



12745 N. Thornton Road  
Lodi, CA 95242

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

## LEC PPC Agenda

---

**Date:** March 12, 2018

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

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

**Time:** 10:00 am

---

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

.....

NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16 <sup>th</sup> Floor Oakland, CA 94612	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948	CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438
CITY OF BIGGS 465 "C" Street Biggs, CA 95917	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122	POWER & WATER RESOURCES POOLING AUTHORITY 106 Polo Rd Glenwood Springs, CO 81601
CALIFORNIA DEPARTMENT OF WATER RESOURCES 2135 Butano Drive, Suite 100 Sacramento, CA 95825	SILICON VALLEY POWER/CITY OF SANTA CLARA 1500 Warburton 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 written request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or [www.ncpa.com](http://www.ncpa.com)*

**1. 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.

**2. Meeting Minutes – Approval of February 12, 2018 Regular Meeting Minutes**

**MONTHLY REPORTS**

**3. Operational Report for February 2018 – (Jeremy Lawson)**

**4. Market Data Report for February 2018 – Verbal Report (Mike Whitney)**

**5. Monthly Asset Report for January 2018 – (Michael DeBortoli)**

**6. Bidding Strategies Report – Verbal Report and update regarding bidding strategies and regulation down revenues (Ken Goeke)**

**CONSENT CALENDAR**

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

**7. Treasurer's Report for February 2018 – Accept by all Participants**

**8. Financial Report for February 2018 – Approve by all Participants**

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

**10. Bay Cities Fire Protection MTGSA – Staff is seeking approval of a five year Multi-Task General Services Agreement with Bay Cities Fire Protection with a not to exceed amount of**

*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.*

\$500,000 for fire systems maintenance, including testing and other necessary services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.

- 11. T.A. Krause, Inc. MTGSA** – Staff is seeking approval of a five year Multi-Task General Services Agreement with T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting with a not to exceed amount of \$1,000,000 for preventative roof and siding maintenance services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.
- 12. Nor-Cal Battery Company MTGSA** – Staff is seeking approval of a five year Multi-Task General Services Agreement with Nor-Cal Battery Company with a not to exceed amount of \$250,000 for battery maintenance services including testing, installing, and monitoring, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.
- 13. HRST, Inc. MTGSA** – Staff is seeking approval of a five year Multi-Task General Services Agreement with HRST, Inc. with a not to exceed amount of \$500,000 for inspection services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.
- 14. Industrial Air Flow Dynamics, Inc. First Amendment** – Staff is seeking approval of a First Amendment to the General Services Agreement with Industrial Air Flow Dynamics, Inc. for roof seal replacement services, increasing the not to exceed amount from \$245,000 to \$300,000, for use at the Lodi Energy Center.

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

### **BUSINESS ACTION ITEMS**

- 15. Siemens Energy, Inc. Change Order No. 1 to LTMPA** – Staff is seeking approval of Change Order No. 1 to the Long-Term Maintenance Program Agreement with Siemens Energy, Inc., expanding the scope to include additional items and extending the sunset date from 2035 to 2041, for use at the Lodi Energy Center.

### **CLOSED SESSION**

- 16. Conference with Legal Counsel** – Existing litigation pursuant to California Government Code Section 54956.9(d)(1): One case:
  - a.** Pacific Gas and Electric Company's (U 39 G) 2019 Gas Transmission and Storage Rate Case, *Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2019 – 2021*, California Public Utilities Commission Application 17-11-009 (filed November 17, 2017).

### **INFORMATIONAL/ DISCUSSION ITEMS**

- 17. FY19 Budget Presentation – Review Only** – Staff to present an updated draft FY 2019 budget for further Committee review. *(Mike DeBortoli)*

*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.*

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

**ADJOURNMENT**

Next Regular Meeting: April 9, 2018

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





651 Commerce Drive  
Roseville, CA 95678

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

# LEC PPC Meeting Minutes

**Date:** February 12, 2018

**Time:** 10:00 am

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

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

## 1. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:00 am. Jiayo Chiang was acting as Chairman due to Chairman Martin Caballero and Vice Chairmen John Yarbrough being unavailable for this meeting. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Lehr	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Brown	Present	33.5000%
Gridley - Borges	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Braden	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Hance	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	5	79.7322%
Absent	8	20.2678%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	February 12, 2018	

## **Public Forum**

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

## **2. Meeting Minutes**

The draft minutes from the January 8, 2018 Regular Meeting were considered. The LEC PPC considered the following motion:

**Date:** 2/12/2018

**Motion:** The PPC approves the minutes from the January 8, 2018 Regular Meeting as presented or *including any edits discussed at today's meeting.*

**Moved by:**

**CDWR**

**Seconded by:**

**Lodi**

Discussion: No further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	6	82.4001%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.5999%
<b>Result:</b>		<b>Motion Passes</b>

## **MONTHLY REPORTS**

### **3. Operational Reports for January 2018**

Jeremy Lawson presented the Operational Report for January 2018. There were no OSHA recordable accidents, and no NERC/WECC or permit violations. There was one forced outage on January 27<sup>th</sup> due to a CO emissions issue. The unit was forced to shut down for one hour towards the tail-end of a scheduled run. Staff will be working with Siemens to identify possible causes. Jeremy reviewed the planned outages, including some updated outage dates. Staff will be working with PG&E on their outages related to work on the Gold Hill Line and 8 Mile Line, which will occur from April 6<sup>th</sup> – 21<sup>st</sup>.

The operational report reflected monthly production of 141,208 MWH, 553 service hours, and equivalent operating availability of 99.8%. The report set for the Capacity Factor @ 280 MW Pmax of 67.8% and 302 MW Pmax of 62.8%. There were 12 hot starts, 10 warm starts, and 0 cold starts during the month.

### **4. Market Data Report for January 2018**

Mike Whitney presented the operating and financial settlement results for the month. LEC was committed to CAISO 31 out of 31 available days. Most startups were for 12-17 hour runs, with eight 24-hour runs in the month of January.

### **5. Monthly Asset Report**

Mike DeBortoli presented the monthly asset report for December 2017. Mike reported that December rates were less than forecast. Mike reported that runtimes remained high for the month of December, resulting in positive Net Annual Costs. Mike reviewed the monthly historical comparisons as well as the 12-month history.

### **6. Bidding Strategies Report**

Jesse Shields presented the Bidding Strategies Report for January 2018, as Ken Goeke was on vacation. Jesse reviewed bidding and calculating net start-up costs. He noted that we continue to net expected start costs in energy revenues. He also noted that the plant was awarded every day of the month. Jesse reviewed DA and RT net revenues over the month with the Committee.

### **Consent Calendar (Items 7 – 10)**

The consent calendar was considered. Acting 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:** 2/12/2018

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no. **7.** Treasurer's Report for December 2017; **8.** Financial Reports for December 2017; **9.** GHG Reports excerpted from monthly ARB; **10.** RFI Communications and Security Systems five year Multi-Task General Services Agreement not to exceed \$1,000,000 for Agency security systems maintenance, for use at all NCPA, Member, SCPPA, and SCPPA Member facilities.

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

**Biggs**  
**SVP**

Discussion: No further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	82.4001%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.5999%
Result:	Motion Passes	

## **BUSINESS ACTION ITEMS**

### **11. FY19 Initial Budget Presentation**

Mike DeBortoli presented the FY19 budget for the Committee to review. He explained that the variable costs have increased in part because of the increase in MWHr. He also explained a proposal to move budget dollars from the Maintenance Reserve Fund to the Variable Costs fund. A more in-depth breakdown of the FY19 Variable Cost changes were presented to the Committee. Staff also proposed adding a new item for Rotor OH Maintenance, which will be needed in the next few years; Staff would like to collect funds now for future maintenance which will be required.

Jeremy reviewed FY19 proposed projects.

- LEC DCS Software Update: This was deferred in last year's budget, and will need to be addressed in FY19. The current version is reaching its end of life, which means maintenance support will be ending soon, including security patches and other critical system updates. The Committee asked how frequently we need to update the software version. Staff responded updates are needed about every 5 years.
- Platform Access Project: another proposed project for FY19. Staff is currently using temporary scaffolding for access to monitor the drift eliminators continuously. This is clearly a safety concern. This project was also deferred in the previous budget.
- CSSP Monitoring System: This project would be for the implementation of a continuous monitoring system for NCPA's critical control systems. While this is not currently a NERC requirement, it does align with CSSP best practices for monitoring and detecting infiltrations, and is required per NCPA's Control System Security Program. Staff shared a breakdown of the costs with the Committee, based upon bids received.
- Long Term Maintenance Agreement and the Rotor Overhaul: Mike DeBortoli outlined unit costs. He also reviewed options for completing an overhaul of the rotor. Mike DeBortoli recommended Option 2 (utilizing a refurbished rotor), as the most cost-effective while also minimizing the on-site outage time.

Staff will have a final FY19 budget completed and ready for Committee approval at the April LEC PPC meeting.

## **12. Monthly Revenue True-up**

Staff reviewed the current monthly true-up calculations and process, including the Accounting calculations for determining O&M billing for project participants. It was noted that variable O&M is not currently included in the calculations of the monthly true-up amounts. This could potentially cause a need for a 'cash call' during settlements of the difference between budget and actuals.

Staff presented proposed changes to the monthly billing and true-up. Proposed changes include backing O&M out of the monthly pre-bill. The proposed changes would go into effect immediately. Staff is also recommending that the current O&M reserve could be used to fund any shortfall this year. For FY19, this updated approach would avoid any settlement refunds or cash calls.

Staff took a poll of members present and, hearing no objections, will move forward with these changes.

## **CLOSED SESSION**

## **13. Conference with Legal Counsel**

General Counsel Jane Luckhardt advised that there were no updates on Closed Session items, so the Committee did not enter Closed Session.

## **INFORMATIONAL ITEMS**

## **14. Introduction to the Extranet LEC Margin Report**

Bob Caracristi shared the new LEC Margin Reporting tool with the Committee. Bob walked Members through the Reporting Platform, including how to access the LEC Reporting tool. All of

the data in the report is updated in real-time (in 5-minute intervals). Bob reviewed what data is displayed in the live graph.

As the data displayed includes confidential competitive information, Bob stressed that discretion should be exercised in whom Members share the information with. The security for accessing the system is tied into Office265 security models, which means access to the tool is based on user credentials for accessing the NCPA Extranet.

Members asked how much historical data will be available in the reporting tool. Bob explained that, due to the volume of data, only 9-days of data will be available at any given time. However, more extensive historical reports could be made available via special request.

Members also asked about the availability of hourly margins, including the possibility of breaking out individual data. Bob said the tool was capable of displaying that data, and that he will work on making that data available.

#### **15. Additional Operational Updates**

There were no additional operational updates at this time.

#### **Adjournment**

The next regular meeting of the PPC is scheduled for Monday, March 12<sup>th</sup>, 2018.

The meeting was adjourned at 11:21 am.

Submitted by: Michelle Schellentrager

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 3**

---

**Date:** 3/12/2018

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

---

### **Safety**

- OSHA Recordable: 0 Accidents.

### **Notice of Violations**

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

### **Outage Summaries:**

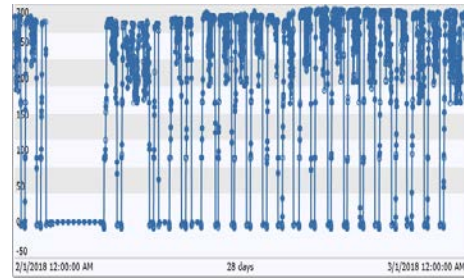
2/4/18 – 12.5 hours for an HRSG Inspection, OMS 5673861.  
2/9/18 – 51 minutes in local control due to emission issues, OMS 5695890.  
2/16/18 – 20 Minute late start due to gas compressor trip, OMS 5721457.  
2/24/18 – 36 minutes in local control due to emission issues from, OMS 5745960.  
2/25/18 – 2 hours in local control due to IGV position loss IGV trouble, OMS 5747619.  
2/26/18 – 14 minutes in local control due to emission issues, OMS 5749250.

### **Planned Outage Summaries:**

- 2018 – April 2<sup>nd</sup> – 22<sup>nd</sup> Steam Turbine , BOP, HRSG Seals, Generator Inspections, Eight Mile Conductor Upgrade, Gold Hill Relay Upgrade

**Generating Unit Statistics:****Date:** 2/1/2018

1. Monthly Production 110,676 MWH
2. Productivity Factor
  - a. Service Hours 440 Hours
  - b. Service Factor 65.4 %
  - c. Capacity Factor @ 280MW Pmax 58.8 %
  - d. Capacity Factor @ 302MW Pmax 54.5 %
3. Equivalent Operating Availability (EOA) 97.8 %
4. Forced Outage Rate (FOR)
  - a. Total LEC Plant FOR 3.2 %



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	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	7,012	2.07%	142	\$81
Seg. 3 275 - 284	6971	7,011	0.58%	2,347	\$378
Seg. 4 250 - 275	7081	7,045	-0.50%	16,315	-\$2,329
Seg. 5 225 - 250	7130	7,116	-0.19%	4,693	-\$258
Seg. 6 200 - 225	7200	7,262	0.86%	2,953	\$733
Seg. 7 175 - 225	7450	7,580	1.74%	3,800	\$1,972
Seg. 8 165 - 175	7760	7,928	2.16%	1,948	\$1,308
	7,164	7,279	0.77%	32,197	\$1,884

## 6. AGC Control Deviation

MW Range	High Dev MWH	Low Dev MWH	Total Dev MWH	Cost \$
<b>Bad AGC Data for May</b>				
Seg. 1 296 +	0	0	0	\$0
Seg. 2 284 - 296	117	-69	186	\$5,207
Seg. 3 275 - 284	75	-47	122	\$3,413
Seg. 4 250 - 275	86	-49	135	\$3,811
Seg. 5 225 - 250	54	-36	90	\$2,556
Seg. 6 200 - 225	33	-62	95	\$2,762
Seg. 7 175 - 225	31	-64	94	\$2,865
Seg. 8 165 - 175	6	-3	9	\$289
	401	-330	731	\$20,904

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	13	8	1
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	73	96	212
Start Time Deviation (%)	-3%	-13%	6%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,312	1,825	4,121
Fuel Deviation (%)	1%	1%	18%
Costs of Fuel Deviations (\$)	\$46	\$100	\$2,482



**Definitions:**

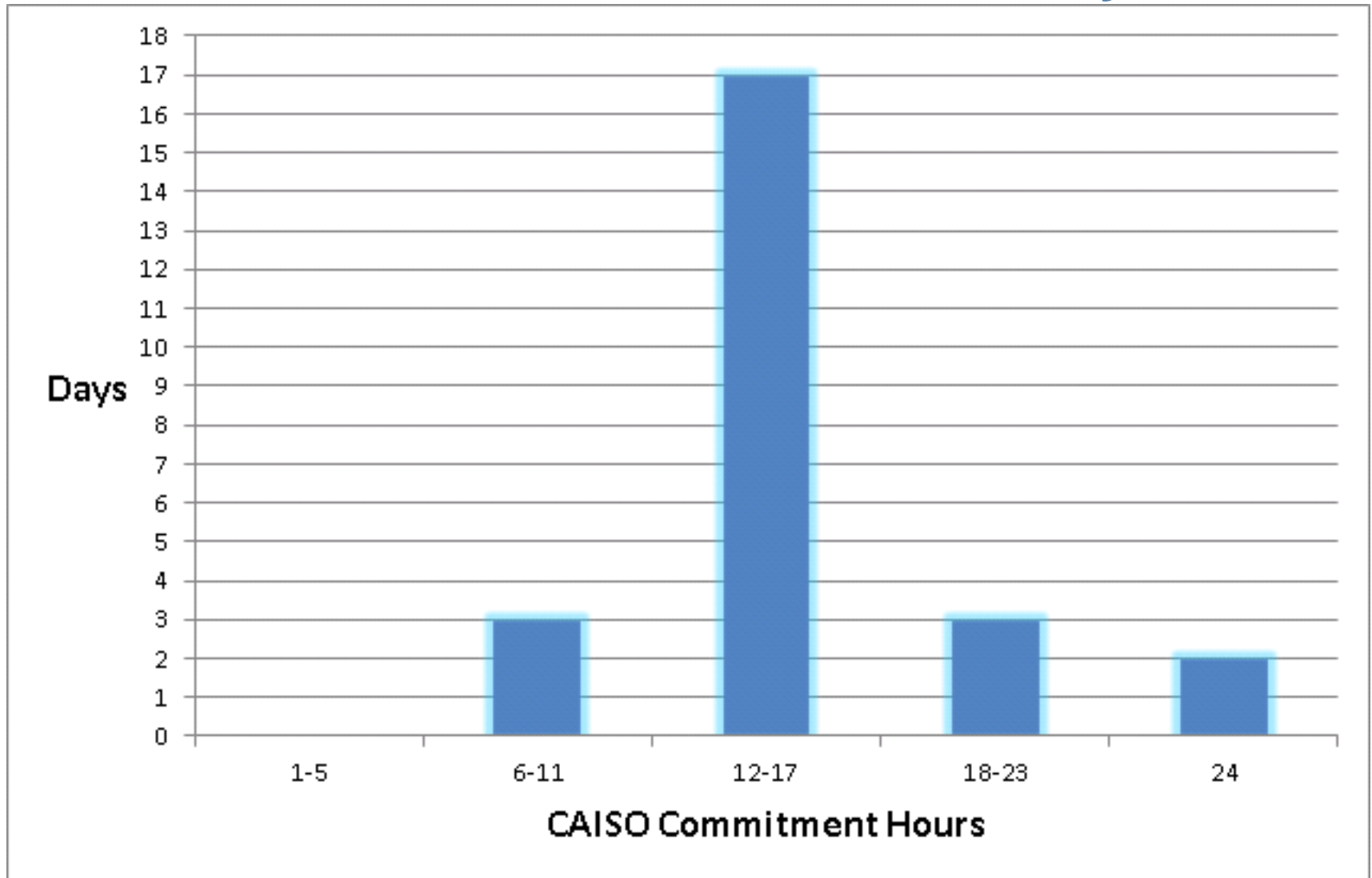
1. Monthly Production = Plant Net MWH's
2. Capacity Factor
  - a. Service Hours = In Production or in Service State
  - b. Service Factor =  $SH / PH \times 100\%$
  - c. Capacity Factor =  $Production / 302MW \times PH$
  - d. Capacity Factor =  $Production / 280MW \times PH$
3. Monthly Equivalent Availability Factor (EAF) =  $(AH - EPDH - EFDH) / PH \times 100\%$
4. Forced Outage Rate =  $(FOH / (FOH + SH)) \times 100\%$
5. Heat Rate Deviation (HRD)
  - a. Fuel Cost = Cost of Fuel in \$/mmBTU
  - b. Average Heat Rate = The Average Heat Rate for the given Range
  - c. Heat Rate Deviation =  $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
  - d. Production = The Sum of Production for the given Range
  - e. Costs of Heat Rate Deviations =  $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
  - a. MWH's = AGC Set Point Generation - LEC Actual Generation
  - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
  - a. Number of Starts = Start Count for Hot, Warm, and Cold
  - b. Start Time = Average Time from 0 Fuel Flow to Pmin
  - c. Start Fuel = Average Fuel Consumption to Pmin
  - d. Cost of Fuel Deviation =  $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$

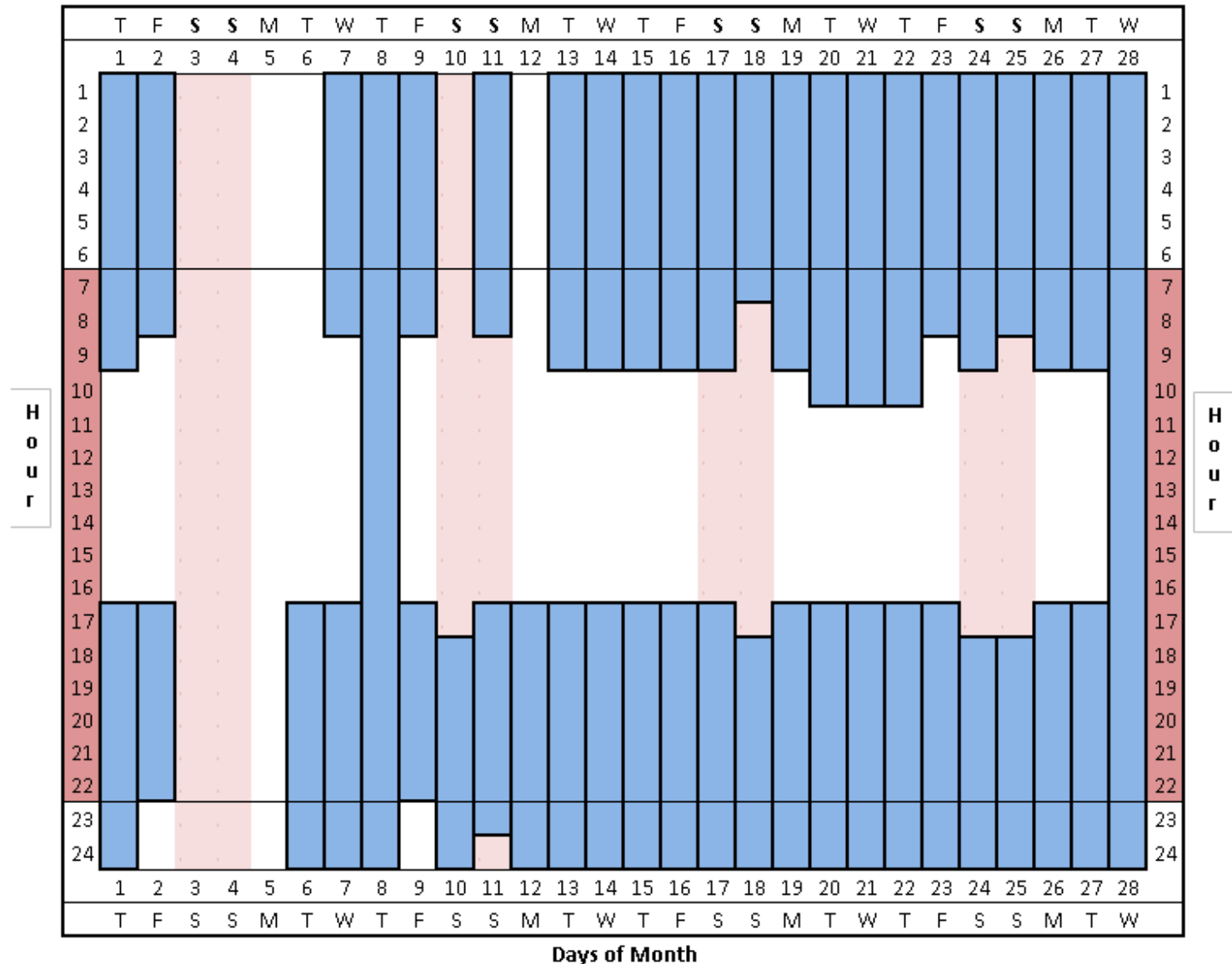
**LEC PPC Meeting  
March 12, 2018  
Market Settlement Results  
for  
February 2018**

## LEC Operational Results for February 2018

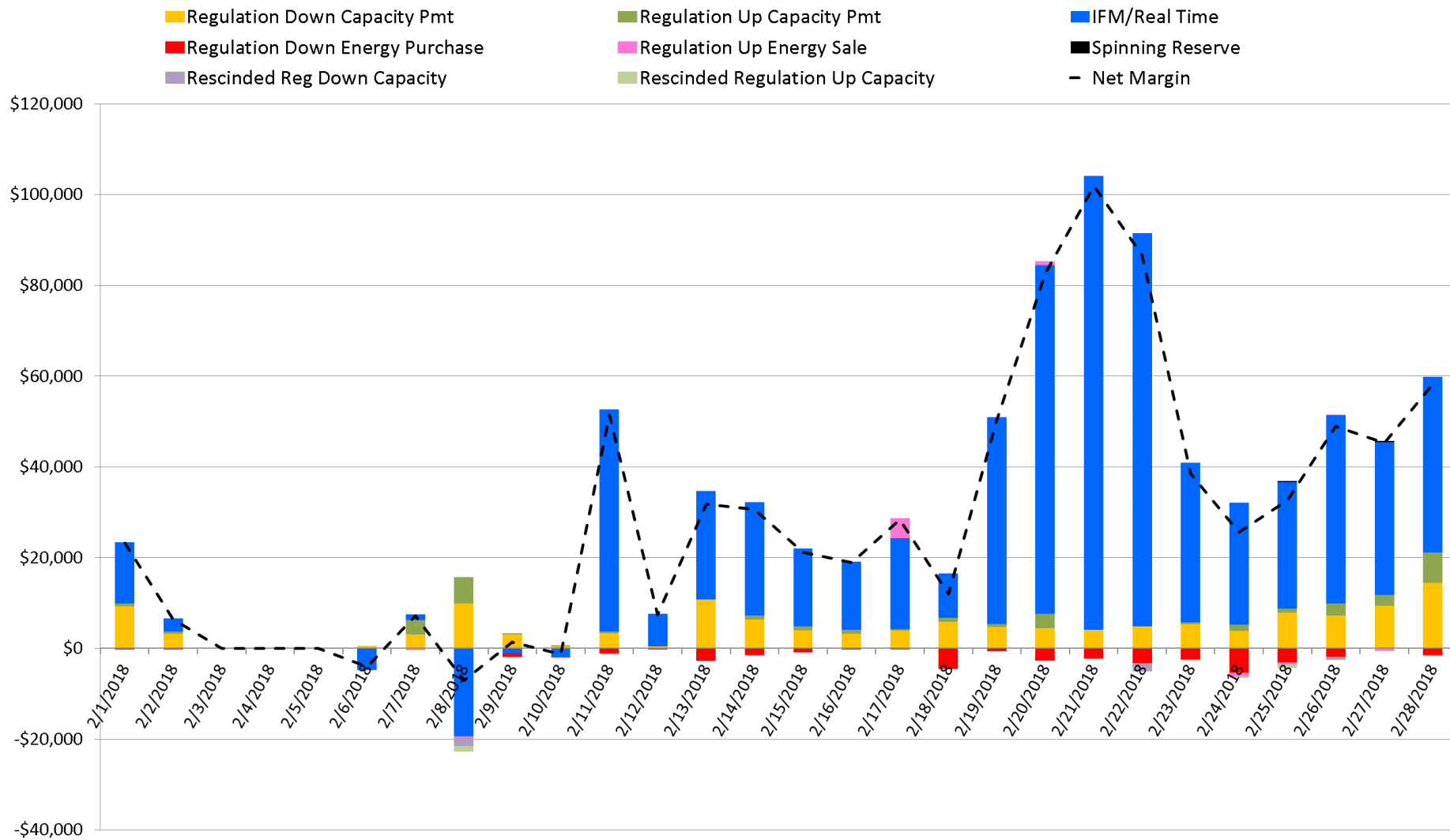
- Resource Adequacy Availability Metric:
  - 99.61% LEC Monthly Availability
  - compared to**
  - 96.50% CAISO RA Incentive Mechanism Availability Standard
    - ◆ \$2,775 RAIM Availability Incentive Payment
- LEC was committed by CAISO for Market energy 25 of 28 available days
  - 2 days due to economics
  - 1 day unavailable due to forced outage

## Frequency Tabulation of Daily CAISO commitment hour runs for February 2018





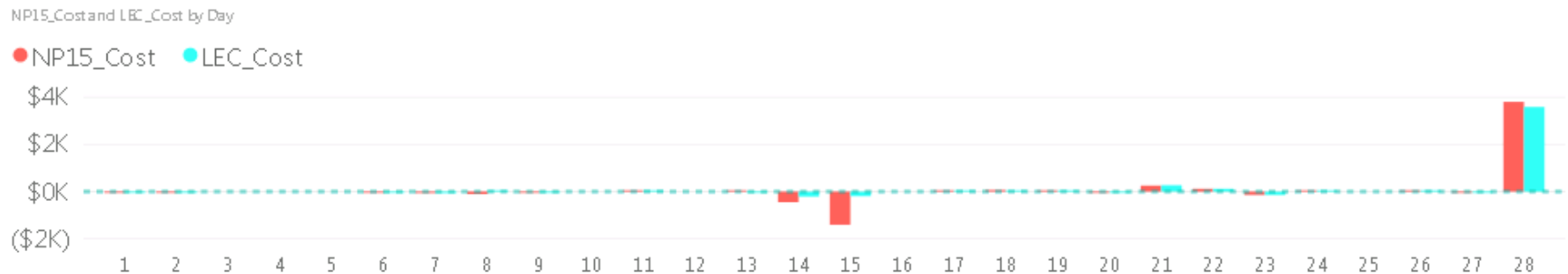
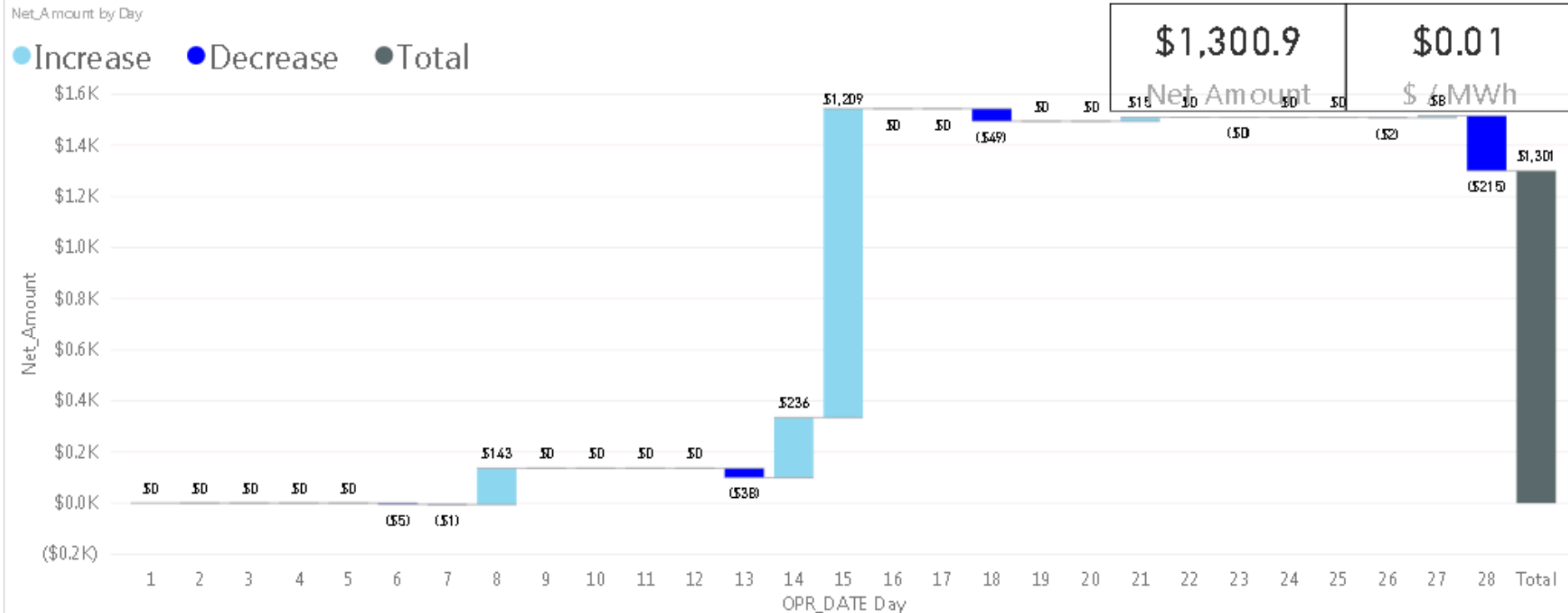
# February 2018 LEC Daily Margin Profile by Product



## February 2018 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$ 4,494,200	
Regulation Up Capacity	\$ 32,900	
Regulation Down Capacity	\$ 134,200	
Spinning Reserve	\$ 600	
Total Gross LEC Revenue		\$ 4,661,900
LEC CAISO GMC Costs	\$ (45,100)	
CAISO Energy & Capacity Buyback Costs	\$ (207,200)	
Total Monthly LEC Fuel Cost	\$ (2,534,500)	
Total Monthly GHG Obligation	\$ (647,500)	
Variable Operations & Maintenance Cost	\$ (392,900)	
Total Costs		\$ (3,827,200)
Net Cumulative Monthly Margin		\$ 834,700
Average Margin \$/MWh	\$	7.5

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub



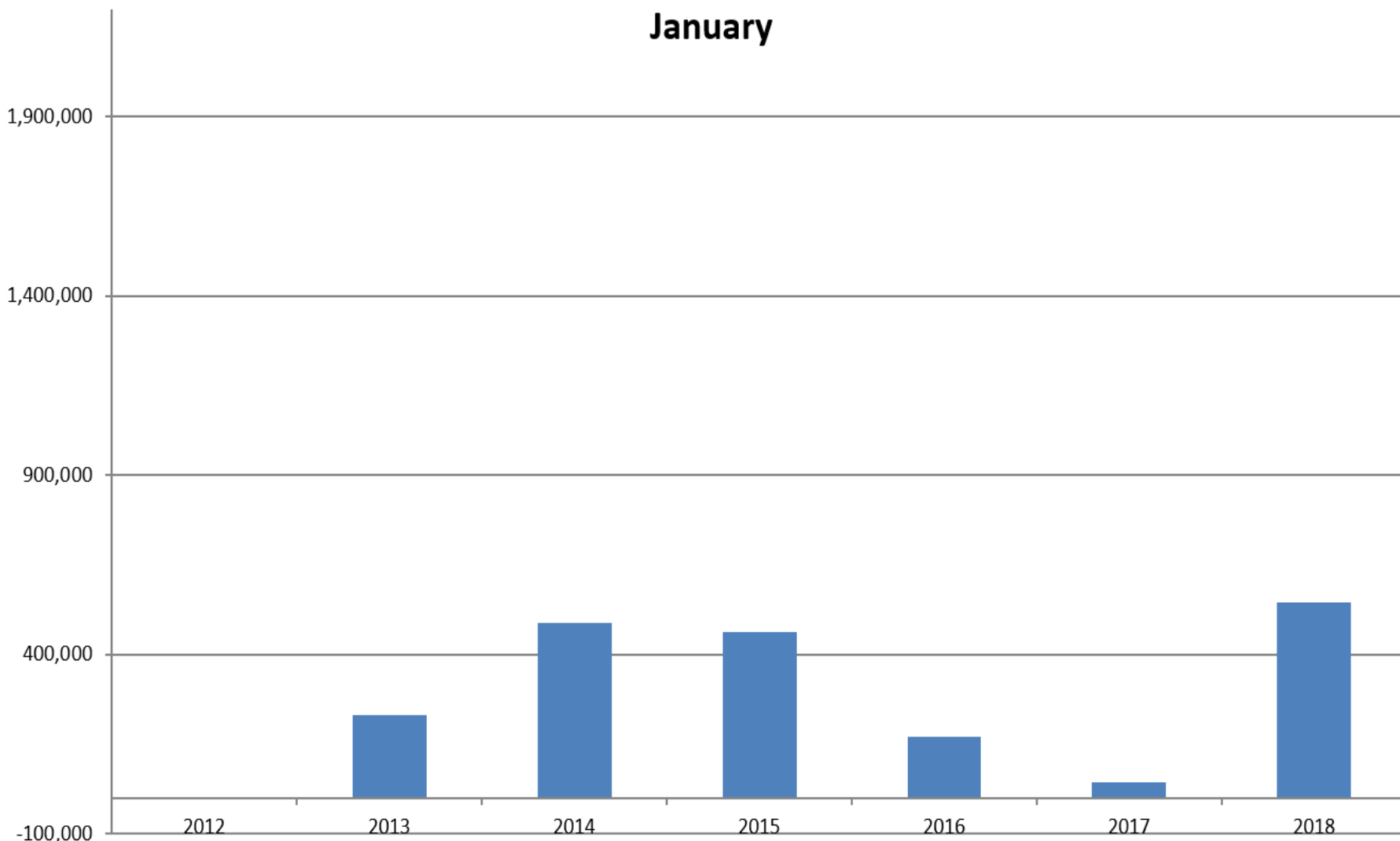


# January Asset Report

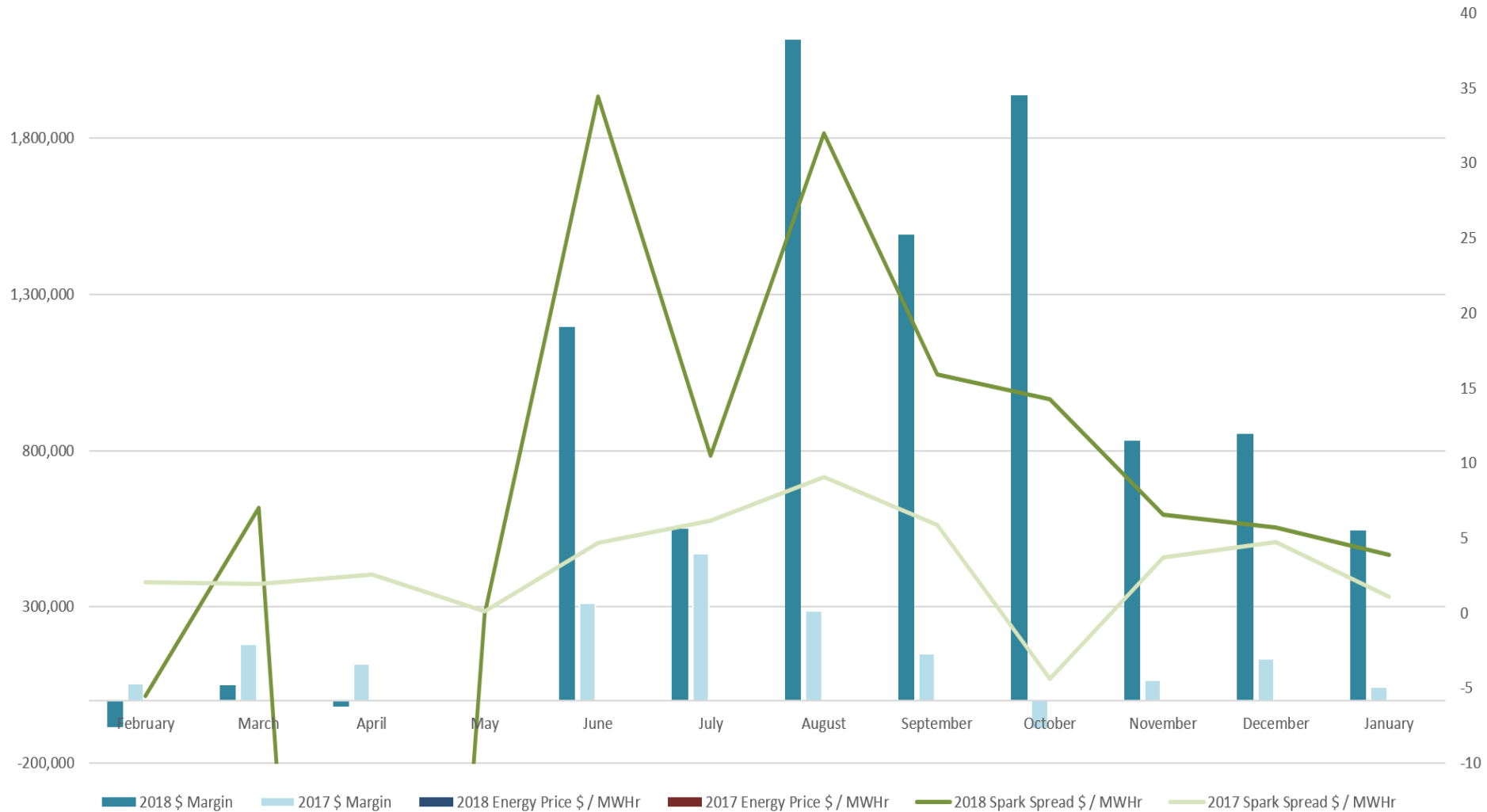
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	5,296,568	4,382,796	2,470,063	913,772	21%	
VOM	5,472,601	4,735,670	2,328,527	736,931	16%	
Fixed	911,675	1,356,780	929,654	(445,105)	-33%	
Projects	173,675	219,704	219,704	(46,029)	-21%	
A&G	160,998	186,895	186,895	(25,897)	-14%	
Debt	2,181,150	2,201,387	2,201,387	(20,237)	-0.92%	
Net Cost	(3,603,530)	(4,317,640)	(3,396,104)	714,110	-17%	
Net Annual Cost		(33,322,010)	(41,127,058)	\$7,805,048		
				Below budget by 18.98%		

# Historical Margins

January



### Historical Monthly Comparison



Lodi Energy Center  
Monthly Budget Analysis  
Expenditures  
Report Date: 03/04/2018

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY 2017 Budget	Percent Used	Comments
VOM	2,131,885	2,263,977	3,222,709	5,791,354	4,153,010	4,556,401	5,472,601	1,276,909	535,555	812,569	854,905	3,002,532	34,074,406	18,381,034	185.4%	
Capacity Factor	25%	32%	46%	65%	63%	72%	68%	18%	6%	2%	11%	38%	37%	16%	235.7%	Higher than planned
Fuel Consumed (mmBTU, estimated)	408,530	491,555	682,614	978,397	913,511	1,073,960	1,018,875	235,592	87,570	23,338	161,783	521,847	6,597,573	2,587,320	255.0%	
Avg Fuel Cost (\$/mmBTU)	4.26	4.31	3.75	3.57	3.55	3.34	3.40	4.27	4.75	4.97	4.06	3.67	3.69	5.75	64.1%	Higher than planned
Power Produced (MWHr, estimated)	54,015	66,206	93,624	136,039	126,574	149,299	141,195	34,393	12,784	3,407	23,618	76,182	917,336	377,711	242.9%	
Avg Power Price (\$/MWHr)	51.53	73.18	52.16	49.46	41.08	38.78	37.51	43.17	49.22	48.62	45.78	40.18	45.73	52.32	87.4%	Less than forecast
Operations / Variable / LTSA	29,334	86,135	58,161	1,442,649	118,611	52,057	1,128,046	67,687	43,941	676,464	57,240	630,712	4,391,036	1,263,067	347.6%	
Fuel (estimated)	1,738,553	2,120,273	2,560,852	3,494,733	3,243,482	3,584,525	3,460,617	1,005,066	415,728	115,881	657,468	1,916,730	24,313,908	14,877,170	163.4%	
AB32 GHG Offset (estimated)	329,888	22,196	556,527	795,806	740,179	859,656	825,299	190,056	70,644	18,827	130,513	420,982	4,960,572	2,044,488	242.6%	
CA ISO Charges (estimated)	34,109	35,373	47,170	58,166	50,738	60,163	58,639	14,101	5,241	1,397	9,683	34,109	408,890	196,309	208.3%	
Routine O&M (Fixed)	725,314	810,496	882,256	741,746	835,642	734,382	911,675	871,738	783,780	1,481,573	788,781	806,780	10,374,163	11,210,509	92.5%	
Maintenance / Fixed	170,690	182,526	274,205	255,132	284,832	224,854	368,796	316,592	235,000	687,761	235,000	235,000	3,470,388	3,336,592	104.0%	Injection Well Pump, Hydraulic Filters, Outage F
Administration	14,307	2,096	4,956	5,999	5,299	2,518	6,089	17,000	17,000	17,000	17,000	17,000	126,264	230,934	54.7%	
Mandatory Costs	36,388	135,865	10,376	6,814	36,849	11,826	15,683	3,000	7,000	60,000	12,000	30,000	365,801	291,959	125.3%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	380,095	350,342	460,520	350,541	380,877	371,924	346,212	397,968	397,968	590,000	397,968	397,968	4,822,383	5,051,714	95.5%	
Insurance	0	0	0	0	4,525	0	47,433	10,367	0	0	0	0	62,325	765,367	8.1%	
Power Management & Settlements	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,259	123,260	123,260	123,260	123,260	1,479,118	1,479,117	100.0%	
Other Costs	574	16,407	8,939	0	0	0	4,202	3,552	3,552	3,552	3,553	3,553	47,884	54,826	87.3%	
Projects	167,733	167,733	172,993	171,602	208,965	214,399	173,675	219,704	219,705	219,704	219,704	219,705	2,375,622	2,636,452	90.1%	
Maintenance Reserve	167,733	167,733	167,733	167,733	167,733	167,733	167,733	167,733	167,734	167,733	167,733	167,734	2,012,798	2,012,800	100.0%	
Operations & Maintenance Projects	0	0	5,260	3,869	41,232	0	5,942	5,304	5,305	5,304	5,304	5,305	82,825	63,652	130.1%	
Capital Projects	0	0	0	0	0	46,666	0	46,667	46,666	46,667	46,667	46,666	279,999	560,000	50.0%	
A&G	153,787	164,932	191,347	153,371	143,902	147,607	160,998	186,896	186,896	186,896	186,896	186,895	2,050,423	2,242,744	91.4%	
Administrative & General (Allocated)	134,528	143,874	163,801	132,923	124,780	125,093	136,275	156,947	156,947	156,947	156,947	156,946	1,746,008	1,883,356	92.7%	
Generation Services Shared	19,259	21,058	27,546	20,448	19,122	22,514	24,723	29,949	29,949	29,949	29,949	29,949	304,415	359,388	84.7%	
Total O&M Cost	3,178,719	3,407,138	4,469,305	6,858,073	5,341,519	5,652,789	6,718,949	2,555,247	1,725,936	2,700,742	2,050,286	4,215,912	48,874,614	34,470,739	141.8%	
Debt Service	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,181,150	2,201,387	2,201,386	2,201,386	2,201,386	2,201,386	26,396,403	26,416,640	99.9%	
Revenues	2,783,231	4,844,949	4,883,330	6,728,660	5,200,061	5,790,403	5,296,568	1,484,912	629,171	165,665	1,081,269	3,060,787	41,949,007	19,760,321	212.3%	
ISO Energy Sales (estimated)	2,783,231	4,844,744	4,883,142	6,728,660	5,200,061	5,790,403	5,296,568	1,484,912	629,171	165,665	1,081,269	3,060,787	41,948,614	19,760,321	212.3%	
Other Income	0	205	188	0	0	0	0	0	0	0	0	0	393	0		
Net	(\$2,596,875)	(\$763,576)	(\$1,787,362)	(\$2,330,800)	(\$2,342,845)	(\$2,063,773)	(\$3,603,530)	(\$3,271,722)	(\$3,298,151)	(\$4,736,462)	(\$3,170,403)	(\$3,356,512)	(\$33,322,010)	(\$41,127,058)	Below budget by 18.98%	



651 Commerce Drive  
Roseville, CA 95678

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

# LEC Treasurer's Report

AGENDA ITEM NO.: 7

**Date:** March 12, 2018

**To:** LEC Project Participant Committee

**Subject:** Treasurer's Report for the Month Ended February 28, 2018

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 \$42,249.

Investments - The carrying value of the LEC's investment portfolio totaled \$35,269,540 at month end. The current market value of the portfolio totaled \$34,777,755.

The overall portfolio had a combined weighted average interest rate of 1.775% with a bond equivalent yield (yield to maturity) of 1.485%. Investments with a maturity greater than one year totaled \$18,480,000. During the month \$2.4 million 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 by 21 basis points (from 1.43% to 1.64%) and rates on one year T-Bills increased by 23 basis points (from 1.79% to 2.02%).

To the best of my knowledge and belief, all securities held by LEC as of February 28, 2018 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

# **NORTHERN CALIFORNIA POWER AGENCY**

## **TREASURER'S REPORT**

**FEBRUARY 28, 2018**

### **TABLE OF CONTENTS**

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**February 28, 2018**

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	-	11,846,014	11,846,014	33.55%	11,838,798
Debt Service Reserve	-	12,113,315	12,113,315	34.30%	11,794,340
O & M Reserve	-	11,237,955	11,237,955	31.82%	11,072,361
	-	35,197,284	35,197,284	99.68%	34,705,499
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	72,256	72,256	0.20%	72,256
Transmission Upgrade Escrow <sup>1</sup>	42,249	-	42,249	0.12%	-
Participant Deposit Account	-	-	-	0.00%	-
	<b>\$ 42,249</b>	<b>\$ 35,269,540</b>	<b>\$ 35,311,789</b>	<b>100.00%</b>	<b>\$ 34,777,755</b>

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

<sup>1</sup> Amount held in escrow

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**February 28, 2018**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ -	\$ 256	\$ 1,214	\$ -	\$ (2,182,416)	\$ 2,180,946	-
Debt Service Reserve	-	709	145,853	-	(146,562)	-	-
O & M Reserve	-	27,534	-	-	(27,534)	-	-
	-	28,499	147,067	-	(2,356,512)	2,180,946	-
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	-	-	-	-	-	-
Transmission Upgrade Escrow <sup>1</sup>	-	7	-	-	-	-	7
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 28,506</b>	<b>\$ 147,067</b>	<b>\$ -</b>	<b>\$ (2,356,512)</b>	<b>\$ 2,180,946</b>	<b>\$ 7</b>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

<sup>1</sup> Amount held in escrow



**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**February 28, 2018**

	PURCHASED	SOLD OR MATURED	(NON-CASH) DISC/(PREM) AMORT	(NON-CASH) GAIN/(LOSS) ON SALE	INVESTMENTS	
					TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	2,182,416	(1,214)	10,586	-	-	2,191,788
Debt Service Reserve	146,562	(145,853)	(6,807)	-	-	(6,098)
O & M Reserve	27,534	-	(1,532)	-	-	26,002
	<b>\$ 2,356,512</b>	<b>\$ (147,067)</b>	<b>\$ 2,247</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,211,692</b>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	-	-	-	-	-	-
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ 2,356,512</b>	<b>\$ (147,067)</b>	<b>\$ 2,247</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,211,692</b>

**Less Non- Cash Activity**

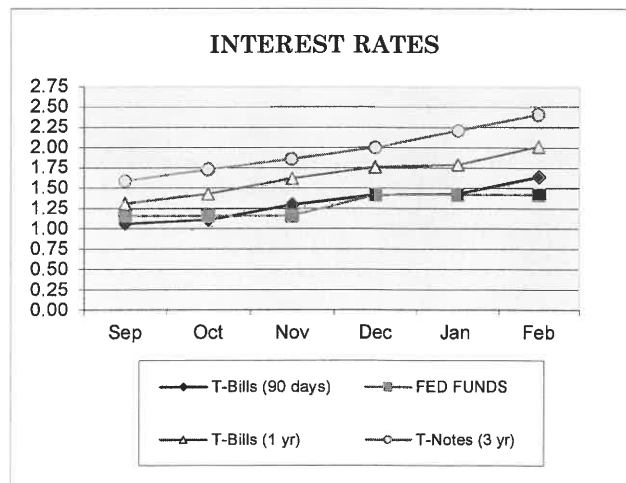
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(2,247)
<b>Net Change in Investment --Before Non-Cash Activity</b>	<b>\$ 2,209,445</b>

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

**Northern California Power Agency  
Lodi Energy Center  
Interest Rate/Yield Analysis  
February 28, 2018**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b><u>1.775%</u></b>	<b><u>1.485%</u></b>
Debt Service Account	1.427%	1.454%
Debt Service Reserve	2.368%	1.653%
O & M Reserve	1.506%	1.337%
GHG Cash Account	1.204%	1.205%

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Fds (Ovrnight)	1.42%	0.66%
T-Bills (90da.)	1.64%	0.52%
Agency Disc (90da.)	1.64%	0.70%
T-Bills (1yr.)	2.02%	0.82%
Agency Disc (1yr.)	2.01%	0.98%
T-Notes (3yr.)	2.41%	1.45%



**Northern California Power Agency  
Total Portfolio  
Investment Maturities Analysis  
February 28, 2018**

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	\$ -	\$ 7,476	\$4,409	\$ -	\$ 2,933	\$ 18,395	\$ -	\$ 33,213	94.60%
Corporate Bonds (MTN)	-	-	-	-	-	-	-	-	0.00%
US Bank Trust Money Market	3	-	-	-	-	-	-	3	0.01%
Commercial Paper	-	-	-	-	-	-	-	-	0.00%
Investment Trusts (LAIF)	1,670	-	-	-	-	-	-	1,670	4.76%
U.S.Treasury Market Acct.	75	-	-	-	-	-	-	75	0.21%
U.S.Treasury Bill/Note	-	-	-	-	63	85	-	148	0.42%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
Total Dollars	\$ 1,748	\$7,476	\$4,409	\$0	\$2,996	\$18,480	\$0	\$ 35,109	100.00%
Total Percents	4.98%	21.29%	12.56%	0.00%	8.53%	52.64%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



Northern California Power Agency  
Treasurer's Report

02/28/2018

LEC Issue#1 2010A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	882	0.600	07/01/2013	882		1	0.600	882	SYS79003	79003	882
Federal Home Loan Ba	USBT	3,542,000	1.350	12/28/2017	3,522,342	05/25/2018	85	1.376	3,528,045	313385XF8	26505	3,530,710
Federal Home Loan Ba	USBT	698,000	1.474	01/31/2018	694,568	05/31/2018	91	1.502	695,054	313385XM3	26520	695,398
Federal Home Loan Ba	USBT	489,000	1.640	02/27/2018	486,906	06/01/2018	92	1.669	486,839	313385XN1A	26529	486,951
Fund Total and Average		\$ 4,729,882	1.398		\$ 4,704,698		87	1.425	\$ 4,710,820			\$ 4,713,941

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	382	0.600	07/01/2013	382		1	0.600	382	SYS79004	79004	382
Federal Home Loan Ba	USBT	735,000	1.350	12/28/2017	730,921	05/25/2018	85	1.376	732,104	313385XF8	26506	732,657
Federal Home Loan Ba	USBT	729,000	1.475	01/31/2018	725,416	05/31/2018	91	1.502	725,924	313385XM3	26518	726,282
Federal Home Loan Ba	USBT	729,000	1.640	02/27/2018	725,878	06/01/2018	92	1.669	725,778	313385XN1A	26528	725,945
Fund Total and Average		\$ 2,193,382	1.488		\$ 2,182,597		89	1.516	\$ 2,184,188			\$ 2,185,266

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	474	0.600	07/01/2013	474		1	0.600	474	SYS79011	79011	474
Federal Home Loan Ba	USBT	2,844,000	1.350	12/28/2017	2,828,216	05/25/2018	85	1.376	2,832,795	313385XF8	26507	2,834,935
Federal Home Loan Ba	USBT	441,000	1.475	01/31/2018	438,832	05/31/2018	91	1.502	439,139	313385XM3	26516	439,356
Federal Home Loan Ba	USBT	439,000	1.640	02/27/2018	437,120	06/01/2018	92	1.669	437,060	313385XN1A	26527	437,160
Fund Total and Average		\$ 3,724,474	1.399		\$ 3,704,642		87	1.426	\$ 3,705,468			\$ 3,711,925

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	130	0.600	07/01/2013	130		1	0.600	130	SYS79012	79012	130
Federal Home Loan Ba	USBT	355,000	1.350	12/28/2017	353,030	05/25/2018	85	1.376	353,601	313385XF8	26508	353,868
Federal Home Loan Ba	USBT	350,000	1.474	01/31/2018	348,279	05/31/2018	91	1.502	348,523	313385XM3	26523	348,695
Federal Home Loan Ba	USBT	351,000	1.640	02/27/2018	349,497	06/01/2018	92	1.669	349,449	313385XN1A	26526	349,529
Fund Total and Average		\$ 1,056,130	1.488		\$ 1,050,936		89	1.516	\$ 1,051,703			\$ 1,052,222

LEC Issue#1 2017A DS Fund

US Bank Trust	USBT	428	0.600	02/23/2018	428		1	0.600	428	SYS79016	79016	428
Federal Home Loan Ba	USBT	183,000	1.640	02/28/2018	182,225	06/01/2018	92	1.669	182,191	313385XN1A	26543	182,233
Fund Total and Average		\$ 183,428	1.638		\$ 182,653		92	1.667	\$ 182,619			\$ 182,661

GRAND TOTALS: \$ 11,887,296 1,427 \$ 11,825,526 87 1,454 \$ 11,838,798. \$ 11,846,015

\*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 02/28/2018



Northern California Power Agency  
Treasurer's Report

02/28/2018

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	146	0.600	07/01/2013	146		1	0.600	146	SYS79005	79005	146
U.S. Treasury	USB	85,000	1.625	02/27/2018	84,641	06/30/2019	486	1.945	84,399	912828WS5	26538	84,642
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	1,181	1.659	4,234,301	3133EGBZ7	26337	4,360,000
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	1,260	1.699	143,006	3137EAE9	26454	147,139
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	1,562	1.760	4,023,453	313379Q69	26463	4,161,047
Fund Total and Average		\$ 8,695,146	1.872		\$ 8,759,741		1357	1.711	\$ 8,485,305			\$ 8,762,974

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	377	0.600	07/01/2013	377		1	0.600	377	SYS79006	79006	377
U.S. Treasury	USB	38,000	1.823	02/27/2018	37,349	01/31/2019	336	1.872	37,305	912796PP8	26534	37,353
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	06/12/2020	834	1.540	2,192,490	313370E38	26455	2,232,456
Fund Total and Average		\$ 2,183,377	3.349		\$ 2,292,872		826	1.545	\$ 2,230,172			\$ 2,270,186

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	610	0.600	07/01/2013	610		1	0.600	610	SYS79013	79013	610
U.S. Treasury	USB	25,000	1.823	02/27/2018	24,572	01/31/2019	336	1.872	24,543	912796PP8	26535	24,575
Federal Home Loan Ba	USB	1,025,000	4.375	07/28/2017	1,082,708	07/01/2019	487	1.400	1,053,710	3133XU3G6	26456	1,064,971
Fund Total and Average		\$ 1,050,610	4.315		\$ 1,107,890		483	1.410	\$ 1,078,863			\$ 1,090,156
GRAND TOTALS:		\$ 11,929,133	2.368		\$ 12,160,503		1179	1.653	\$ 11,794,340.			\$ 12,113,316

\*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 02/28/2018  
Investment #26337 FFCB Callable anytime



Northern California Power Agency  
Treasurer's Report

02/28/2018

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1,597,756	1.204	07/01/2013	1,597,756		1	1.204	1,597,756	SYS70047	70047	1,597,756
Union Bank of Califo	UBOC	74,886	0.002	07/18/2013	74,886		1	0.002	74,886	SYS70041	70041	74,886
Federal National Mtg	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	355	1.220	2,926,166	313SG0ZA4	26248	2,951,121
Federal Home Loan Ba	USB	3,615,000	1.540	06/30/2017	3,613,952	06/05/2020	827	1.550	3,546,423	3130ABJQ0	26440	3,614,191
Federal National Mtg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	852	1.300	2,927,130	3138G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,220,642	1.506		\$ 11,284,736		587	1.337	\$ 11,072,361			\$ 11,237,954
GRAND TOTALS:		\$ 11,220,642	1.506		\$ 11,284,736		587	1.337	\$ 11,072,361.			\$ 11,237,954

\*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 02/28/2018





Northern California Power Agency  
Treasurer's Report

02/28/2018

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		72,256	1.204	07/01/2013	72,256		1	1.204	72,256	SYS70046	70046	72,256
Fund Total and Average		\$ 72,256	1.205		\$ 72,256		1	1.205	\$ 72,256			\$ 72,256
GRAND TOTALS:		\$ 72,256	1.205		\$ 72,256		1	1.205	\$ 72,256.			\$ 72,256

\*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 02/28/2018



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

### **LEC Financial Reports**

AGENDA ITEM NO.: 8

---

**Date:** March 12, 2018

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

**Subject:** February 28, 2018 Financial Reports (Unaudited)

---

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

	<u>February</u>	
	<u>2018</u>	<u>2017</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 72,256	\$ 71,541
Accounts receivable		
Others	315	-
Interest receivable	23	55
Inventory and supplies - at average cost	2,110,855	2,080,519
Prepaid insurance	314,137	356,733
Due from (to) Agency, net	18,082,497	11,032,491
<b>TOTAL CURRENT ASSETS</b>	<u>20,580,083</u>	<u>13,541,339</u>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	1,718,183	7,750,771
Investments	33,490,595	26,985,260
Interest receivable	70,242	32,992
<b>TOTAL RESTRICTED ASSETS</b>	<u>35,279,020</u>	<u>34,769,023</u>
<b>ELECTRIC PLANT</b>		
Electric plant in service	423,794,076	423,640,289
Less: accumulated depreciation	(76,682,735)	(62,071,627)
	<u>347,111,341</u>	<u>361,568,662</u>
Construction work-in-progress	107,024	102,031
<b>TOTAL ELECTRIC PLANT</b>	<u>347,218,365</u>	<u>361,670,693</u>
<b>OTHER ASSETS</b>		
Regulatory assets	22,849,985	20,820,913
<b>TOTAL OTHER ASSETS</b>	<u>22,849,985</u>	<u>20,820,913</u>
<b>TOTAL ASSETS</b>	<u>\$ 425,927,453</u>	<u>\$ 430,801,968</u>

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

	February	
	2018	2017
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 2,574,079	\$ 474,915
Operating reserves	13,711,714	12,421,776
Current portion of long-term debt	10,355,000	9,950,000
Accrued interest payable	3,827,691	4,090,366
<b>TOTAL CURRENT LIABILITIES</b>	<b>30,468,484</b>	<b>26,937,057</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	1,716,009	1,715,405
Long-term debt, net	340,658,163	351,457,319
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>342,374,172</b>	<b>353,172,724</b>
<b>TOTAL LIABILITIES</b>	<b>372,842,656</b>	<b>380,109,781</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	41,521,015	42,581,324
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	(20,328,048)	(19,404,606)
Restricted	19,347,573	19,626,571
Unrestricted	12,544,257	7,888,898
<b>TOTAL NET POSITION</b>	<b>11,563,782</b>	<b>8,110,863</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 425,927,453</b>	<b>\$ 430,801,968</b>

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

		<b>Eight Months Ended February</b>	
		<b>2018</b>	<b>2017</b>
<b>SALES FOR RESALE</b>			
Participants	\$	20,618,917	\$ 24,701,897
Other		42,719,237	12,353,377
<b>TOTAL SALES FOR RESALE</b>		<b>63,338,154</b>	<b>37,055,274</b>
<b>OPERATING EXPENSES</b>			
Operations		28,926,750	12,696,441
Depreciation		9,741,357	9,737,203
Purchased power		3,663,804	2,139,042
Maintenance		2,648,029	2,596,287
Administrative and general		2,794,492	2,762,522
Transmission		695,677	318,674
Intercompany (sales) purchases		156,352	167,540
<b>TOTAL OPERATING EXPENSES</b>		<b>48,626,461</b>	<b>30,417,709</b>
<b>NET OPERATING REVENUES</b>		<b>14,711,693</b>	<b>6,637,565</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(10,232,263)	(10,619,292)
Interest income		453,392	140,997
Other		1,706,363	7,598,726
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>(8,072,508)</b>	<b>(2,879,569)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>1,197,530</b>	<b>1,663,084</b>
<b>REFUNDS TO PARTICIPANTS</b>		<b>(2,480,564)</b>	<b>(277,702)</b>
<b>INCREASE IN NET POSITION</b>		<b>5,356,151</b>	<b>5,143,378</b>
<b>NET POSITION</b>			
Beginning of year		6,207,631	2,967,485
End of period	\$	11,563,782	\$ 8,110,863

**Lodi Energy Center  
FY 2018 Operating Costs  
As of February 28, 2018**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Routine O&amp;M Costs</b>					
Variable	\$ 1,263,067	\$ 2,964,080	\$ (1,701,013)	0%	<b>A</b>
Fixed	3,336,592	2,038,356	1,298,236	39%	
Administration	230,934	43,369	187,565	81%	<b>B</b>
Mandatory Costs	291,959	276,762	15,197	5%	
<b>Routine O&amp;M Costs without Labor</b>	5,122,552	5,322,567	(200,015)	0%	
Labor	5,051,714	2,978,059	2,073,655	41%	
<b>Total Routine O&amp;M Cost</b>	10,174,266	8,300,626	1,873,640	18%	
<b>Other Costs</b>					
Fuel	14,877,170	22,200,023	(7,322,853)	0%	<b>C</b>
CA ISO Charges	196,309	695,677	(499,368)	0%	
CA ISO Purchased Energy	3,724,590	3,663,804	60,786	2%	<b>D</b>
Debt Service	26,416,640	17,570,620	8,846,020	33%	
Insurance	765,367	472,578	292,789	38%	<b>E</b>
Other Costs	54,826	23,818	31,008	57%	
Generation Services Shared	359,388	176,671	182,717	51%	
Administrative & General (Allocated)	1,863,356	1,086,273	797,083	42%	
Power Management Allocated Costs	1,479,117	986,078	493,039	33%	
<b>Total O&amp;M Cost</b>	59,931,029	55,176,168	4,754,861	8%	
<b>Projects</b>					
Operations & Maintenance	63,652	56,303	7,349	12%	<b>F</b>
Capital	560,000	-	560,000	100%	
Maintenance Reserve	2,012,800	1,341,867	670,933	33%	
<b>Total Projects</b>	2,636,452	1,398,170	1,238,282	47%	
<b>Annual Cost</b>	62,567,481	56,574,338	5,993,143	10%	
<b>Less: Third Party Revenue</b>					
Interest Income	171,889	231,632	(59,743)	0%	<b>G</b>
ISO Energy Sales	19,760,321	41,548,331	(21,788,010)	0%	
Ancillary Services Sales	396,879	1,170,906	(774,027)	0%	
	20,329,089	42,951,262	(22,622,173)	0%	
<b>Net Annual Cost to Participants</b>	\$ 42,238,392	\$ 13,623,076	\$ 28,615,316	68%	
<b>Total Variable Costs</b>	20,061,136	29,523,584	(9,462,448)		
<b>Total Fixed Costs</b>	42,506,345	27,050,754	15,455,591		
	<u>\$ 62,567,481</u>	<u>\$ 56,574,338</u>	<u>\$ 5,993,143</u>		
<b>Net Cumulative Generation (MWh)</b>	377,711	877,627			
<b>Total O&amp;M Cost Per MWh</b>	\$ 158.67	\$ 62.87			
<b>Net Annual Cost Per MWh</b>	\$ 111.83	\$ 15.52			

**Footnotes:**

**General** - The plant ran 25 days during the month.

February payroll, A&G allocation and generation services allocation are estimated.

**A** - Higher variable maintenance and chemical costs due to higher year to date generation.

**B** - Payments for annual CEC fee and Air Resources Board fee were higher than expected.

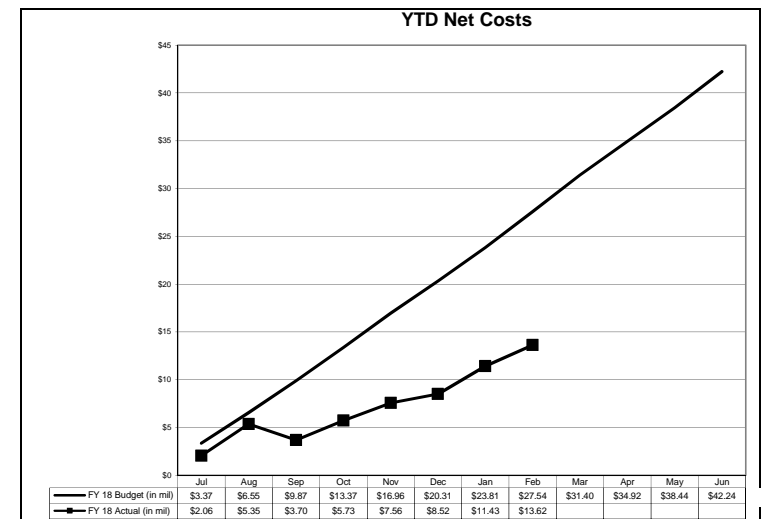
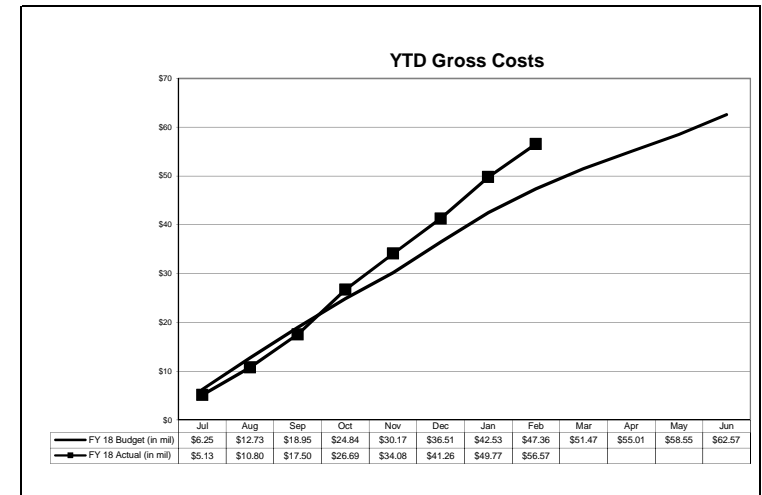
**C** - Higher fuel costs due to higher generation and higher natural gas costs per mmBtu.

**D** - Higher than budgeted CA ISO costs due to higher than anticipated GMC costs and transmission costs due to volume.

**E** - Higher than budgeted costs due to CA ISO real time settlement resulting in additional market purchases by NCPA and for Participants purchasing energy from CA ISO using LEC as the SC.

**F** - Engineering costs for relay replacements - costs projected to normalize for remainder of fiscal year.

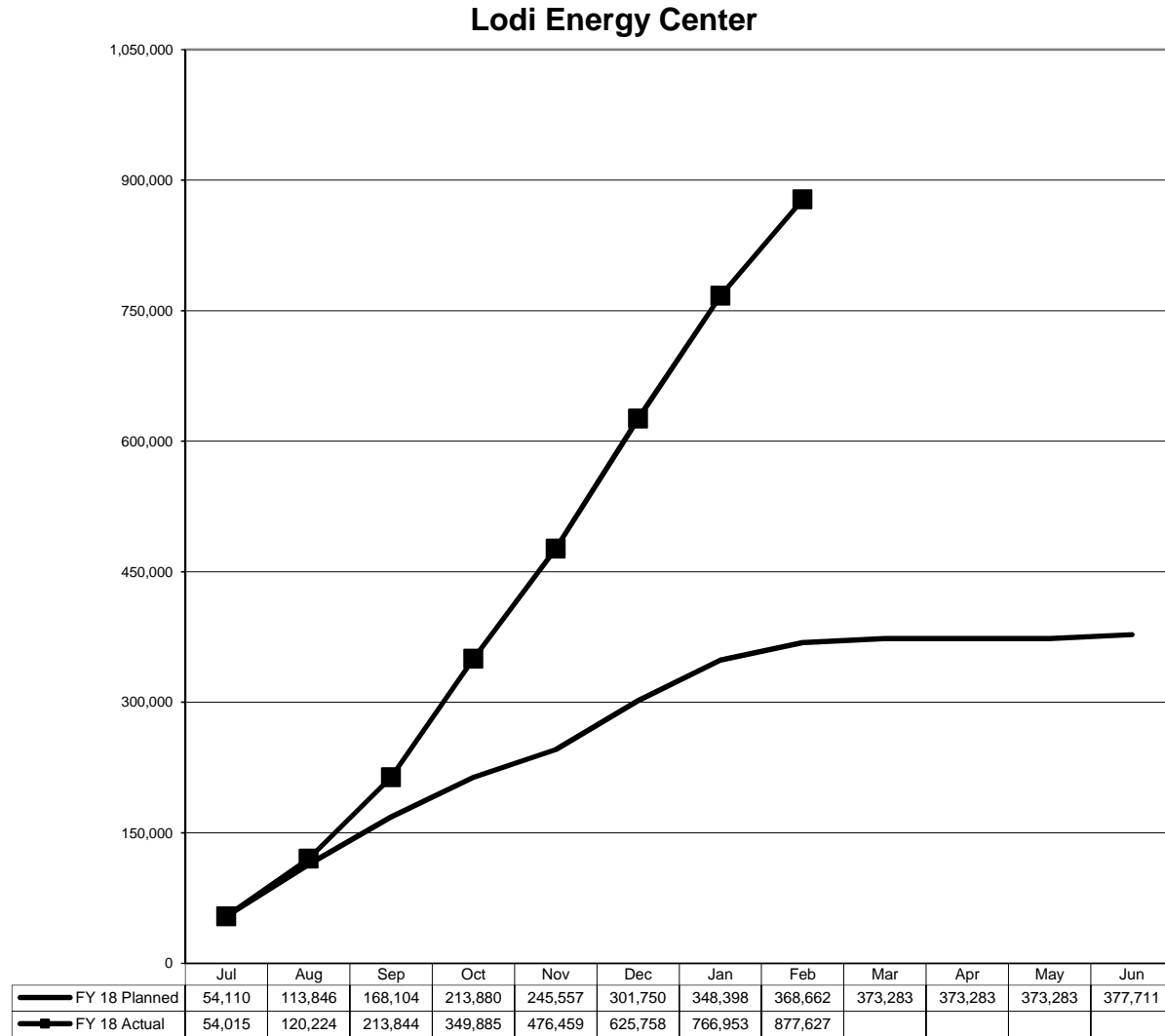
**G** - Higher than budgeted interest income due to increase in short term interest rates.



**Note:** Decrease in September net costs due to adjustment of energy sales in prior periods.

# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2018

In MWh



**Note:** Increase in generation due to decrease in gas transmission costs, making it economical for the plant to run.



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

### **LEC GHG Reports**

AGENDA ITEM NO.: 9

---

**Date:** March 12, 2018

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

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

---



2013 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center														
	Actual													Compliance Year 2013
IDENTIFIER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	0	82,787	101,925	128,167	134,284	32,545	80,153	122,492	94,615	92,091	98,739	105,078	138,068	1,210,944
Gas Schedule (MMBtu)	0	593,484	723,038	894,657	952,529	229,724	579,650	870,331	673,965	650,250	692,396	738,008	965,292	8,563,324
Emissions Factor (MT/MMBtu)	0	0.054	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)													86,000	
Monthly MT Emissions (MT)	0	32,027	39,019	48,280	51,403	12,397	31,281	46,967	36,371	35,091	37,365	39,827	52,178	462,206
Cumulative MT Obligation (MT)	0	32,027	71,046	119,326	170,730	183,127	214,407	261,375	297,745	332,836	370,201	410,028	462,206	462,206
Compliance Instrument Participant Transfers (to LEC)														
Auction Allowances	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	498,133
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)	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	498,133
NCPA Compliance Instrument Purchases (for LEC)														
Auction Purchases	47,000	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Monthly Activity (MT)	139,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	545,133
Cumulative MT Account Balance [MTA] (MT)	139,695	145,045	145,045	158,689	263,689	314,321	344,949	346,549	448,749	461,343	498,843	498,843	545,133	545,133
MTA Shortfall (MT)	(139,695)	(113,018)	(73,999)	(39,363)	(92,959)	(131,194)	(130,542)	(85,174)	(151,004)	(128,507)	(128,642)	(88,815)	(82,927)	(82,927)

	2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												
	Actual												Compliance Year 2014
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	136,604	156,089	120,489	55,378	71,210	51,037	118,473	69,006	178,831	197,715	51,636	106,338	1,312,806
Gas Schedule (MMBtu)	951,700	1,092,730	858,805	391,272	512,068	371,695	836,762	496,327	1,251,547	1,371,546	372,826	759,691	9,266,969
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)												173,000	
Monthly MT Emissions (MT)	51,358	58,969	46,345	21,115	27,634	20,059	45,156	26,784	67,540	74,015	20,120	41,170	500,265
Cumulative MT Obligation (MT)	513,564	572,533	618,879	639,994	667,628	687,686	732,842	759,626	827,166	901,181	782,385	823,555	823,555
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	138,916	0	138,916
Total Monthly Activity (MT)	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
Cumulative MT Account Balance [MTA] (MT)	647,480	687,480	735,546	760,546	761,836	925,084	925,084	925,084	938,670	989,190	930,624	930,974	930,974
MTA Shortfall (MT)	(133,916)	(114,947)	(116,667)	(120,552)	(94,208)	(237,398)	(192,242)	(165,458)	(111,504)	(88,009)	(148,239)	(107,419)	(107,419)

2015 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center													
IDENTIFIER	Actual												Compliance Year 2015
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	196,019	151,600	184,507	181,244	91,067	142,275	103,883	137,266	131,608	165,737	75,231	131,779	1,692,216
Gas Schedule (MMBtu)	1,368,474	1,073,330	1,299,294	1,269,481	646,027	1,009,450	740,553	971,283	927,730	1,171,129	541,136	940,340	11,958,227
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)													
Monthly MT Emissions (MT)	73,850	57,922	70,116	68,508	34,863	54,475	39,964	52,415	50,065	63,200	29,202	50,745	645,326
Cumulative MT Obligation (MT)	897,404	955,327	1,025,443	1,093,951	1,128,814	1,183,288	1,223,252	1,275,668	1,325,733	1,388,933	593,540	644,285	644,285
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	824,595	0	824,595
Total Monthly Activity (MT)	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
Cumulative MT Account Balance [MTA] (MT)	972,316	972,566	1,144,666	1,159,666	1,245,666	1,352,993	1,456,993	1,483,014	1,483,014	1,541,215	716,995	717,195	717,195
MTA Shortfall (MT)	(74,912)	(17,239)	(119,223)	(65,715)	(116,852)	(169,705)	(233,741)	(207,346)	(157,281)	(152,282)	(123,455)	(72,910)	(72,910)

2016 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center													
IDENTIFIER	Actual												Compliance Year 2016 Total
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
Energy (MWh)	97,230	27,160	91,578	45,437	3,423	66,596	76,008	31,653	25,597	20,636	17,488	28,418	531,223
Gas Schedule (MMBtu)	695,120	194,179	678,033	339,504	27,754	485,792	547,510	234,782	192,679	158,835	158,835	214,109	3,927,132
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)													
Monthly MT Emissions (MT)	37,512	10,479	36,590	18,321	1,498	26,216	29,546	12,670	10,398	8,572	8,572	11,554	211,928
Cumulative MT Obligation (MT)	681,798	692,276	728,867	747,188	748,686	774,901	804,448	817,118	827,516	836,087	650,684	662,238	662,238
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	193,975	0	193,975
Total Monthly Activity (MT)	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
Cumulative MT Account Balance [MTA] (MT)	928,676	928,676	926,176	895,176	895,176	840,176	840,176	896,776	896,776	896,776	1,090,751	1,090,751	1,090,751
MTA Shortfall (MT)	(246,878)	(236,400)	(197,309)	(147,988)	(146,490)	(65,275)	(35,728)	(79,658)	(69,260)	(60,689)	(440,067)	(428,513)	(428,513)

2017 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center													
IDENTIFIER	Actual												Compliance Year 2017 Total
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
Energy (MWh)	38,917	15,337	7,086	0	3,436	35,997	54,015	66,209	93,620	136,041	126,574	149,304	726,534
Gas Schedule (MMBtu)	301,781	115,019	59,077	0	29,558	266,056	403,302	464,997	675,267	969,402	901,245	1,063,441	5,249,146
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)													
Monthly MT Emissions (MT)	16,286	6,207	3,188	0	1,595	14,358	21,764	25,094	36,441	52,314	48,636	57,389	283,270
Cumulative MT Obligation (MT)	678,524	684,731	687,919	687,919	689,514	703,872	725,636	750,729	787,170	839,484	824,883	882,271	882,271
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	0	0	5,000	0	0	0	0	0	67,058	0	20,500	92,321	184,879
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	0	0	5,000	0	0	0	0	0	67,058	0	20,500	92,321	184,879
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	63,237	0	63,237
Total Monthly Activity (MT)	0	0	5,000	0	0	0	0	0	67,058	0	20,500	92,321	184,879
Cumulative MT Account Balance [MTA] (MT)	1,090,751	1,090,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,162,809	1,162,809	1,120,072	1,212,393	1,212,393
MTA Shortfall (MT)	(412,227)	(406,020)	(407,832)	(407,832)	(406,237)	(391,879)	(370,115)	(345,022)	(375,639)	(323,325)	(295,189)	(330,122)	(330,122)

2018 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center										
	Actual	Estimated	Estimated	Estimated	Estimated	Estimated	Compliance Year 2018	Cumulative Totals		
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	Total	Total	Charge Code	Source
Energy (MWh)	141,193	53,879	11,052	2,950	16,798	78,842	304,714	5,778,438		Forecast/Meter
Gas Schedule (MMBtu)	1,007,872	387,932	79,574	21,241	120,943	567,661	2,185,223	41,150,021		Forecast/Meter
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054		0		MARS
HVAC/Water Heater (MT)								0		
Monthly MT Emissions (MT)	54,390	20,935	4,294	1,146	6,527	30,634	117,926	2,220,920		derived
Cumulative MT Obligation (MT)	879,273	900,207	904,501	905,648	912,174	942,808	942,808	4,417,364		derived
Compliance Instrument Participant Transfers (to LEC)										
Auction Allowances	159,100	0	0	0	0	0	159,100	2,334,266		CITSS
Secondary Market Allowances	0	0	0	0	0	0	0	0		CITSS
Reserve Sale Allowances	0	0	0	0	0	0	0	0		CITSS
Offsets	0	0	0	0	0	0	0	0		CITSS
Total Compliance Instrument Participant Transfers (MT)	159,100	0	0	0	0	0	159,100	2,334,266		
NCPA Compliance Instrument Purchases (for LEC)										
Auction Purchases	0	0	0	0	0	0	0	47,000		CITSS
Secondary Market Purchases	0	0	0	0	0	0	0	0		CITSS
Reserve Sale Purchases	0	0	0	0	0	0	0	0		CITSS
Offset Purchases	0	0	0	0	0	0	0	0		CITSS
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	47,000		
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	1,220,723		CITSS
Total Monthly Activity (MT)	159,100	0	0	0	0	0	159,100	2,381,266		derived
Cumulative MT Account Balance [MTA] (MT)	1,279,172	1,279,172	1,279,172	1,279,172	1,279,172	1,279,172	1,279,172	1,279,172		derived
MTA Shortfall (MT)	(399,899)	(378,965)	(374,671)	(373,524)	(366,998)	(336,364)	(336,364)		MTA SHORTFALL	derived

Forecast has been updated through June 2018

NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) March 2018														
IDENTIFIER	AZUSA	BART	BIGGS	CDWR	GRI	HEA	LOD	LOM	MID	PLU	PWRPA	SNCL	UKI	TOTAL
Allocation Percentages														
Generation Entitlement Share %	2.7857%	6.6000%	0.2679%	33.5000%	1.9643%	1.6428%	9.5000%	2.0357%	10.7143%	0.7857%	2.6679%	25.7500%	1.7857%	100%
Obligation Accounts														
Current MT Compliance Obligation (MTO) Balance (MT)	26,826	63,558	2,580	344,309	18,916	15,822	90,206	19,511	103,179	7,564	25,692	247,974	17,196	983,334
Current MT Compliance Instrument Account (MTA) Balance (MT)	28,455	77,800	2,955	452,475	21,148	17,664	113,830	26,378	112,355	7,863	27,469	263,035	18,422	1,169,849
MTA Shortfall (MT)	(1,629)	(14,242)	(374)	(108,166)	(2,232)	(1,842)	(23,624)	(6,867)	(9,176)	(298)	(1,777)	(15,061)	(1,226)	(186,515)
Monthly GHG Price \$/MT	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85	14.85
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	4,780	755	0	0	0	0	0	2,652	70,424
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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



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

AGENDA ITEM NO.: 10

---

**Date:** March 7, 2018

**Meeting Date:** March 12, 2018

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

**Subject:** Bay Cities Fire Protection, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

---

### Proposal

Approve the Multi-Task General Services Agreement with Bay Cities Fire Protection, Inc., for maintenance, inspection, testing and other necessary services on fire sprinkler systems, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Background

Maintenance, inspection, testing and other necessary services on fire sprinkler systems are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place two additional agreements for similar services with Northern Industrial Construction and Fire Safety Supply Company. 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 is not-to-exceed \$500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.



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:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Bay Cities Fire Protection, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
BAY CITIES FIRE PROTECTION, 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 Bay Cities Fire Protection, Inc., a corporation with its office located at 51 Foley Street, Santa Rosa, CA 95401 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2018 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

**4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$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.** 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 \$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.** 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 (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.
- 4.4 Pollution Insurance.** 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, Agency shall have the right to require Contractor to provide the certificates of insurance and/or 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.
- 4.6 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. 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.

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

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

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

- 5.3 Transfer of Title.** Intentionally Omitted

## **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 be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

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 \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

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

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

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

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

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

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

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

part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.

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

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

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

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

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

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

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

**9.4.4 Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or

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

## **Section 10. PROJECT SITE.**

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

and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

**Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

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

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

### **Section 13. MISCELLANEOUS PROVISIONS.**

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

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

John Hess  
President  
Bay Cities Fire Protection, Inc.  
51 Foley Street  
Santa Rosa, CA 95401

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:

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, SCSPPA or SCSPPA 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.

**SIGNATURES ON FOLLOWING PAGE**

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

NORTHERN CALIFORNIA POWER AGENCY

BAY CITIES FIRE PROTECTION, INC

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JOHN HESS, President**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Jane Luckhardt, General Counsel

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

Bay Cities Fire Protection, Inc. ("Contractor") shall provide maintenance, inspection, testing and other necessary services on fire sprinkler system as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

## **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:

Labor	\$200.00 per hour
Material	Cost + 15% markup

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

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

**EXHIBIT C**  
**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(Name of person signing affidavit)(Title)

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

---

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**EXHIBIT D – Not Applicable**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**EXHIBIT E – Not Applicable**

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

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

The undersigned hereby certifies and agrees that:

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

DATED: \_\_\_\_\_ Name of Employer \_\_\_\_\_

\_\_\_\_\_  
(Authorized Officer & Title)

\_\_\_\_\_  
(Address)



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

AGENDA ITEM NO.: 11

---

**Date:** March 7, 2018

**Meeting Date:** March 12, 2018

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

**Subject:** T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

---

### Proposal

Approve the Multi-Task General Services Agreement with T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting for preventive roofing and siding maintenance, including application of sealant, primer and coating, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Background

Preventive maintenance, including application of sealant, primer and coating are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place one additional agreement for similar services with Hug's Painting, Inc. 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 is not-to-exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.



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:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
T.A. KRAUSE, INC. DBA T.A. KRAUSE CONSTRUCTION AND CUSTOM PAINTING**

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 T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting, a corporation with its office located at 1551 E. 8 Mile Road, Lodi, CA 95242 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2018 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

**4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$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.** 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 \$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 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, Agency shall have the right to require Contractor to provide the certificates of insurance and/or 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.

**4.6 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. 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.

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

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

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

## **Section 6. STATUS OF CONTRACTOR.**

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

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

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

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

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

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

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

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

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



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

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

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 \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

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

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

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

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

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

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

**8.4.1** Immediately terminate the Agreement;

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

- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
- 8.4.4** Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

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

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality

agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

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

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

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

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

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

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

## **Section 10. PROJECT SITE.**

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

## **Section 11. WARRANTY.**

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

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

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

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

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

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

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

**12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

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

**Section 13. MISCELLANEOUS PROVISIONS.**

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

whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

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

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

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

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

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

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

Troy A. Krause  
Vice President  
1551 E. 8 Mile Road  
Lodi, CA 95242

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:

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

T.A. Krause, Inc. dba T.A. Krause  
Construction and Custom Painting

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**TROY A. KRAUSE, Vice President**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Jane Luckhardt, General Counsel

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

T.A. Krause, Inc. dba T.A. Krause Construction and Custom Painting ("Contractor") shall provide preventive roofing and siding maintenance, including application of sealant, primer, and coating, as requested by Agency at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA"), or SCPPA Members.

The Scope of Work under this Agreement does not include work that would qualify as a Public Project under the California Public Contract Code and guidelines established by the State of California.

## 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:

#### 2018 Labor & Material Rates

Labor            \$115.00 per man-hour

Materials       Actual Cost plus 15% markup

Prices are subject to change with the giving of 30 days' advance written notice to Agency.

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

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

**EXHIBIT C**  
**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(Name of person signing affidavit)(Title)

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

---

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

DATED: \_\_\_\_\_ Name of Employer \_\_\_\_\_

\_\_\_\_\_  
(Authorized Officer & Title)

\_\_\_\_\_  
(Address)



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

AGENDA ITEM NO.: 12

**Date:** March 7, 2018

**Meeting Date:** March 12, 2018

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

**Subject:** Nor-Cal Battery Company – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

---

### Proposal

Approve the Multi Task General Services Agreement with Nor-Cal Battery Company for battery maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$250,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Background

Battery maintenance services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place one additional agreement for similar services with American Power Systems. NCPA seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

### Fiscal Impact

Upon execution, the total cost of the agreement is not-to-exceed \$250,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Nor-Cal Battery Company





**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
NOR-CAL BATTERY COMPANY**

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 Nor-Cal Battery Company, a C-corporation with its office located at 3432 Cherokee Road, Suite D, Stockton, CA 95205 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2018 ("Effective Date") in Roseville, California.

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

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

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

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** TWO HUNDRED FIFTY THOUSAND dollars (\$250,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

**4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$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.** 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 \$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.** 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 (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 Pollution Insurance.** 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, Agency shall have the right to require Contractor to provide the certificates of insurance and/or 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.

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

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

- 5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 **Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that 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 that 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 sole negligence, active negligence, or willful misconduct of the Agency.
- 5.3 **Transfer of Title.** Not applicable.

## **Section 6. STATUS OF CONTRACTOR.**

- 6.1 **Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law,

or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

**6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

**6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. 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 be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

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 \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

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

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

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



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

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

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

Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.

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

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

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

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

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

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

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

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

## **Section 10. PROJECT SITE.**

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

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

**Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

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

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

### **Section 13. MISCELLANEOUS PROVISIONS.**

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

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

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

Nor-Cal Battery Company  
Attention: Chuck Jeter  
3432 Cherokee Road, Suite D  
Stockton, CA 95205

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:

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

NOR-CAL BATTERY COMPANY

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**RICKIE McROBERTS,**  
 Manager of Operations



Attest:

---

Assistant Secretary of the Commission

Approved as to Form:

---

General Counsel

## **EXHIBIT A**

### **SCOPE OF WORK**

Nor-Cal Battery Company ("Contractor") shall provide battery maintenance 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:

- Battery Testing - IEEE Capacity, Internal Resistance Capacity
- Battery Maintenance - Preventive, Basic, Extended, Customized
- Battery Installation
- Battery Monitoring - Central Office, Cell Sites, UPS, Remote, VRLA, Flooded
- Temporary Battery Systems - Hot Cuts, Rentals, Emergencies
- Engineering - Designs, Layouts, Material, Logistics
- Project Management – Installation and Multi-Site Scheduling
- Installation and Removal -Telecom, UPS, System Upgrades, Central Office, Cell Site, Substation, Remote Sites, Power Plants, Distribution, Batteries, Grounding, Cabling, Iron Work, Buss Work
- Site Audits - Power, Grounding, Infrastructure
- Spill Containment - Telecom, UPS, Utility, VRLA, Flooded
- Logistical Support - Labor, Material Procurement, Site Delivery, Warehousing
- Certified Battery Disposal - Removal and Recycling / Disposal of Lead Acid Batteries
- Training - System Design, Batteries, Power, Applications, Sizing, Safety, Maintenance

Contractor may provide services at all Project Site Locations.

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

## **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:

Normal Business Hours: \$105.00/hour  
After Hours, Weekends & Holidays: \$155.00/hour

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, Rickie McRoberts, Manager of Operations

(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

Nor-Cal Battery Company  
(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**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.: 13

---

**Date:** March 7, 2018

**Meeting Date:** March 12, 2018

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

**Subject:** HRST, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

---

### Proposal

Approve the Multi-Task General Services Agreement with HRST, Inc. for inspection services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Background

Inspection services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

### Selection Process

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

### Fiscal Impact

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

### 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:

KEN SPEER  
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 \_\_\_\_\_, 2018 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000) 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 \$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.** 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 \$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.** 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) 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, Agency shall have the right to require Contractor to provide the certificates of insurance and/or 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.
- 4.6 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. 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.

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

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

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims which are attributable to personal injury or death or physical damage to tangible property that 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 that 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 sole negligence, active negligence, or willful misconduct of the Agency. Anything in this Agreement to the contrary notwithstanding, Contractor shall not be liable to Agency for any special, indirect, incidental or consequential damages (whether in contract, in tort or otherwise, including negligence and product liability) including but not limited to damages for loss of anticipated profits, loss of use, loss of revenue generated or loss of good will, by reason of anything done or omitted to be done by Contractor in connection with the performance of its obligations under this Agreement. Anything in this Agreement to the contrary notwithstanding, Contractor's total liability to Agency for breaches of this Agreement, other than any liability resulting from a willful or grossly negligent refusal by Contractor to perform its obligations hereunder, shall in no event exceed the greater of the amounts of insurance required by this Agreement or the amount specified in Section 2 of this Agreement.

**5.3     Transfer of Title.** Not Applicable.

**Section 6.     STATUS OF CONTRACTOR.**

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

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

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

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

**6.2     Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

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

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

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

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

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

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 \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.



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

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

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

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

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

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

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

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

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

- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.
- 9.4.2 Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.
- 9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

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

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

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

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

## **Section 10. PROJECT SITE.**

**10.1** **Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

**10.2** **Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to

have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

## **Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform engineering and other technical services 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 in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

**Section 12. HEALTH AND SAFETY PROGRAMS.** The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall

include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

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

regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

### **Section 13. MISCELLANEOUS PROVISIONS.**

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

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

- 13.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's

representative. All correspondence shall be directed to or through the representative.

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

HRST, Inc.  
Attention: Sheila Schwarz  
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:

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**

\_\_\_\_\_  
**SHEILA SCHWARZ,**  
**Contract Coordinator**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
General Counsel

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

HRST, Inc. ("Contractor") shall provide inspection 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:

- 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

Contractor may provide services at all Project Site Locations.

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

## 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 are as follows:

#### 2018 SERVICE RATES

Effective January 1, 2018 to December 31, 2018

#### 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).

Engineering / Consulting / Advisor Services	\$ 195.00
Standby <sup>1</sup> / Travel Time <sup>2</sup>	\$ 105.00

<sup>1</sup> 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.

<sup>2</sup> 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 Rate:** 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, rental car/fuel/tolls, taxi, parking, etc.)
- Lodging
- Meals & Incidental Expenses (M&IE)<sup>3</sup>
- Shipping charges

<sup>3</sup> 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 not included.

- Borescope with 25 foot probe: \$650/day
- FLIR Thermal Imaging Camera: \$250/day
- Positive Material Identification Analyzer: \$400/day
- Thermocouple DataLogger: \$150/week
- Acoustic Leak Detection Probe: \$250/day
- Thermocouple Welder: \$250/week
- Pick-up Truck: \$100/day plus fuel
- 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 lab analysis, chemistry specialist, 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

**Date:** March 7, 2018

**Meeting Date:** March 12, 2018

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

**Subject:** Industrial Air Flow Dynamics, Inc. – First Amendment to General Services Agreement; Applicable to the following projects: Lodi Energy Center

---

### Proposal

Approve the First Amendment to General Services Agreement with Industrial Air Flow Dynamics, Inc. for roof seal replacement services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$300,000 for use at the Lodi Energy Center facility.

### Background

NCPA entered into a General Services Agreement with Industrial Air Flow Dynamics, Inc., effective 03/02/2018, for an amount not to exceed \$245,000. It has been determined that additional roof seals need to be replaced. This First Amendment will increase the not to exceed amount from \$230,000 to \$300,000. This Agreement will be for use at the Lodi Energy Center.

### Selection Process

This vendor was selected as a result of Informal Bidding done in accordance with NCPA's procurement policies and procedures. The RFP was sent to Dekome de Temple, HRST and Industrial Air Flow Dynamics. All three bidders responded with quotes. Dekomte de Temple is not registered with the CA DIR and HRST only supplied a quote for materials, not labor. It was determined that Industrial Air Flow Dynamics, Inc. should perform this work because they can provide the highest quality work and product to the Agency.

### Fiscal Impact

Upon execution, the total cost of the agreement is not-to-exceed \$300,000 to be used out of the NCPA Lodi Energy Center approved budget. 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:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachments: (2)

- General Services Agreement with Industrial Air Flow Dynamics, Inc.
- First Amendment to General Services Agreement with Industrial Air Flow Dynamics, Inc.





**GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
INDUSTRIAL AIR FLOW DYNAMICS, INC.**

[Single Task]

This 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 Industrial Air Flow Dynamics Inc, a corporation with its office located at 734 Hebron Avenue, Glastonbury, CT 06033 ("Contractor") (together sometimes referred to as the "Parties") as of March 3<sup>rd</sup>, 2018 ("Effective Date") in Roseville, California.

**Section 1. SCOPE OF WORK.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to Agency the services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work"), 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 Contractor completes the Work, or no later than May 31, 2018, 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 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED TWO HUNDRED FORTY FIVE THOUSAND** dollars (\$245,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the 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; and
- At Agency's option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

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

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

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

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

**2.5 Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of its Work to submit its final invoice. 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 from Agency.

**2.6 Liquidated Damages.** Contractor hereby agrees to initiate Work no later than April 3, 2018, and to diligently prosecute the same to completion within **nineteen (19)** consecutive calendar days commencing after the date of Agency's

authorization to proceed. Contractor shall complete its Work no later than April 22, 2018, except as adjusted by any subsequent change order. Time is of the essence in this Agreement.

This Agreement is being issued to Contractor in reliance upon the completion date set forth in the Agreement. Agency will hold the Contractor responsible and accountable for all damages suffered by Agency as a consequence of the Contractor's failure to meet the schedule dates, or to complete the work at the time specified herein.

It is agreed by the parties to this Agreement that if Contractor does not complete its Work in the time specified herein, plus any extensions granted by Agency in writing, damages will be sustained by Agency and it is and will be impractical and extremely difficult to ascertain the actual damages which Agency will sustain in the event of and by reason of such delay. It is therefore agreed that the Contractor shall pay to Agency the sums stipulated for delays in finishing its Work beyond the times of completion specified; and the Contractor agrees to pay these liquidated damages, and further agrees that Agency may deduct the amount thereof from any moneys due or that may become due the Contractor under this Agreement. If such moneys are insufficient, Contractor or its surety or sureties shall pay to Agency any deficiency within thirty (30) days of invoice submittal by Agency.

Liquidated damages in the amount of \$250.00 per day for each day of delay shall be imposed on Contractor.

**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 \$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.** 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 \$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, 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, 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.** 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.

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



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

**4.7 Pollution Insurance.** Not Applicable.

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

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

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

**5.3 Transfer of Title.** Not Applicable.

## **Section 6. STATUS OF CONTRACTOR.**

**6.1 Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but

not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

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

subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

## **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.** This 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 be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

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 \$50.00 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 and Change Orders.** The Parties may amend this Agreement only by a writing signed by all the Parties. The Parties may agree to a change order, modifying the duration of the Agreement or the not-to-exceed compensation referenced in Section 2 hereof, by a writing signed by the Contractor and the Contract Administrator.



- 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, Contractors, 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 Agency's operations and the operations of other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Agency may assume that anything left on the Project site an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any Agency owned equipment and property provided by Agency for the performance of Work.

## **Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the three (3) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

- 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 to include diesel fuel used for trucks owned or leased by the Contractor.

### **Section 13. MISCELLANEOUS PROVISIONS.**

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

Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

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

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

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

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

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

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

Industrial Air Flow Dynamics, Inc.  
Attention: Jason Talbot, CFO  
734 Hebron Avenue  
Glastonbury, CT 06033

Any written notice to Agency shall be sent to:

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

With a copy to:

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



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

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

**13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

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

NORTHERN CALIFORNIA POWER AGENCY

Date 3/2/18

Randy S. Howard  
**RANDY S. HOWARD,**  
General Manager

Attest:

[Signature]  
Assistant Secretary of the Commission

Approved as to Form:

[Signature]  
General Counsel

INDUSTRIAL AIR FLOW DYNAMICS, INC.

Date 2/14/18

[Signature]  
**JASON TALBOT,**  
Chief Financial Officer





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

Industrial Air Flow Dynamics, Inc. ("Contractor") shall provide roof seal replacement services at the Lodi Energy Center facility as requested by the Northern California Power Agency ("Agency").

Agency will provide Lagging / Insulation Services and Scaffolding as needed.

## **EXHIBIT B**

### **COMPENSATION SCHEDULE AND HOURLY FEES**

Compensation for all tasks, including hourly fees and expenses, shall not exceed \$241,310.00 as set forth in Contractor's Quotation #18063CA dated January 23, 2018 and Quotation #18147CA dated February 22, 2018. Should additional services be requested by the Agency, the total amount expended under this Agreement shall not exceed the amount set forth in Section 2, Compensation, of this Agreement.

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,

Jason Talbot CFO

(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

Industrial Air Flow Dynamics, 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]  
(Signature of officer or agent)

Dated this 14 day of February, 20 18.

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**

**MAINTENANCE LABOR AGREEMENT ATTACHMENT [LEC ONLY]**

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

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 GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND INDUSTRIAL AIR FLOW DYNAMICS,  
INC.**

This First Amendment (“Amendment”) to General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Industrial Air Flow Dynamics, Inc. (“Contractor”) (collectively referred to as “the Parties”) as of \_\_\_\_\_, 2018.

WHEREAS, the Parties entered into a General Services Agreement dated effective March 3, 2018, (the “Agreement”) for Contractor to provide roof seal replacement services at the Lodi Energy Center; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a “NOT TO EXCEED” amount of \$245,000.00 to a ‘NOT TO EXCEED amount of \$300,000.00; and

WHEREAS, the Agency now desires to amend the Compensation Schedule and Hourly Fees set forth in Exhibit B to the Agreement; 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. **Section 2—Compensation** of the Agreement is amended and restated to read as follows:

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED THREE HUNDRED THOUSAND** dollars (\$300,000.00) 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.

The remainder of Section 2 of the Agreement is unchanged.

2. **Exhibit B – COMPENSATION SCHEDULE** is amended and restated to read in full as set forth in the Attached Exhibit B.
3. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

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

NORTHERN CALIFORNIA POWER AGENCY

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

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

INDUSTRIAL AIR FLOW DYNAMICS, INC.

\_\_\_\_\_  
**JASON TALBOT, Chief Financial Officer**

Attest:

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

Approved as to Form:

\_\_\_\_\_  
Jane Luckhardt, NCPA General Counsel

## EXHIBIT B

Compensation for all tasks, including hourly fees and expenses, shall not exceed \$273,300.00 as set forth in Contractor's Revised Quotation #18063CA dated January 23, 2018. Should additional services be requested by the Agency, the total amount expended under this Agreement shall not exceed the amount set forth in Section 2, Compensation, of this Agreement.

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.



This is the budget Recommended by Staff. It assumes approval of items brought before PPC on 3/12/18.



# Combustion Turbine Lodi Energy Center FY 2019 Proposed Budget

Name: Mike DeBortoli  
Title: FY 2019 Proposed Budget  
Date: February 7, 2019



# Contents

- Assumptions
- FY2019 Proposed Budget
- Trend, Routine O&M with Labor
- Current Year Actuals
- FY2019 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

	FY18	FY19	
Energy Production			
MWHrs	377,711	1,304,122	245%
Avg Rate (\$/MWHr)	44.72	41.72	-7%
Fuel			
mmBTU	2,587,320	8,933,236	245%
Avg Rate (\$/mmBTU)	4.74	3.77	-20%
Operations			
Hours On-line	1,315	5,097	288%
Starts	189	110	-42%
Avg Output (MW)	240	256	7%

- Capacity Value for project valuations \$30/KW-Yr

## Net change to Previous Budget Presentation

■ Net cost Presented Feb18	\$28,308,235
■ Net cost Today	\$26,507,171
■ Improvement	\$1,801,064

## FY 2019 – LEC Budget

	FY 2017 Budget	FY 2017 Actual	FY 2018 Budget	Proposed FY 2019 Budget	Increase/ (Decrease)
<b>Routine Variable Costs</b>					
Variable O&M	5,106,876	2,275,158	1,263,067	4,733,381	3,470,314
Fuel	44,100,578	9,414,010	14,877,170	33,092,116	18,214,946
CAISO Charges	672,131	394,859	196,309	550,660	354,351
<b>Total VOM</b>	<b>49,879,585</b>	<b>12,084,027</b>	<b>16,336,546</b>	<b>38,376,157</b>	<b>22,039,611</b>
MWHr	1,076,048	1,605,494	377,711	1,304,122	
\$/MWHr	11.23	31.07	44.72	29.43	
<b>Routine Fixed Costs</b>					
Fixed	3,250,596	3,311,796	3,336,592	3,445,360	\$108,768
Administration	226,663	74,027	230,934	205,529	(\$25,405)
Mandatory Costs	291,357	288,870	291,959	298,336	\$6,377
Inventory	400,000	261,894	0	0	\$0
<b>Total Routine Fixed Costs</b>	<b>4,168,616</b>	<b>3,936,587</b>	<b>3,859,485</b>	<b>3,949,225</b>	<b>89,740</b>
<b>Unplanned Expenses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>
<b>Labor</b>	<b>4,765,279</b>	<b>4,640,466</b>	<b>5,051,714</b>	<b>5,284,165</b>	<b>232,451</b>
<b>Non-Variable Routine Total</b>	<b>8,933,895</b>	<b>8,577,053</b>	<b>8,911,199</b>	<b>9,233,390</b>	<b>322,191</b>
<b>Total Routine O&amp;M Costs</b>	<b>58,813,480</b>	<b>20,661,080</b>	<b>25,247,745</b>	<b>47,609,547</b>	<b>22,361,802</b>



## FY 2019 – LEC Budget

	FY 2017 Budget	FY 2017 Actual	FY 2018 Budget	Proposed FY 2019 Budget	Increase/ (Decrease)
<b>Total Routine O&amp;M Costs</b>	<b>58,813,480</b>	<b>20,661,080</b>	<b>25,247,745</b>	<b>47,609,547</b>	<b>22,361,802</b>
<b>Other Costs</b>					
Debt Service	26,437,261	26,417,745	26,416,640	26,079,852	(336,788)
Other Costs	2,154,472	1,928,724	2,299,310	2,153,415	(145,895)
Generation Services Shared	343,414	270,440	359,388	368,963	9,575
Administrative & General	2,063,039	1,749,959	1,883,356	2,322,632	439,276
<b>Total Other Costs</b>	<b>30,998,186</b>	<b>30,366,868</b>	<b>30,958,694</b>	<b>30,924,862</b>	<b>(33,832)</b>
<b>Total O&amp;M Costs</b>	<b>89,811,666</b>	<b>51,027,948</b>	<b>56,206,439</b>	<b>78,534,409</b>	<b>22,327,970</b>
<b>Projects</b>					
Operations & Maintenance	30,000	-124,453	63,652	52,000	(11,652)
Capital	1,200,000	39,143	560,000	100,000	(460,000)
Maintenance Reserve	1,575,000	1,575,000	2,012,800	1,461,107	(551,693)
<b>Total Projects Costs</b>	<b>2,805,000</b>	<b>1,489,690</b>	<b>2,636,452</b>	<b>1,613,107</b>	<b>(1,023,345)</b>
<b>Annual Budget Cost</b>	<b>92,616,666</b>	<b>52,517,638</b>	<b>58,842,891</b>	<b>80,147,516</b>	<b>21,304,625</b>
<b>Revenue</b>	<b>70,196,671</b>	<b>20,336,283</b>	<b>20,329,089</b>	<b>53,640,345</b>	<b>33,311,256</b>
<b>Net Cost to Members</b>	<b>22,419,995</b>	<b>32,181,355</b>	<b>38,513,802</b>	<b>26,507,171</b>	<b>(12,006,631)</b>

Capacity Cost (\$/KW-Yr)

80

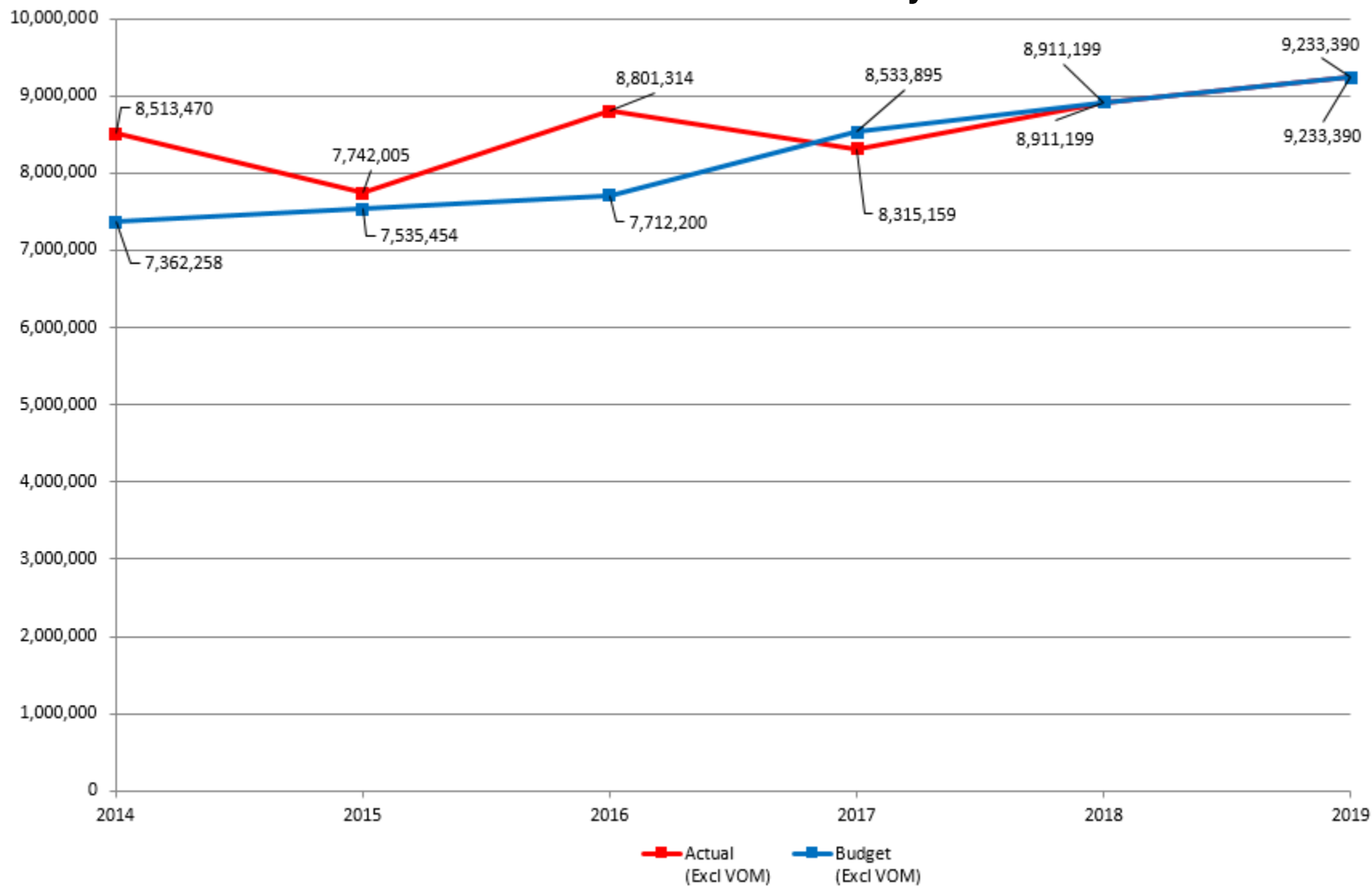
115

138

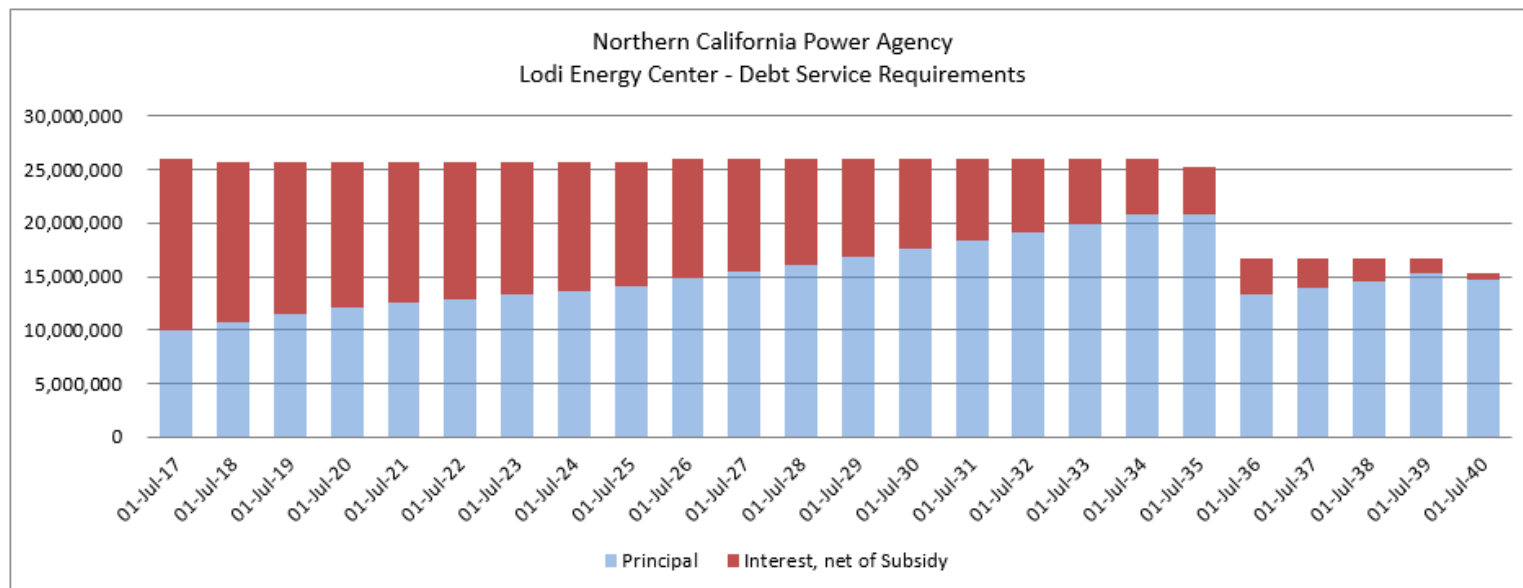
87

Does not include Energy  
Purchase \$5,113,848

## Routine O&M Cost History



## Debt Service Requirements



ISSUES 1 & 2							
PERIOD ENDING	PRINCIPAL	INTEREST, NET SUBSIDY	TOTAL	PERIOD ENDING	PRINCIPAL	INTEREST, NET SUBSIDY	TOTAL
7/1/2017	9,983,750	15,971,734	25,955,484	7/1/2029	16,815,000	9,158,674	25,973,674
7/1/2018	10,755,833	15,016,801	25,772,634	7/1/2030	17,537,917	8,435,894	25,973,810
7/1/2019	11,526,667	14,111,559	25,638,225	7/1/2031	18,295,417	7,681,579	25,976,996
7/1/2020	12,079,583	13,560,418	25,640,001	7/1/2032	19,083,333	6,894,193	25,977,526
7/1/2021	12,545,417	13,089,134	25,634,551	7/1/2033	19,905,833	6,072,396	25,978,230
7/1/2022	12,910,417	12,727,861	25,638,278	7/1/2034	20,759,583	5,214,651	25,974,234
7/1/2023	13,277,083	12,355,454	25,632,537	7/1/2035	20,887,083	4,319,583	25,206,667
7/1/2024	13,663,333	11,971,797	25,635,131	7/1/2036	13,317,500	3,413,687	16,731,187
7/1/2025	14,091,250	11,576,311	25,667,561	7/1/2037	13,950,000	2,780,820	16,730,820
7/1/2026	14,818,333	11,150,738	25,969,071	7/1/2038	14,612,917	2,117,895	16,730,811
7/1/2027	15,460,000	10,514,970	25,974,970	7/1/2039	15,310,417	1,423,467	16,733,884
7/1/2028	16,122,500	9,851,260	25,973,760	7/1/2040	14,643,750	695,893	15,339,643
					\$362,352,917	\$210,106,769	\$572,459,686



## FY 2019 – LEC Proposed Project

O&M Projects	Notes	
CSSP Monitoring System	D	52,000
		Total 52,000
Capital Projects	Notes	
Platforms (Inlet Air Filter)	S	100,000
		Total 100,000
Maintenance Reserve	Notes	
		Total 0

## FY 2019 – LEC Platform Access

Project	Notes	Total Cost	FY 2017	FY 2018	FY 2019	FY 2020
LEC Platforms Access	D	\$100,000			\$100,000	

### Notes:

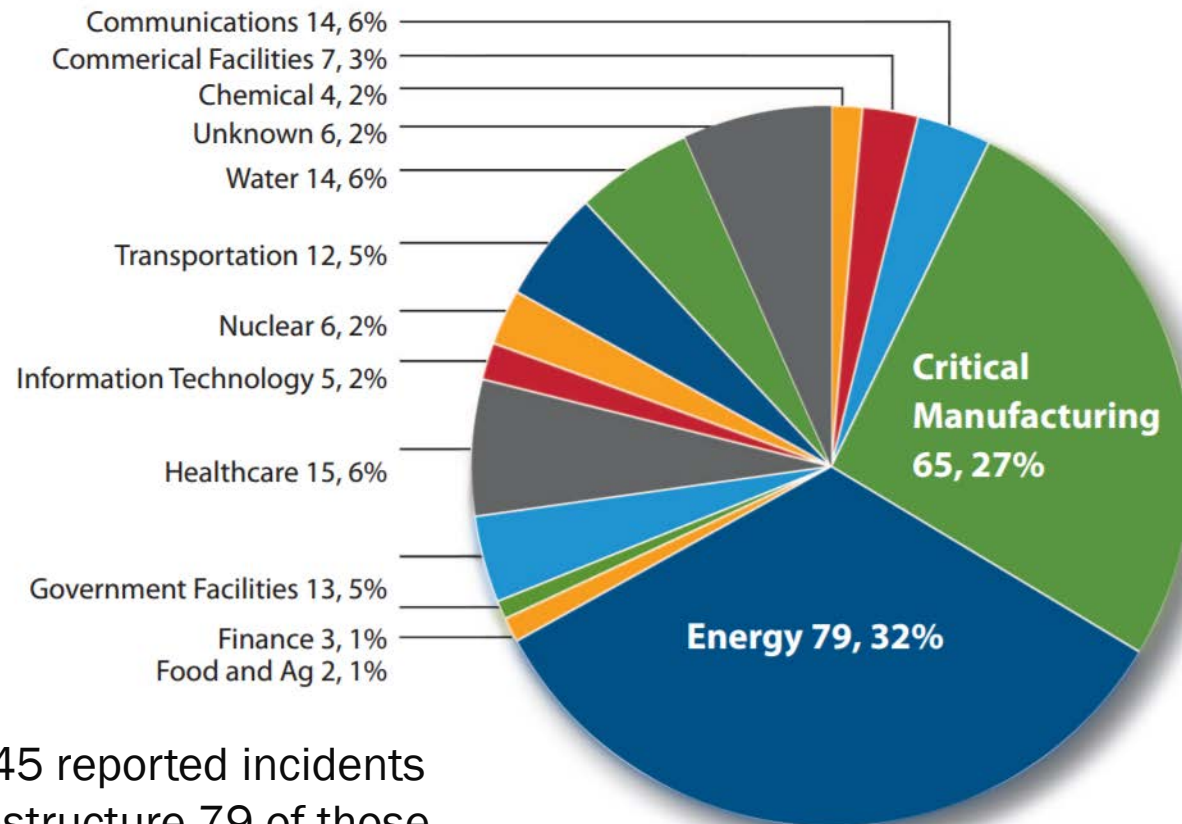
D	Discretionary
M	Mandatory
CR	Annual deposit to the Capital Reserve

AFE Financial Measurements	Value	Units
NPV @ Discount Rate	<b>109,121</b>	\$
IRR	<b>12.2%</b>	%
Average Annual Benefits	<b>6,971</b>	\$
Payback	<b>8.0</b>	Years
Useful Life	<b>30.0</b>	Years
B/C Ratio	<b>2.09</b>	B/C Ratio

- Install platforms in frequently accessed areas to remove scaffolding.
- Assume \$900 per month rental cost savings over 30 years, spend \$100k to save a present value of \$209k



## FY 2019 – CSSP Monitoring System



In 2014 there were 245 reported incidents in the US Critical Infrastructure 79 of those incidents targeted the Energy Sector.

## FY 2019 – CSSP Monitoring System

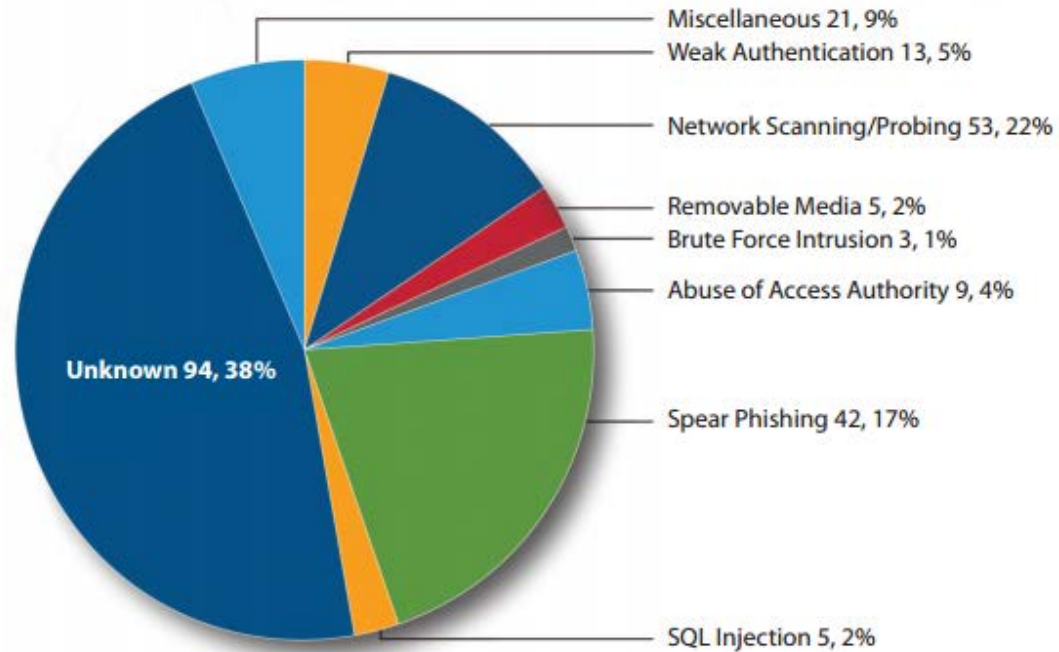


Figure 2. FY 2014 incidents reported by access vector (245 total).

- Access vector not known for 38% of incidents
- Average dwell time ~6 months
- You cannot defend what you cannot see

## CONTINUOUS MONITORING OF ICS

- Operational Visibility
- Network Visualization and Modeling
- ICS Threat & Anomaly Detection
- Vulnerability Assessment
- Asset Inventory
- Deep Packet Inspection & Protocol Analysis

ALL DONE PASSIVELY



**NexDefense**



**SIEMENS**



**NOZOMI**  
N E T W O R K S



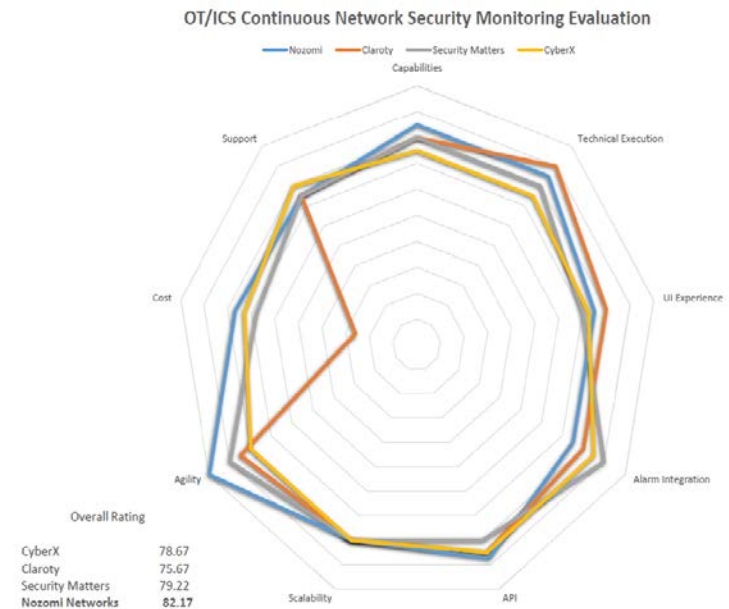
**Indegy**



**Trusted. Industrial. Cybersecurity.**

## FY 2019 – CSSP Monitoring System

Roseville HQ	\$135,000
Hydro	\$100,000
LEC	\$52,000
CT1	\$45,000
CT2	\$9,900
Geo	<u>\$55,000</u>
<b>NCPA Total</b>	<b>\$396,900</b>



- Required per NCPA's Control System Security Program
- Consistent with Industry Best Practices
- Includes three (3) years of licensing & support, then \$47,640 / year starting in 2021

# FY 2019 – CSSP Monitoring System

Project	Notes	Total Cost to Complete	FY 2018 Current Budget	FY 2019	FY 2020	FY 2021
Control System Monitoring	D	\$52,000	0	52,000	0	0

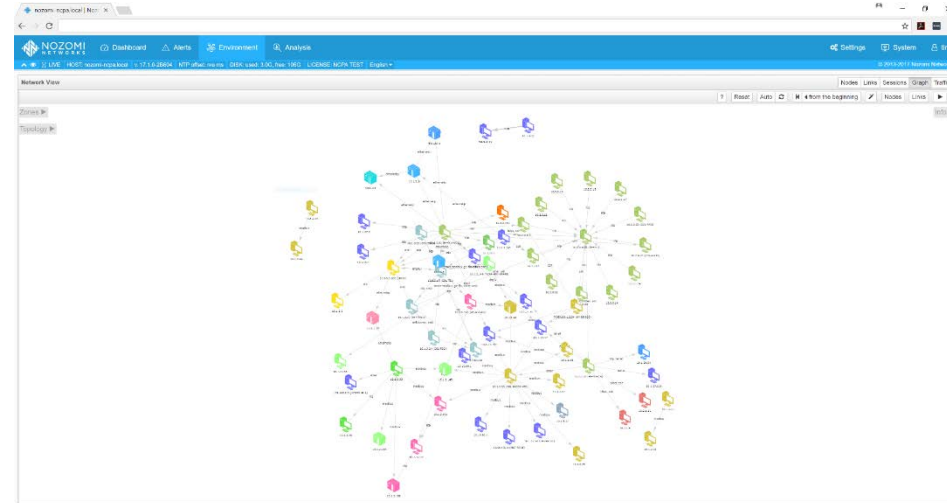
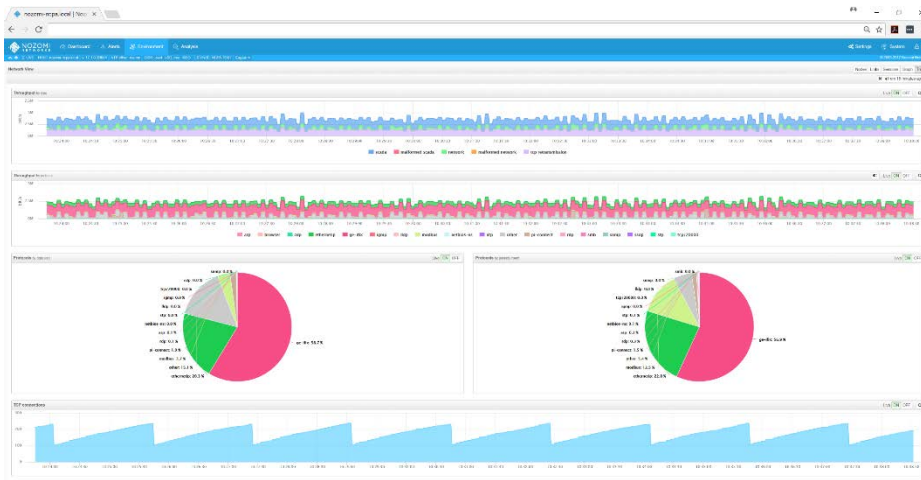
## Notes:

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

## Financial Evaluation:

N/A

- Required per NCPA's Control System Security Program
- Consistent with Industry Best Practices





## FY 2019 – Project/Reserve Forecast

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
<b>O &amp; M PROJECTS</b>										
Gas Turbine Insulation	-	-	-	275,000	-	-	-	-	-	-
HVAC	-	-	-	40,000	-	-	-	-	-	-
Service Water Piping	-	50,000	-	50,000	-	-	200,000	-	-	-
Asphalt & Paving Maintenance	-	80,000	-	-	-	-	-	-	-	-
CSSP Monitoring System	52,000	-	-	-	-	-	-	-	-	-
STG Drains / Heating Blanket	-	-	450,000	-	-	-	-	-	-	-
<b>TOTAL O&amp;M PROJECTS</b>	<b>52,000</b>	<b>130,000</b>	<b>450,000</b>	<b>365,000</b>	<b>0</b>	<b>0</b>	<b>200,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL PROJECTS</b>										
Platforms (20)	100,000	450,000	-	-	-	-	-	-	-	-
Air Filter Puffer System	-	-	-	-	500,000	-	-	-	-	-
Unidentified Capital Project	-	50,000	500,000	-	-	-	500,000	-	500,000	500,000
Clarifier Tank Refurbishment	-	-	-	-	-	-	-	400,000	-	-
Cooling Tower OH	-	-	-	-	-	-	-	-	-	500,000
DCS (Software Upgrades)	0	-	-	-	-	450,000	-	-	-	-
DCS (Hardware Update)	-	-	-	-	250,000	-	-	-	-	-
BOP PLC Upgrades	-	-	-	125,000	-	-	-	-	-	-
BOP PLC HMI Local Interface	0	-	-	-	-	-	-	-	-	-
Ammonia Risk Reduction (84.87%)	-	-	-	-	-	-	-	-	-	-
<b>TOTAL CAPITAL PROJECTS</b>	<b>100,000</b>	<b>500,000</b>	<b>500,000</b>	<b>125,000</b>	<b>750,000</b>	<b>450,000</b>	<b>500,000</b>	<b>400,000</b>	<b>500,000</b>	<b>1,000,000</b>
<b>RESERVE FUND SPENDING</b>										
<b>BEGINNING YEAR BALANCE</b>	<b>1,625,058</b>	<b>1,836,225</b>	<b>2,097,459</b>	<b>1,944,601</b>	<b>123,513</b>	<b>350,078</b>	<b>1,292,531</b>	<b>1,019,466</b>	<b>1,236,830</b>	<b>975,593</b>
Combustion Turbine (overhaul)	204,940	204,940	304,940	1,544,940	204,940	217,607	217,607	307,607	217,607	217,607
Steam Turbine	0	0	0	740,000	0	0	20,000	0	0	0
Generators	35,000	0	0	0	0	70,000	0	0	0	0
Plant Projects	910,000	990,000	1,080,000	890,000	875,000	375,000	720,000	660,000	1,635,000	580,000
HRSB	100,000	40,000	300,000	215,000	300,000	40,000	1,000,000	540,000	175,000	40,000
<b>TOTAL RESERVE FUND SPENDING</b>	<b>1,249,940</b>	<b>1,234,940</b>	<b>1,684,940</b>	<b>3,389,940</b>	<b>1,379,940</b>	<b>702,607</b>	<b>1,957,607</b>	<b>1,507,607</b>	<b>2,027,607</b>	<b>837,607</b>
<b>ADDITIONAL FUNDING</b>	<b>1,461,107</b>	<b>1,496,174</b>	<b>1,532,082</b>	<b>1,568,852</b>	<b>1,606,504</b>	<b>1,645,060</b>	<b>1,684,542</b>	<b>1,724,971</b>	<b>1,766,370</b>	<b>1,808,763</b>
<b>END OF YEAR BALANCE</b>	<b>1,836,225</b>	<b>2,097,459</b>	<b>1,944,601</b>	<b>123,513</b>	<b>350,078</b>	<b>1,292,531</b>	<b>1,019,466</b>	<b>1,236,830</b>	<b>975,593</b>	<b>1,946,749</b>
<b>TOTAL O&amp;M, ALL PROJECTS, FUNDING</b>	<b>1,613,107</b>	<b>2,126,174</b>	<b>2,482,082</b>	<b>2,058,852</b>	<b>2,356,504</b>	<b>2,095,060</b>	<b>2,384,542</b>	<b>2,124,971</b>	<b>2,266,370</b>	<b>2,808,763</b>

## FY 2019 – LEC VOM Impact

PMOA Schedule 1 Exhibit 2

VOM Impact	Approved FY18 Budget	Approved FY18 VOM	Proposed FY19 Budget	Proposed FY19 VOM	Percent Change
Variable Cost	(\$)	(\$/MWHr)	(\$)	(\$/MWHr)	
Operations	435,878	1.15	1,541,076	1.18	2.8%
LTSA-\$/MWHr	827,187	2.19	2,543,038	1.95	-11.0%
Maintenance Reserve Variable	79,319	0.21	273,866	0.21	0.0%
Total	1,342,384	3.55	4,357,980	3.34	-5.9%
LTSA-\$/Start			649,268	5,902	
Forecasted Starts				110.00	
Forecasted Generation (MWHr)		377,711		1,304,122	245.3%

# 10 Year Net Cost to Members

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
O&M Projects	52,000	275,000	450,000	40,000	0	0	0	0	0	0
Capital Projects	100,000	500,000	500,000	125,000	750,000	405,000	500,000	400,000	500,000	500,000
Maintenance Reserve Funding	1,461,107	1,496,174	1,532,082	1,568,852	1,606,504	1,645,060	1,684,542	1,724,971	1,766,370	1,808,763
O&M /Debt excl VOM	35,313,242	35,497,910	35,686,271	35,878,399	36,074,370	36,274,261	36,478,149	36,686,115	36,898,240	37,114,608
A&G	4,845,010	4,941,910	5,040,748	5,141,563	5,244,395	5,349,283	5,456,268	5,565,394	5,676,701	5,790,235
Revenues net of VOM	7,769,419	9,656,290	11,296,120	12,205,805	12,840,660	12,735,599	12,229,434	12,685,106	13,083,882	12,591,838
Net Cost to Members	34,001,940	33,054,704	31,912,981	30,548,009	30,834,609	30,938,005	31,889,525	31,691,373	31,757,429	32,621,768
Capacity Cost (\$/KW-Yr)	112	109	105	100	101	102	105	104	104	107
Capacity Value @ \$30/KW-Yr	8,400,000	8,652,000	8,911,560	9,178,907	9,454,274	9,737,902	10,030,039	10,330,940	10,640,869	10,960,095
Capacity Value @ \$207/KW-Yr	57,960,000	59,698,800	61,489,764	63,334,457	65,234,491	67,191,525	69,207,271	71,283,489	73,421,994	75,624,654

Includes GHG Estimate

