party in contract, tort (including negligence), strict liability, warranty, indemnity or otherwise for any, (i) loss of anticipated profits or revenues, (ii) loss of use or any losses in relation to business interruption, (iii) loss of production, (iv) non-operation of other equipment, (v) cost of capital, (vi) downtime costs (vii) cost of purchased or replacement power and/or facilities, (viii) claims of customers of Agency for damages or (ix) other indirect, incidental, special, punitive or consequential damages that arises under or in connection with the Agreement, regardless of which party caused any such damages or losses.

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

NORTHERN CALIFORNIA POWER AGENCY

Date 1/26/2022



RANDY S. HOWARD,
General Manager

CONTROL COMPONENTS, INC.

Date JAN 17th 2022



ABHIJIT RAO,
Chief Financial Officer

Attest:



Assistant Secretary of the Commission

Approved as to Form:



Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Control Components, Inc. ("Contractor") shall provide valve and vent maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- System Valve Design & Performance Evaluations
- Inspections of Bypass System
- Conduct Root Cause Analysis on Valve Failures
- Onsite Training
- Miscellaneous Maintenance Services

At the request of Agency, NCPA Members, SCPPA or SCPPA members, Contractor shall also supply valve spare parts with agreed upon timeframe based on approved detailed list of item(s) on Purchase order(s).

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:

Field Service Rate Sheet North America - USA & Canada

2022



Standard weekly working days (Monday-Friday)
Standard working hours (Monday-Friday 8:00AM to 5:00PM)

5
40

Valid until: 12/31/2022
Rev. 3.0

| Hourly Rates | | Currency | IMI CCI Field Service Technician | | |
|---|-----------------|---------------|---------------------------------------|-----------------------------|-------|
| Travel Rate (Domestic) | | | STD | OT | DT |
| Monday - Friday (Max 12hrs.)** | Per Hour | USD | \$137 | N/A | N/A |
| Saturday, Sunday & Holidays (Max 12hrs.)** | Per Hour | USD | \$164 | N/A | N/A |
| Labor Rate - Technician | | | | | |
| Monday - Friday* | Per Hour | USD | \$191 | \$267 | \$382 |
| Saturday* | Per Hour | USD | \$267 | \$382 | \$382 |
| Sunday & Holidays* | Per Hour | USD | \$382 | \$382 | \$382 |
| Labor Rate - Supervisor | | | | | |
| Monday - Friday* | Per Hour | USD | \$208 | \$311 | \$415 |
| Saturday* | Per Hour | USD | \$311 | \$415 | \$415 |
| Sunday & Holidays* | Per Hour | USD | \$415 | \$415 | \$415 |
| Labor Rate - Valve Doctor | | | | | |
| Monday - Friday* | Per Hour | USD | \$329 | \$328 | \$437 |
| Saturday* | Per Hour | USD | \$328 | \$437 | \$437 |
| Sunday & Holidays* | Per Hour | USD | \$437 | \$437 | \$437 |
| STD - Hours on the job up to 8 OT - Hours on the job beyond 8 and up to 12 are charged at Time and One Half (1.5x) STD DT - Hours beyond 12 are charged at Double (2x) STD Time, up to the maximum rate *Turn Key Service requires a minimum of 1 Supervisor & 1 Technician onsite per shift; subject to additional toolbox / equipment rental fees & freight charges **Supervisory Service requires a minimum of 1 Supervisor onsite per shift; Supervisor will lead customer appointed crew; subject to additional toolbox / equipment rental fees & freight charges Travel to and from the site will be billed at standard travel rate | | | | | |
| Special Rates | | | | | |
| Site Evaluation Walkdown (Limited to 8hrs.) | Per Day | USD | | \$800.00 | |
| Detailed Valve Report | Per Valve | USD | | \$150.00 | |
| Standby Rates (Shift is minimum of 8 Hours) | | | | | |
| On-Site Standby Time: Hours during the Technician's shift when the Technician is not released from the site and is ready and able to work but is unable to do so because Customer ordered the delay, Customer is not ready (e.g., site not ready, other responsibilities of Customer not completed, etc.), or other causes beyond the Customer's control such as weather. | | USD | | At Applicable Hourly Rate* | |
| Off-Site Standby Time: Hours during the Technician's shift when the Technician is ready and able to work but is released from the site before all or any of the shift is completed. During this off-site standby time, the Technician will remain on call for the remainder of the shift and be ready to return to the site if requested by the Customer. | | USD | | At Applicable Travel Rate** | |
| Billable Expense | | | Billable Expense + Administration Fee | | |
| Daily Meal expense | \$80 per day | Airfare | Actual Cost + 10% Administration Fee | | |
| Freight/Fuel/Tolls/Parking/Transportation (e.g. taxi) | Actual Cost | Accommodation | Actual Cost + 10% Administration Fee | | |
| Private (Personal) Motor Vehicles | \$0.54 Per Mile | Rental car | Actual Cost + 10% Administration Fee | | |
| Miscellaneous Charges/Payment information/Annual Rate Increase | | | | | |
| In-process Badging time is charged at the prevailing Nuclear Service rate. Customer required safety classes and certification courses (whether held on-site or made available online) are billable at regular rates, plus any course fees. Unless otherwise agreed in the Purchase Order or contract, invoices for payment are due 30 days from receipt of invoice. Customer shall contact IMI CCI on or before the invoice due date if there is dispute on any portion of the invoice charges. Service rates are valid for the year specified. Rates are subject to a yearly increase not to exceed 4%. Increases are based on numerous factors including the U.S. Dept. of Labor's Bureau of Labor Statistics. | | | | | |
| 2022 IMI CCI Observed Holidays | | | | | |
| Holidays applicable for "Holiday rate": New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, Winter Holiday (December 24th, 25th), New Year's Eve - Subject to Change | | | | | |
| Urgent call surcharge (on site in less than 48 hours) are subject to 15% mark up on all labor charges. | | | | | |
| Total service time not to exceed 16 hours per technician in any 24 hour period. | | | | | |
| In adherence with labor statutes, IMI CCI reserves the right to rotate personnel during the course of the calendar month. | | | | | |



Field Service Rental Rates - 2022 North America

Valid until, 12/31/2022
Rev. 3

IMI CCI Tool Box Rental

| Description | Type | Daily rate | Mobilization |
|----------------|------------------------------|------------|--------------|
| FS Toolbox | | \$250 | \$1,000 |
| RDU Tool Boxes | Gang Box | \$350 | \$2,500 |
| Hytorc | 1000...4500 Nm torque values | \$400 | \$1,000 |
| FS&R Trailer | FS&R Semi-Trailer | \$1,000 | \$2,500 |

Machines

| | | | |
|---------------------------------------|-------------------|-------|---------|
| Climax / ASM-2 Plunge Cutting Machine | Seat Cutting | \$400 | \$1,750 |
| TD-1 / TD-2 Field Machining Tool | Field Machining | \$500 | \$2,000 |
| BTG Grinding Tools | BTG Seat Grinding | \$200 | \$500 |
| VLN Tooling | VLN Repair | \$200 | \$500 |

Misc.

General terms for rental of equipment

Rental duration

Duration will be calculated from the day the equipment is first used for the specified job and until it returns to CCI custody.

Daily rate

Will be applied from the 1st day onwards.

Mobilization/Shipments

Shipment to/from site will be arranged by IMI CCI for routine >4 days transit time. Any freight <4 days will be invoiced additionally at cost.

Consumables

Consumables used during service of the device (i.e. cutters etc.) will be invoiced based on actuals used.

Such rate sheet is valid for the current year and a new rate sheet will apply at the beginning of each calendar year of the agreement, available upon request from Contractor.

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,

ABHISIT RAO

(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

Control Components, Inc.

(Company name)

for contract work at

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this 17th day of JANUARY, 20 22.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

**NOT APPLICABLE
EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer

(Authorized Officer & Title)

(Address)



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT AND
AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND CONTROL COMPONENTS, INC.
ACCEPTING ASSIGNMENT TO IMI CRITICAL ENGINEERING LLC**

This First Amendment ("Amendment") to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and IMI Critical Engineering LLC ("Contractor") (collectively referred to as "the Parties") as of _____, 2023.

WHEREAS, the Agency and Control Components, Inc. entered into a Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies dated effective January 26, 2022, (the "Agreement") for Contractor to provide valve and vent maintenance services and parts for the Agency, Agency Members, the Southern California Public Power Authority (SCPPA) or SCPPA Members; and

WHEREAS, effective January 1, 2023, Control Components, Inc. has changed their name to IMI Critical Engineering LLC; and the Parties now desire to assign the Agreement to IMI Critical Engineering LLC; and

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

WHEREAS, the Agency now desires to amend Exhibit A entitled "Scope of Services" of the Agreement to reflect the change of the Contractor's name; and

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

WHEREAS, the Parties and Control Components, Inc. agree to the assignment of the Agreement to IMI Critical Engineering LLC; and

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

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

NOW, THEREFORE, the Parties agree as follows:

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

"This agreement for general services and purchase of equipment, materials and supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-

6420 ("Agency") and IMI Critical Engineering LLC, a Limited Liability Company, with its office located at 22591 Avenida Empresa, Rancho Santa Margarita, CA 92688 ("Contractor") (together sometimes referred to as the "Parties") as of January 26, 2022 ("Effective Date") in Roseville, California."

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

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

IMI Critical Engineering LLC
Attn: Larry Morrison
22591 Avenida Empresa
Rancho Santa Margarita, CA 92688

Any written notice to Agency shall be sent to:

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

With a copy to:

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

3. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
4. **Exhibit C – CERTIFICATION – Affidavit of Compliance for Contractors** is amended to include IMI Critical Engineering LLC and shall be executed as set forth in the attached Exhibit C.
5. Agency hereby approves the name change of the Agreement from Control Components, Inc. to IMI Critical Engineering LLC, Contractor.
6. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

// SIGNATURES ON NEXT PAGE //

Date: _____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD,
General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

Date: _____

IMI CRITICAL ENGINEERING LLC

MONA BLEW,
Director of Contract Management

Date: _____

CONTROL COMPONENTS, INC.

ABHIJIT RAO, Chief Financial Officer

EXHIBIT A

SCOPE OF WORK

IMI Critical Engineering LLC ("Contractor") shall provide valve and vent maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- System Valve Design & Performance Evaluations
- Inspections of Bypass System
- Conduct Root Cause Analysis on Valve Failures
- Onsite Training
- Miscellaneous Maintenance Services

At the request of Agency, NCPA Members, SCPPA or SCPPA members, Contractor shall also supply valve spare parts with agreed upon timeframe based on approved detailed list of item(s) on Purchase order(s).

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

IMI CRITICAL ENGINEERING LLC

(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.: 16

Date: February 24, 2023
Meeting Date: March 6, 2023
To: Lodi Energy Center Project Participant Committee
Subject: Revision to Exhibit 5 of PMOA Agreement Schedule 1.00

Proposal

Adopt revision of PMOA Exhibit 5 of Schedule 1.00 for revised 2023 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge and System Operations Charge.

Background

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

The CAISO recently completed its 2023 budget stakeholder process based on a relatively higher revenue requirement due to a combination of higher labor costs driven by inflationary pressures and funding for 52 new positions throughout the organization.

The 2023 GMC rates applicable to the bid calculation for the LEC Project are reflected in the table below. These rates became effective on January 1, 2023.

| Charge Code | CAISO GMC Charge Code Name | Last Revised 2022 Rate | 2023 Rate | Difference | Unit of Measure |
|-------------|--------------------------------|------------------------|-----------|------------|-------------------------|
| 4560 | GMC - Market Services Charge | \$0.1265 | \$0.1513 | \$0.0248 | Awarded Schedules (MWh) |
| 4561 | GMC - System Operations Charge | \$0.1700 | \$0.2167 | \$0.0467 | Metered Energy (MWh) |
| | | \$0.2965 | \$0.3680 | \$0.0715 | |

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

Fiscal Impact

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

Environmental Analysis

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

Recommendation

NCPA staff recommends that the PPC pass a motion authorizing adopting the revised PMOA Exhibit 5 of Schedule 1.00 for the revised 2023 CAISO Grid Management Charge (GMC) rates.

Submitted by:

ROBERT W. CARACRISTI
Manager,
Information Services and Power Settlements

Attachments: (1)

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

EXHIBIT 5

CAISO Charges

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

| Market Charge Code | CAISO Charge Code Name | Rate | Unit of Measure |
|---------------------------|--------------------------------|------------------------|------------------------|
| 4560 | GMC - Market Services Charge | \$.1513 | per MWh |
| 4561 | GMC - System Operations Charge | \$.2167 | per MWh |
| Total GMC Amount | | <u><u>\$.3680</u></u> | per MWh |

Schedule 1.00 Exhibit 5
LEC Project Management and Operations Agreement
PPC Approved
Effective 01/01/2022



LEC FY2024 Proposed Budget

Rafael Santana
CT Manager
3/6/2023

Contents

- Assumptions
- FY2024 Proposed Budget
- Trend, Routine O&M with Labor
- FY2024 Proposed Projects
 - Overview and Cost Breakdown
 - O&M Projects
 - Capital Projects
 - Maintenance Reserve Projects
 - Description and Justification of Each Proposed Project
- 10-Year Project Forecast
 - Schedule and Cost
 - Trend, Project Expenditures Including Maintenance Reserve

Assumptions

| | FY 2023 | FY 2024 | |
|---------------------|------------|-----------|------|
| Energy Production | | | |
| MWHrs | 1,626,895 | 1,303,566 | -20% |
| Avg Rate (\$/MWHr) | 74.75 | 91.15 | 22% |
| Fuel | | | |
| mmBTU | 11,557,251 | 9,058,849 | -22% |
| Avg Rate (\$/mmBTU) | 5.26 | 7.89 | 50% |
| Operations | | | |
| Hours On-line | 6,026 | 4,680 | -22% |
| Starts | 105 | 73 | -30% |
| Avg Output (MW) | 270 | 279 | 3% |

FY24 has a 1-Month Planned outage (April)

FY 2024 – LEC VOM Impact

PMOA Schedule 1 Exhibit 2

| VOM Impact | Approved 2023 VOM | Proposed 2024 VOM | Percent Change |
|------------------------------|----------------------|----------------------|-------------------|
| Variable Cost | (\$/MWhr) | (\$/MWhr) | |
| Operations | 0.96 | 1.01 | 5.2% |
| LTSA-\$/MWhr | 2.22 | 2.44 | 9.9% |
| Maintenance Reserve Variable | 0.22 | 0.22 | 0.0% |
| Total | 3.40 | 3.67 | 7.9% |
| LTSA-\$/Start | | 15,146 | |
| Forecasted Starts | | 73.00 | |
| Forecasted Generation (MWhr) | 1,626,895 | 1,303,566 | -19.9% |

Due to the rate and budget changes that occur each year, the variable costs should be updated to reflect the approved budget. The Variable Costs are used in the bidding of the unit to CAISO and are approved in the PMOA. The table above represents the changes required to revise the PMOA Schedule for FY2024.

FY 2024 – LEC Budget

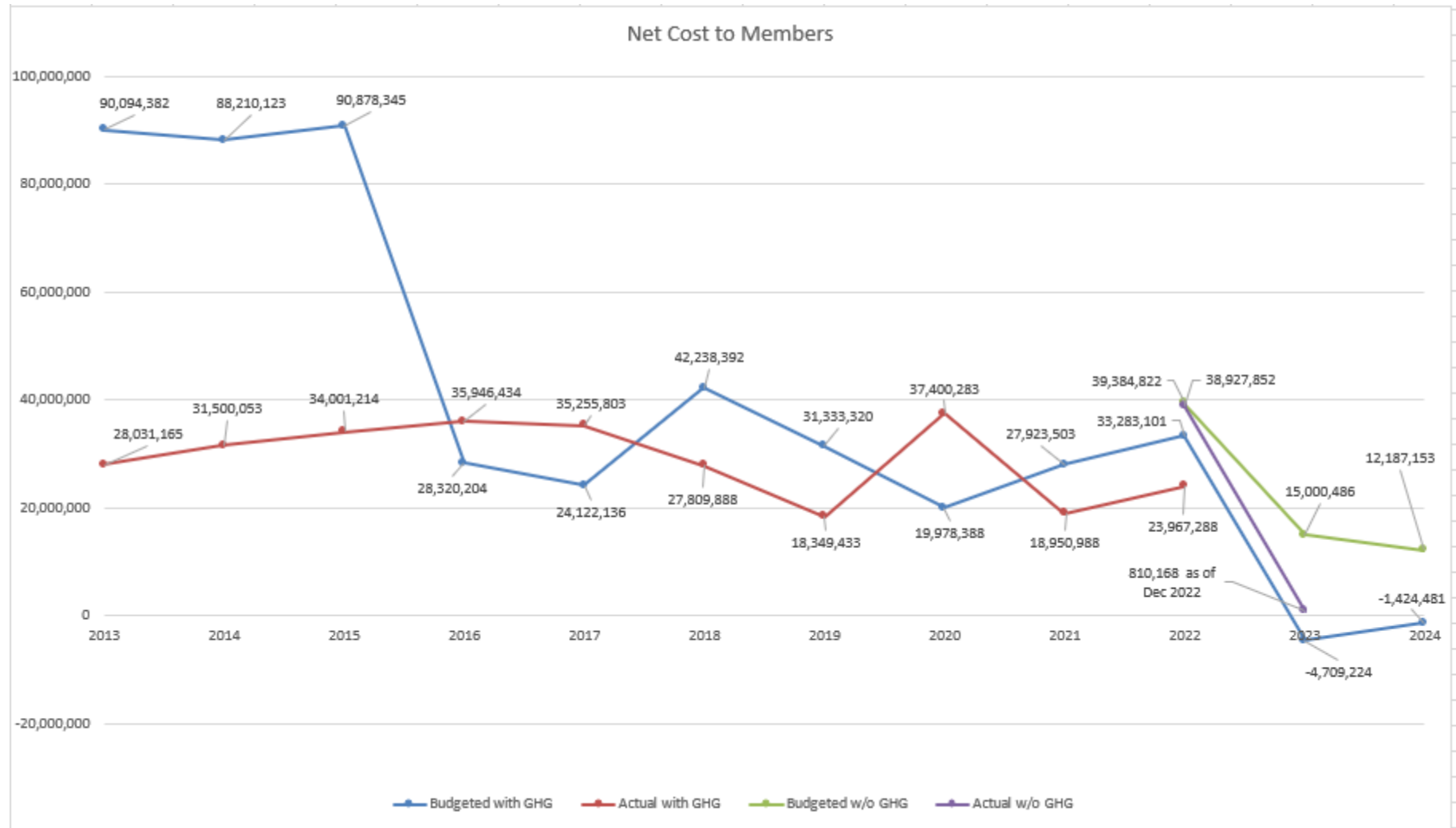
| | FY 2022 Budget | FY 2022 Actual | FY 2023 Budget | Proposed FY 2024 Budget | Increase/ (Decrease) | |
|------------------------------------|-------------------|-------------------|--------------------|-------------------------------|-------------------------|---|
| Routine Variable Costs | | | | | | |
| Variable O&M | 3,601,753 | 4,236,874 | 6,088,236 | 4,837,398 | -1,250,838 | 10% Increase in fuel cost (market volatility) |
| Fuel & LDC Cost | 31,029,301 | 54,707,452 | 64,819,215 | 71,517,913 | 6,698,698 | |
| GHG Charges | 6,268,971 | 15,382,070 | 20,249,959 | 13,984,733 | -6,265,226 | |
| CAISO Energy Purchase | 470,645 | 530,717 | 1,080,335 | 675,245 | (\$405,090) | |
| CAISO Allowance | 2,666,658 | 3,539,868 | 1,889,864 | 688,425 | (1,201,439) | 19% Decrease in MWHr generation |
| Total VOM | 44,037,328 | 78,396,981 | 94,127,609 | 91,703,714 | -2,423,895 | |
| MWHr | 945,377 | 1,198,616 | 1,626,895 | 1,303,566 | -323,329 | |
| Routine Fixed Costs | | | | | | |
| Fixed | 2,989,071 | 4,569,768 | 3,151,902 | 3,350,082 | \$198,180 | New critical valve parts transferred out of projects to inventory |
| Administration | 216,277 | 161,454 | 195,869 | 188,173 | (\$7,696) | |
| Mandatory Costs | 312,245 | 403,433 | 365,380 | 374,870 | \$9,490 | |
| Inventory | 0 | 0 | 0 | 500,000 | \$500,000 | |
| Total Routine Fixed Costs | 3,517,593 | 5,134,655 | 3,713,151 | 4,413,125 | 699,974 | |
| Labor | 6,040,384 | 6,169,522 | 6,112,796 | 6,156,208 | 43,412 | |
| Non-Variable Routine Total | 9,557,977 | 11,304,177 | 9,825,947 | 10,569,333 | 743,386 | 7% Increase |
| Total Routine O&M Costs | 53,595,305 | 89,701,158 | 103,953,556 | 102,273,047 | -1,680,509 | |

FY 2024 – LEC Budget

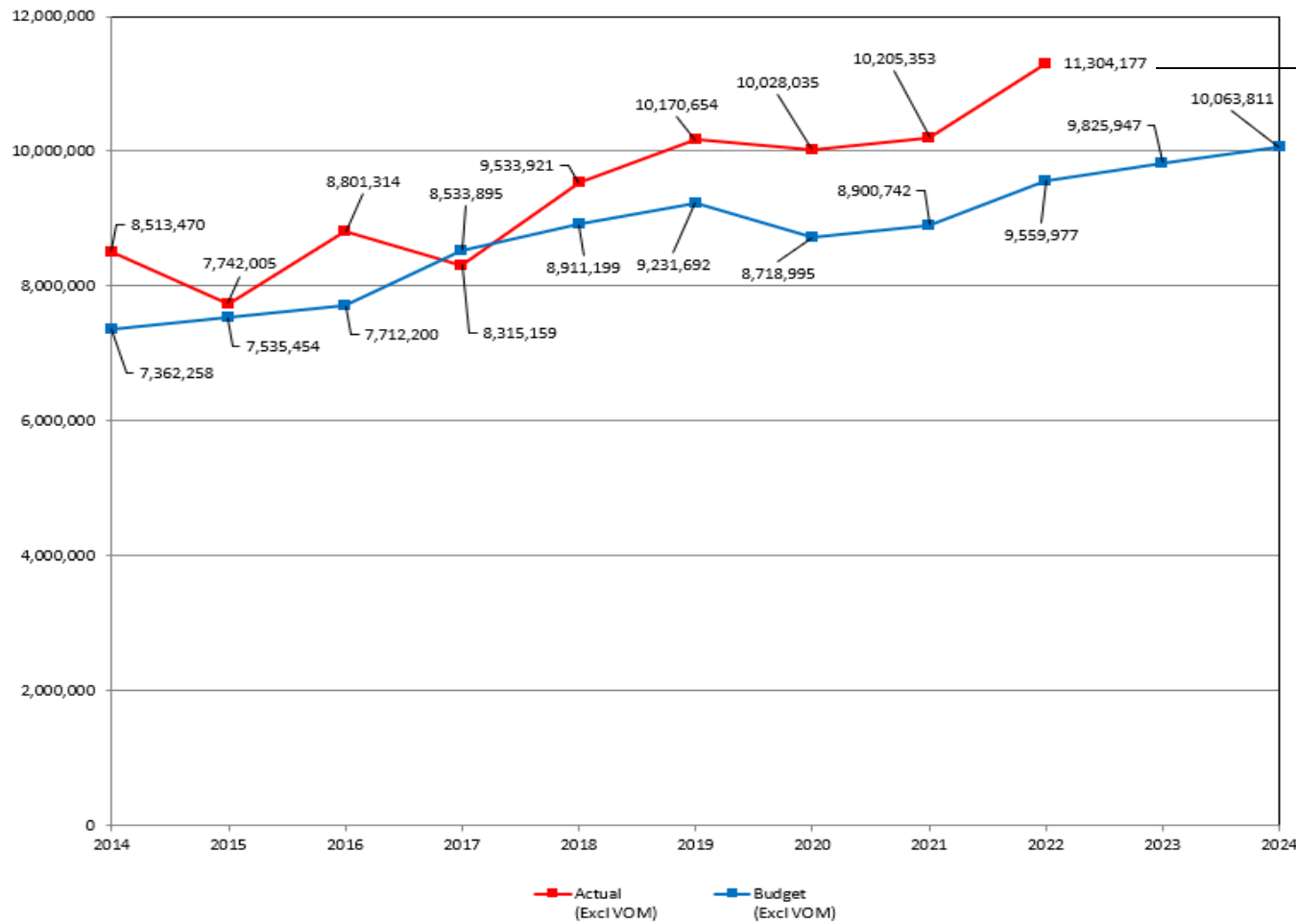
| | FY 2022 Budget | FY 2022 Actual | FY 2023 Budget | Proposed FY 2024 Budget | Increase/ (Decrease) |
|---|-------------------|--------------------|--------------------|-------------------------------|-------------------------|
| Total Routine O&M Costs | 53,595,305 | 89,701,158 | 103,953,556 | 102,273,047 | -1,680,509 |
| Other Costs | | | | | |
| Debt Service | 26,008,267 | 26,008,267 | 25,996,203 | 25,992,239 | (3,964) |
| Insurance | 1,576,482 | 1,254,767 | 1,313,901 | 1,775,914 | 462,013 |
| Other Costs | 128,171 | 90,399 | 151,208 | 147,208 | (4,000) |
| Generation Services Shared | 364,833 | 304,549 | 420,233 | 391,853 | (28,380) |
| Administrative & General | 2,133,321 | 2,130,294 | 2,270,375 | 2,349,670 | 79,295 |
| Power Management Allocated Costs | 1,503,669 | 1,319,109 | 1,450,728 | 1,502,931 | 52,203 |
| Total Other Costs | 31,714,743 | 31,107,385 | 31,602,648 | 32,159,815 | 557,167 |
| Total O&M Costs | 85,310,048 | 120,808,543 | 135,556,204 | 134,432,862 | (1,123,342) |
| Projects | | | | | |
| Operations & Maintenance | 1,375,308 | 1,714,120 | 1,342,970 | 1,719,529 | 376,559 |
| Capital | 1,756,500 | 831,934 | 280,000 | 45,000 | (235,000) |
| Maintenance Reserve | 1,875,102 | 1,875,102 | 2,008,392 | 2,169,063 | 160,671 |
| Total Projects Costs | 5,006,910 | 4,421,156 | 3,631,362 | 3,933,592 | 302,230 |
| Annual Budget Cost | 90,316,958 | 125,229,699 | 139,187,566 | 138,366,454 | (821,112) |
| Revenue (CAISO Energy and Ancillary Sales) | 50,546,291 | 86,067,989 | 123,937,080 | 125,929,301 | 1,992,221 |
| Interest Income | 385,845 | 233,858 | 250,000 | 250,000 | 0 |
| Net Cost to Participants (W/O GHG Transfer Credits) | 39,384,822 | 38,927,852 | 15,000,486 | 12,187,153 | (2,813,333) |
| GHG Allowance Transfer Credits | 6,101,721 | 14,960,564 | 19,709,710 | 13,611,634 | (6,098,076) |
| Net Cost to Participants (with GHG Transfer Credits) | 33,283,101 | 23,967,288 | (4,709,224) | (1,424,481) | (3,284,743) |
| Capacity Cost (\$/KW-Yr) W/O GHG Credits | 130 | 128 | 49 | 40 | |
| Capacity Cost (\$/KW-Yr) W GHG Credits | 109 | 79 | (15) | (5) | |

35% Increase due to property and liability. Wild fires, Cyber and LEC appraisal went up from \$425m to \$496m

Increased reserves collection due to inflationary rates

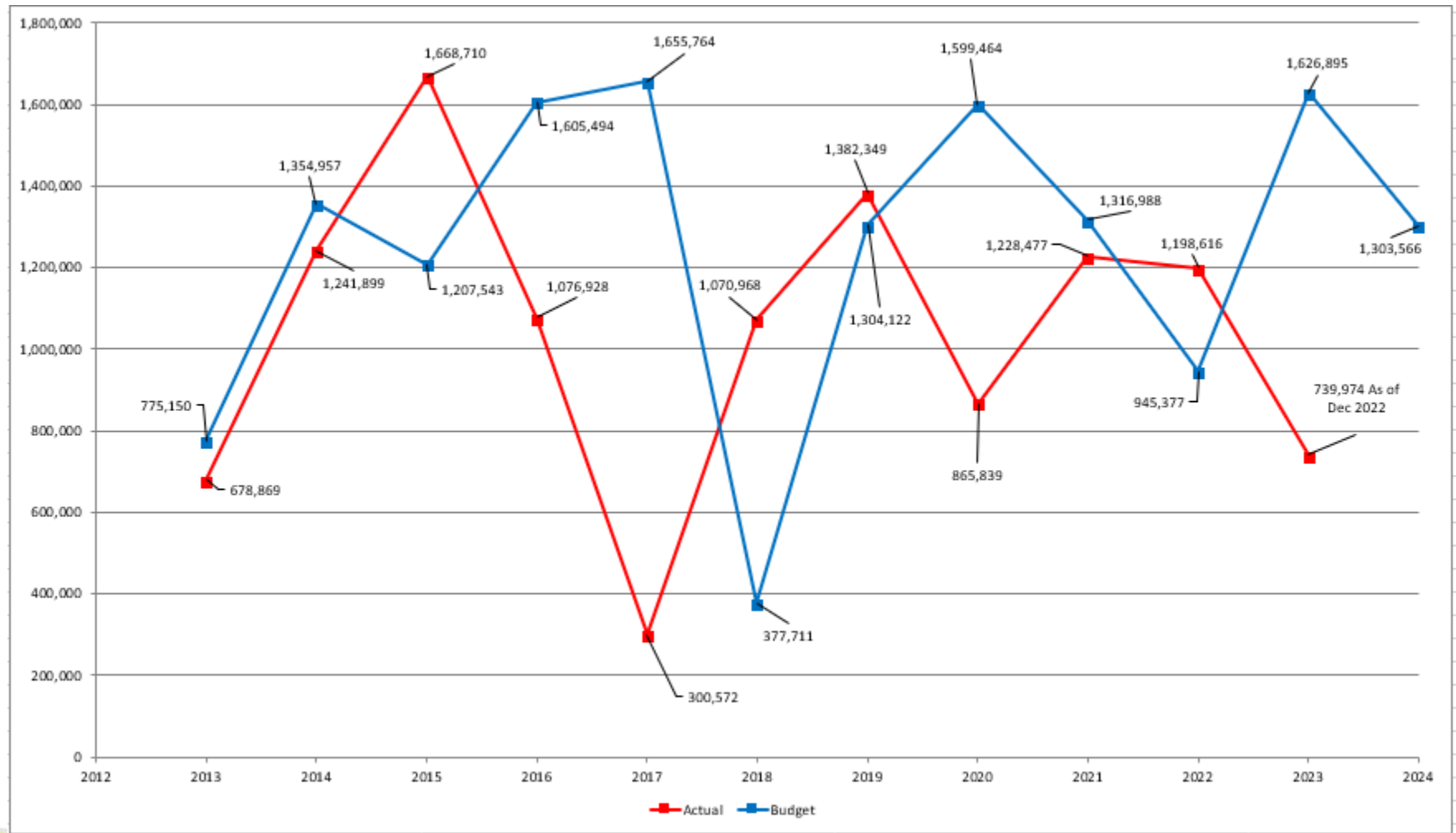


Routine O&M Cost History

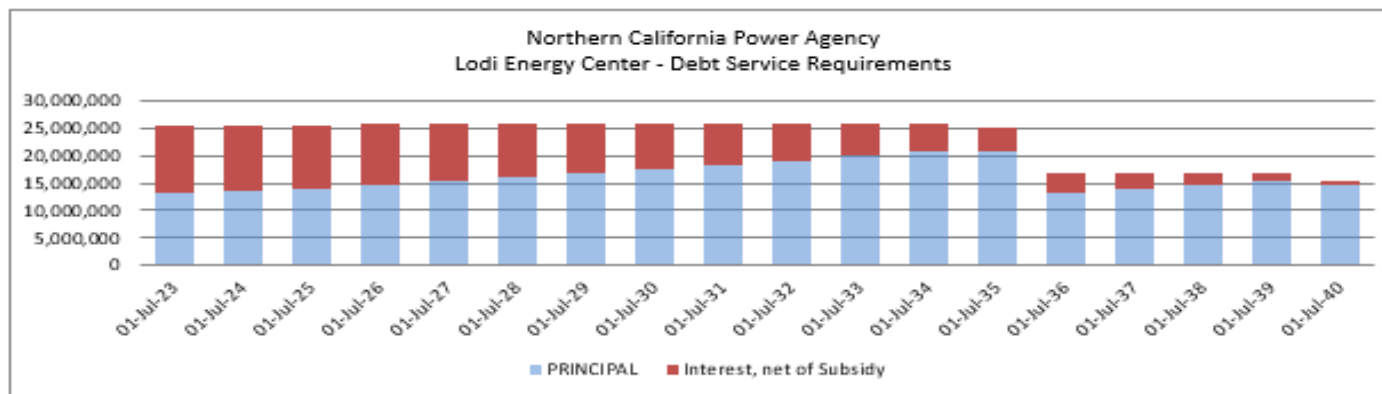


Extended outage duration due to HP turbine
Purchase of ST parts
Extended Outage OT
Service water piping leaks

Annual Energy Produced (MWH)



Debt Service Requirements



| ISSUES 1 & 2 | | | |
|--------------|---------------|-------------|-------------|
| PERIOD | INTEREST, NET | | TOTAL |
| ENDING | PRINCIPAL | SUBSIDY | |
| 7/1/2023 | 13,277,083 | 12,355,454 | 25,632,537 |
| 7/1/2024 | 13,663,333 | 11,971,797 | 25,635,131 |
| 7/1/2025 | 14,091,250 | 11,576,311 | 25,667,561 |
| 7/1/2026 | 14,818,333 | 11,150,738 | 25,969,071 |
| 7/1/2027 | 15,460,000 | 10,514,970 | 25,974,970 |
| 7/1/2028 | 16,122,500 | 9,851,260 | 25,973,760 |
| 7/1/2029 | 16,815,000 | 9,158,674 | 25,973,674 |
| 7/1/2030 | 17,537,917 | 8,435,894 | 25,973,810 |
| 7/1/2031 | 18,295,417 | 7,681,579 | 25,976,996 |
| 7/1/2032 | 19,083,333 | 6,894,193 | 25,977,526 |
| 7/1/2033 | 19,905,833 | 6,072,396 | 25,978,230 |
| 7/1/2034 | 20,759,583 | 5,214,651 | 25,974,234 |
| 7/1/2035 | 20,887,083 | 4,319,583 | 25,206,667 |
| 7/1/2036 | 13,317,500 | 3,413,687 | 16,731,187 |
| 7/1/2037 | 13,950,000 | 2,780,820 | 16,730,820 |
| 7/1/2038 | 14,612,917 | 2,117,895 | 16,730,811 |
| 7/1/2039 | 15,310,417 | 1,423,467 | 16,733,884 |
| 7/1/2040 | 14,643,750 | 695,893 | 15,339,643 |
| | 292,551,250 | 125,629,262 | 418,180,512 |

FY 2024 – LEC Proposed Projects

| O&M Projects | Notes | |
|--------------------------------|-------|-----------|
| Annual Outage Project | M | 1,073,068 |
| Life Cycle Replacement (RG3-S) | D | 225,000 |
| Risk Mitigation (FM Global) | D | 150,000 |
| Consulting / Grant Writing | D | 75,000 |
| Decommissioning Study | D | 75,000 |
| Service Water Piping | M | 75,000 |
| Total | | 1,673,068 |

| Capital Projects | Notes | |
|------------------------------|-------|--------|
| Civil/Structural - Platforms | D | 45,000 |
| Total | | 45,000 |

FY 2024 – Life Cycle Replacement

| Project | Notes | Total Cost | FY 2024 | FY 2025 | FY 2026 |
|----------------------------|-------|------------|-----------|---------|---------|
| RG3 Excitation Replacement | D | \$225,000 | \$225,000 | | |

Notes:

| | |
|----|---------------------------------------|
| D | Discretionary |
| M | Mandatory |
| CR | Annual deposit to the Capital Reserve |

- LEC STG Siprotec Excitation control system has reached end of life and no longer supported by OEM.
- Majority of replacement modules have been discontinued and unobtainable.
- New RG3-S is microprocessor based, panel mounted on the cabinet door with LCD display, alarm annunciation, set point control and displays several set points and actual values from each redundant channels and accessible from DCS.



FY 2024 – Risk Mitigation

| Project | Notes | Total Cost | FY 2024 | FY 2025 | FY 2026 |
|-----------------|-------|------------|-----------|---------|---------|
| Risk Mitigation | D | \$150,000 | \$150,000 | TBD | TBD |

FM Global identified many items.

- Seismic bracing on sprinkler piping
- Fire pump coupling (replace elastomeric coupling)
- Fire pump analog panel is no longer supported and parts are not available from OEM
- Install new PDC2 battery rack with spacers between cells and seismic bracing
- Install spray shields on lube oil piping to prevent oil spray onto hot turbine equipment

| | | |
|---------------|--|--|
| 21-07-006 | Install spacers and brace the steam turbine lead acid batteries | Install spacers and brace the steam turbine lead acid batteries |
| 21-07-002A | Improve active and passive protection for the steam turbine generator. | *Provide FM Approved spray shields on all turbine-generator lube oil pipe flanges with pressurized oil, above 50 psi. *Correcting the south end high-pressure steam turbine |
| LEC & STIG | Replace the elastomeric coupling. | |
| LEC & STIG | Properly set the fire pump and jockey pump activation pressures. | |
| 21-07-009 | Improve the earthquake bracing on fire sprinkler systems. | |
| 22-10-002A, B | Improve ICS Security & Operations | |

Notes:

| | |
|----|---------------------------------------|
| D | Discretionary |
| M | Mandatory |
| CR | Annual deposit to the Capital Reserve |

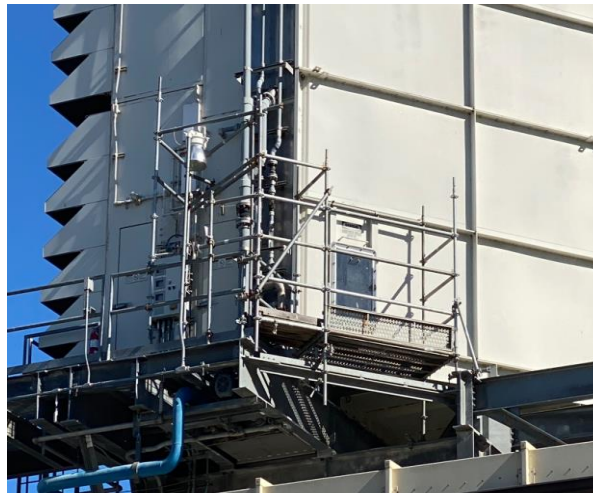
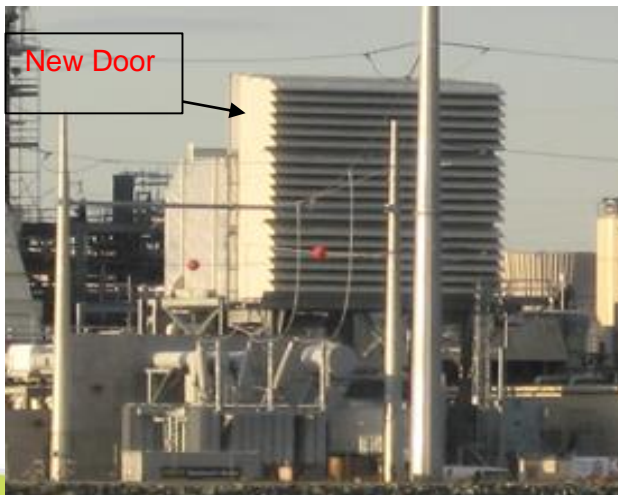
FY 2024 – Civil/Structural

| Project | Notes | Total Cost | FY 2023 | FY 2024 | FY 2025 |
|-----------|-------|-------------|----------|----------|-----------|
| Structure | D | \$2,440,000 | \$30,000 | \$45,000 | \$650,000 |

Notes:

| | |
|----|---------------------------------------|
| D | Discretionary |
| M | Mandatory |
| CR | Annual deposit to the Capital Reserve |

- Perform engineering & Cost estimating to add additional exit doors on CT inlet structure
- FY23 Completed installation of CT clean room inlet platform



FY 2024 – Project/Reserve Forecast

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 |
|---|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| O & M PROJECTS | | | | | | | | | | |
| Consulting/ Grant Writing | 75,000 | 75,000 | - | - | - | - | - | - | - | - |
| Plant Betterment | - | - | - | - | - | - | - | - | - | - |
| Decommissioning Study | 75,000 | - | - | - | - | - | - | - | - | - |
| Expansion Joints | - | 725,000 | - | - | - | 761,250 | - | - | - | - |
| Service Water Piping | 75,000 | 75,000 | 75,000 | - | - | - | - | - | - | - |
| Asphalt & Paving Maintenance | - | - | - | 85,000 | - | - | - | - | - | 105,000 |
| Painting & Preservation | - | - | - | - | 250,000 | - | - | - | - | - |
| Water PlantEDI/RO | - | - | 250,000 | - | 275,000 | - | - | - | - | - |
| Transmission Interconnection Study | - | 150,000 | - | - | - | - | - | - | - | - |
| Risk Mitigation | 150,000 | - | - | - | - | - | - | - | - | - |
| HRSB/Steam Piping | - | - | - | 750,000 | - | - | - | - | - | 775,000 |
| Critical Inventory | - | 250,000 | 400,000 | - | 400,000 | - | - | - | - | - |
| Life Cycle Replacement | 225,000 | 200,000 | - | - | - | - | - | - | - | - |
| Gas Plants Shared Projects | 46,000 | - | - | - | - | - | - | - | - | - |
| Annual Maintenance Outage | 1,073,068 | 1,126,722 | 1,183,058 | 1,242,211 | 1,304,321 | 1,369,537 | 1,438,014 | 1,509,915 | 1,585,411 | 1,585,411 |
| TOTAL O&M PROJECTS | 1,719,068 | 2,601,722 | 1,908,058 | 2,077,211 | 2,229,321 | 2,130,787 | 1,438,014 | 1,509,915 | 1,585,411 | 2,465,411 |
| CAPITAL PROJECTS | | | | | | | | | | |
| Civil / Structural | 45,000 | 650,000 | 80,000 | 100,000 | 155,000 | 775,000 | 650,000 | - | - | - |
| DCS (Software Upgrades) | - | - | 650,000 | - | - | - | - | - | - | - |
| DCS (Hardware Update) | - | - | 250,000 | - | - | - | - | - | - | - |
| Clarifier Tank Refurbishment | - | - | 400,000 | - | - | - | - | - | - | - |
| BOP PLC Upgrades | - | - | 175,000 | - | - | - | - | - | - | - |
| Vehicles (5% Share) | - | 7,500 | - | 8,500 | - | - | - | - | - | - |
| Acoustic Monitoring | - | - | - | - | - | - | - | - | - | - |
| Unidentified Capital Project | - | 500,000 | - | 575,000 | 603,750 | 633,938 | 665,634 | 698,916 | 719,883 | 741,480 |
| TOTAL CAPITAL PROJECTS | 45,000 | 1,157,500 | 1,555,000 | 683,500 | 758,750 | 1,408,938 | 1,315,634 | 698,916 | 719,883 | 741,480 |
| RESERVE FUND SPENDING | | | | | | | | | | |
| BEGINNING YEAR BALANCE | 638,109 | 872,172 | 2,404,760 | 731,568 | 1,015,481 | 992,827 | 1,980,955 | 2,213,686 | 2,304,911 | 3,895,892 |
| Combustion Turbine (overhaul) | - | - | 2,693,188 | - | - | 50,000 | 400,000 | - | - | 3,396,162 |
| Steam Turbine | - | 20,000 | 125,000 | - | - | - | 125,000 | 800,000 | 20,000 | 740,000 |
| Generators | 70,000 | - | 100,000 | - | - | - | - | - | 100,000 | 1,400,000 |
| HRSB | 40,000 | - | 515,000 | 560,031 | 1,250,000 | 450,000 | 455,675 | 849,873 | 508,505 | - |
| Plant Projects | 1,825,000 | 790,000 | 770,000 | 1,812,551 | 1,561,974 | 1,440,658 | 1,832,531 | 1,426,677 | 1,075,000 | 1,406,641 |
| TOTAL RESERVE FUND SPENDING | 1,935,000 | 810,000 | 4,203,188 | 2,372,582 | 2,811,974 | 1,940,658 | 2,813,206 | 3,076,550 | 1,703,505 | 6,942,803 |
| ADDITIONAL FUNDING | 2,169,063 | 2,342,588 | 2,529,995 | 2,656,495 | 2,789,320 | 2,928,786 | 3,045,937 | 3,167,775 | 3,294,486 | 3,426,265 |
| END OF YEAR BALANCE | 872,172 | 2,404,760 | 731,568 | 1,015,481 | 992,827 | 1,980,955 | 2,213,686 | 2,304,911 | 3,895,892 | 379,354 |
| TOTAL O&M, ALL PROJECTS, FUNDING | 3,933,131 | 6,101,810 | 5,993,053 | 5,417,206 | 5,777,391 | 6,468,511 | 5,799,586 | 5,376,606 | 5,599,779 | 6,633,156 |

10 Year Net Cost to Members

| | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | FY2032 | FY2033 |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| O&M Projects | 1,719,529 | 2,601,722 | 1,908,058 | 2,077,211 | 2,229,321 | 2,130,787 | 1,438,014 | 1,509,915 | 1,585,411 | 2,465,411 |
| Capital Projects | 45,000 | 1,157,500 | 1,555,000 | 683,500 | 758,750 | 1,408,938 | 1,315,634 | 698,916 | 719,883 | 741,480 |
| Maintenance Reserve Funding | 2,169,063 | 2,342,588 | 2,529,995 | 2,656,495 | 2,789,320 | 2,928,786 | 3,045,937 | 3,167,775 | 3,294,486 | 3,426,265 |
| O&M /Debt excl VOM | 39,834,895 | 40,111,748 | 40,394,138 | 40,682,176 | 40,975,975 | 41,275,650 | 41,581,318 | 41,893,100 | 42,211,117 | 42,535,494 |
| A&G | 2,888,731 | 2,946,506 | 3,005,436 | 3,065,544 | 3,126,855 | 3,189,392 | 3,253,180 | 3,318,244 | 3,384,609 | 3,452,301 |
| Revenues net of VOM | 75,017,282 | 76,517,628 | 78,047,980 | 79,608,940 | 81,201,119 | 82,825,141 | 84,481,644 | 86,171,277 | 87,894,702 | 89,652,596 |
| Net Cost to Members | -28,360,064 | -27,357,564 | -28,655,353 | -30,444,013 | -31,320,897 | -31,891,588 | -33,847,560 | -35,583,327 | -36,699,197 | -37,031,645 |
| Capacity Cost (\$/KW-Yr) | -93 | -90 | -94 | -100 | -103 | -105 | -111 | -117 | -121 | -122 |
| Capacity Value @ \$71.25/KW-Yr | 21,660,000 | 22,309,800 | 22,979,094 | 23,668,467 | 24,378,521 | 25,109,876 | 25,863,173 | 26,639,068 | 27,438,240 | 28,261,387 |
| Capacity Value @ \$207/KW-Yr | 62,928,000 | 64,815,840 | 66,760,315 | 68,763,125 | 70,826,018 | 72,950,799 | 75,139,323 | 77,393,503 | 79,715,308 | 82,106,767 |

