



12745 N. Thornton Road  
Lodi, CA 95242

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

## LEC PPC Agenda

**Date:** April 4, 2018

**Subject:** April 9, 2018 Lodi Energy Center Project Participant Committee Meeting

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

**Time:** 10:00 a.m.

**\*\*\* 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 March 12, 2018 Regular Meeting Minutes**

**MONTHLY REPORTS**

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

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

**5. Monthly Asset Report for February 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 March 2018 – Accept by all Participants**

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

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

**10. Herold and Mielenz, Inc. MTGSA – Staff is seeking approval of a five year Multi-Task General Services Agreement with Herold and Mielenz, Inc. for motor maintenance services,**

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

with a not to exceed amount of \$750,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.

- 11. Chemical Waste Management ISA** – Staff is seeking approval of a three year Industrial Waste Services Agreement with Chemical Waste Management for industrial waste disposal services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA.
- 12. TNT Industrial Contractors, Inc. MTGSA** – Staff is seeking approval of a five year Multi-Task General Services Agreement with TNT Industrial Contractors, Inc. for general T&M maintenance services, with a not to exceed amount of \$2,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.
- 13. Halliburton Energy Services, Inc. MTGSA** – Staff is seeking approval of a five year Multi-Task General Services Agreement with Halliburton Energy Services, Inc. for injection well related services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.
- 14. Leidos Engineering, LLC MTPSA** – Staff is seeking approval of a five year Multi-Task Professional Services Agreement with Leidos Engineering, LLC for professional engineering services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

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

### **BUSINESS ACTION ITEMS**

- 15. Siemens Energy, Inc. LTMPA Change Order No. 1** – 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 item and extending the sunset date from 2035 to 2041, for use at the Lodi Energy Center.
- 16. Lodi Energy Center FY19 Annual Budget** – Staff is seeking approval of the Lodi Energy Center proposed annual budget for fiscal year 2019.

### **CLOSED SESSION**

- 17. 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).

*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.*

## **INFORMATIONAL/ DISCUSSION ITEMS**

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

## **ADJOURNMENT**

Next Regular Meeting: May 14, 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:** March 12, 2018

**Time:** 10:00 a.m.

**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 10:02 a.m. by Chairman Martin Caballero. He asked that roll be called for the Project Participants as listed below.

<b>PPC Meeting Attendance Summary</b>		
<b>Participant</b>	<b>Attendance</b>	<b>Particulars / GES</b>
Azusa - Lehr	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Yarbrough	Present	33.5000%
Gridley - Borges	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Caballero	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Hance	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
<b>Summary</b>		
Present	6	82.4001%
Absent	7	17.5999%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	March 12, 2018	

## **Public Forum**

Chairman Caballero 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 February 12, 2018 Regular Meeting were considered. The LEC PPC considered the following motion:

**Date:**

3/12/2018

**Motion:**

The PPC approves the minutes from the February 12, 2018 Regular Meeting as presented or *including any edits discussed at today's meeting.*

**Moved by:**

**Lodi**

**Seconded by:**

**PWRPA**

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%
Result:	Motion Passes	

## **MONTHLY REPORTS**

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

Jeremy Lawson presented the Operational Report for February. There were no OSHA recordable accidents, and no NERC/WECC or permit violations. There were a number of outages that occurred during the month of February. Jeremy reviewed these outages with the Committee, including their durations and causes. Many of the outages were related to emissions compliance. Staff will be working with Siemens to address these issues. Jeremy also reviewed the work to be completed during the upcoming April outage. There will be two high-voltage outages with PG&E. Jeremy reviewed the work to be completed in relation to those outages, as well as other outage-related activities that will occur.

The operational report reflected monthly production of 110,676 MWH, 440 service hours, and equivalent operating availability of 97.8%. The report set for the Capacity Factor @ 280MW Pmax of 58.8% and 302MW Pmax of 54.5%. There were 13 hot starts, 8 warm starts, and 1 cold starts during the month.

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

Mike Whitney presented the operating and financial settlement results for the month. LEC was committed to CAISO 25 out of 28 available days. 2 of the unavailable days were due to economics, while the other unavailable day was due to a forced outage. Most startups were for mid-range runs (12-17 hours), with two 24-hour runs in the month of February. The plant continues the trend of AM and PM runs, with the plant off during the middle of the day.

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

Mike DeBortoli presented the monthly asset report for January 2018. Mike reported that January had strong revenues, despite fuel increasing. The trends on price are coming down, and January was a very good month, margin-wise. Mike reviewed the monthly historical comparisons as well as the 12-month history with the Committee.

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

Ken Goeke presented the Bidding Strategies Report for February 2018. The plant was awarded every day of the month. Margins appeared stronger towards the end of February. Ken reviewed bidding and calculating net start-up costs. Ken reviewed DA and RT net revenues over the month with the Committee.

## **Consent Calendar (Items 7 – 14)**

The consent calendar was considered. Chairman Caballero 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:** 3/12/2018

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no. **7.** Treasurer's Report for February 2018; **8.** Financial Reports for

February 2018; **9.** GHG Reports excerpted from monthly ARB; **10.** Bay Cities Fire Protection MTGSA not to exceed \$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. dba T.A. Krause Construction and Custom Painting MTGSA not to exceed \$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 not to exceed \$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 not to exceed \$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 to the GSA increasing the not to exceed amount from \$245,000 to \$300,000 for roof seal replacement services for use at the Lodi Energy Center.

**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	Yes	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	7	84.3644%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	15.6356%
Result:	Motion Passes	

## **BUSINESS ACTION ITEMS**

### **15. Siemens Energy, Inc. Change Order No. 1 to LTMPA**

Mike DeBortoli presented a proposed Change Order to the Long-Term Maintenance Planning Agreement between NCPA and Siemens Energy, Inc. This Change Order would add to the scope, as well as extend the sunset date of the current agreement from 2035 to 2041.

A major component of the Change Order would be the addition of a rotor exchange to the Scope of Work. Pricing would be based on refurbished rotor exchange, and would cost approximately \$3,600,000 (down from \$4.2mm). NCPA has proposed that collection for these costs begin now, and be set aside into a Maintenance Reserve Fund (Mike had previously discussed this with the Committee in the 2/12/18 LEC PPC Meeting). NCPA would not be locked into a refurbished rotor exchange; Siemens has stated that there would always be the option to pay the additional cost for a brand-new rotor. The first rotor exchange would likely happen during the first major overhaul (forecast for 2022). The Committee stated that it would be helpful to have a more in-depth discussion regarding refurbished rotors.

Other items added to the scope would include adding Steam Turbine Heating Blanket (reducing start times and increasing standby power), and generator inspections (both medium and major, to be performed in sync with HGP and CTG majors).

Mike would also like to add Energy Management Consultant Services for three years (at a cost of \$70,000/year). These services would include two workshops a year, as well as ISO design change or business updates by the authors of the CAISO software, which could allow NCPA to better manage the asset in the energy market.

Mike noted that this Change Order would increase cancelling to 18% of remaining payments (up from 12%). Jane Luckhardt explained that staff is still looking at these cancellation terms. These cancellation costs decrease at the sunset date gets closer, however, Staff still needs to look more at the terms and the impacts.

Mike reviewed the impacts of this Change Order on the FY19 budget. Approving this Change Order could result in a savings of up to \$990,362/year. If approved, this change would go into effect immediately.

The Committee stated they would like to hold off on approving this Change Order until the cancellation piece is fully vetted and finalized by NCPA legal. Some participants also expressed a concern about the status of the plant should California go towards 100% renewables in the future. Mike stated he will gather additional information and return with this item at the April LEC PPC Meeting.

Mike also reviewed a new T3000 Service Agreement which, while not currently ready for Committee approval, will have an impact on the FY19 budget. The previous Service Agreement recently expired. The new agreement would add a one-time DCS Software Upgrade to the scope, and could potentially save NCPA ~\$150,000 over previous quotes. Mike reviewed some of the additional items to be included in the new scope. Mike also reviewed the impacts that approval of this agreement could have on FY19 budget.

All Members present felt comfortable with assuming future approval of the LTMPA and T3000 Agreements for purposes of budget modeling, with official approval of both agreements to come one both agreements have been finalized and are brought back to the Committee at a later date.

## **BUSINESS ACTION ITEMS**

### **16. Adjourned to Closed Session**

The PPC adjourned to Closed Session at 11:15 a.m. A Closed Session discussion was had pursuant to California Government Code Section 54956.9(d)(1) regarding Pacific Gas and Electric Company's 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).

At 11:24 a.m. the Committee returned to Open Session. General Counsel Jane Luckhardt advised that no reportable action was taken during the Closed Session.

## **INFORMATIONAL ITEMS**

### **17. FY19 Budget Presentation – Review Only**

Mike DeBortoli reviewed the updated FY19 budget with the Committee. This budget assumed approval of the Change Order to the LTMPA and the T3000 Service Agreements. Mike broke down the updated Energy Production Costs (provided based on Plexos modeling from Jan Bonatto). Mike also reviewed other changes and impacts to the cost curve and the debt service chart.

Committee members asked that staff send out what documentation they have as soon as possible, to allow them plenty of time to review the proposed budget prior to April LEC PPC Meeting (which is when staff intends to seek formal approval of the FY19 budget).

Mike and Monty will work to gather and distribute FY19 budget documents to committee members. Any questions regarding the budget should be directed to Mike DeBortoli.

### **17. Additional Operational Updates**

There were no additional operational updates at this time.

## **Adjournment**

The next regular meeting of the PPC is scheduled for April 9, 2018.

The meeting was adjourned at 11:35 a.m.

Submitted by: Michelle Schellentrager

# Lodi Energy Center Project Participant Committee

## Operational Report

Agenda Item No.: 3

---

**Date:** 4/9/2018

**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:

3/17/18 - 2 Hours. Natural Gas pilot valve mismatch. Delayed start.  
3/27/18 - 2 Hours. Gas Compressor B Failed. Restarted Unit.

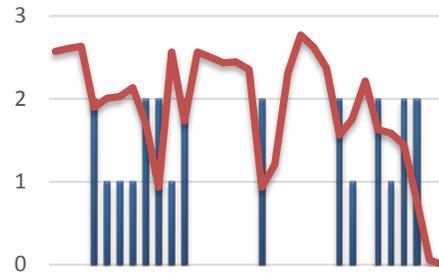
### Planned Outage Summaries:

- 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:** 3/1/2018

- 1. Monthly Production 136,133 MWH
- 2. Productivity Factor
  - a. Service Hours 586 Hours
  - b. Service Factor 78.9 %
  - c. Capacity Factor @ 280MW Pmax 65.4 %
  - d. Capacity Factor @ 302MW Pmax 60.7 %
- 3. Equivalent Operating Availability (EOA) 99.7 %
- 4. Forced Outage Rate (FOR)
  - a. Total LEC Plant FOR 0.3 %



- 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	6,980	1.60%	142	\$63
Seg. 3 275 - 284	6971	6,998	0.38%	2,347	\$250
Seg. 4 250 - 275	7081	7,040	-0.57%	16,315	-\$2,647
Seg. 5 225 - 250	7130	7,114	-0.23%	4,693	-\$303
Seg. 6 200 - 225	7200	7,212	0.17%	2,953	\$144
Seg. 7 175 - 225	7450	7,497	0.63%	3,800	\$714
Seg. 8 165 - 175	7760	7,825	0.84%	1,948	\$509
	<b>7,164</b>	<b>7,238</b>	<b>0.20%</b>	<b>32,197</b>	<b>-\$1,270</b>

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	34	-129	163	\$4,544
Seg. 3 275 - 284	52	-301	353	\$9,882
Seg. 4 250 - 275	125	-78	203	\$5,704
Seg. 5 225 - 250	113	-50	162	\$4,617
Seg. 6 200 - 225	66	-99	165	\$4,771
Seg. 7 175 - 225	85	-150	235	\$7,049
Seg. 8 165 - 175	11	-8	20	\$613
	<b>485</b>	<b>-815</b>	<b>1,301</b>	<b>\$37,180</b>

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	6	9	0
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	81	240	0
Start Time Deviation (%)	8%	118%	0%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,441	1,554	0
Fuel Deviation (%)	11%	-14%	0%
Costs of Fuel Deviations (\$)	<b>\$566</b>	<b>-\$986</b>	<b>\$0</b>

**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 =  $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$



# Market Settlement Results for March 2018

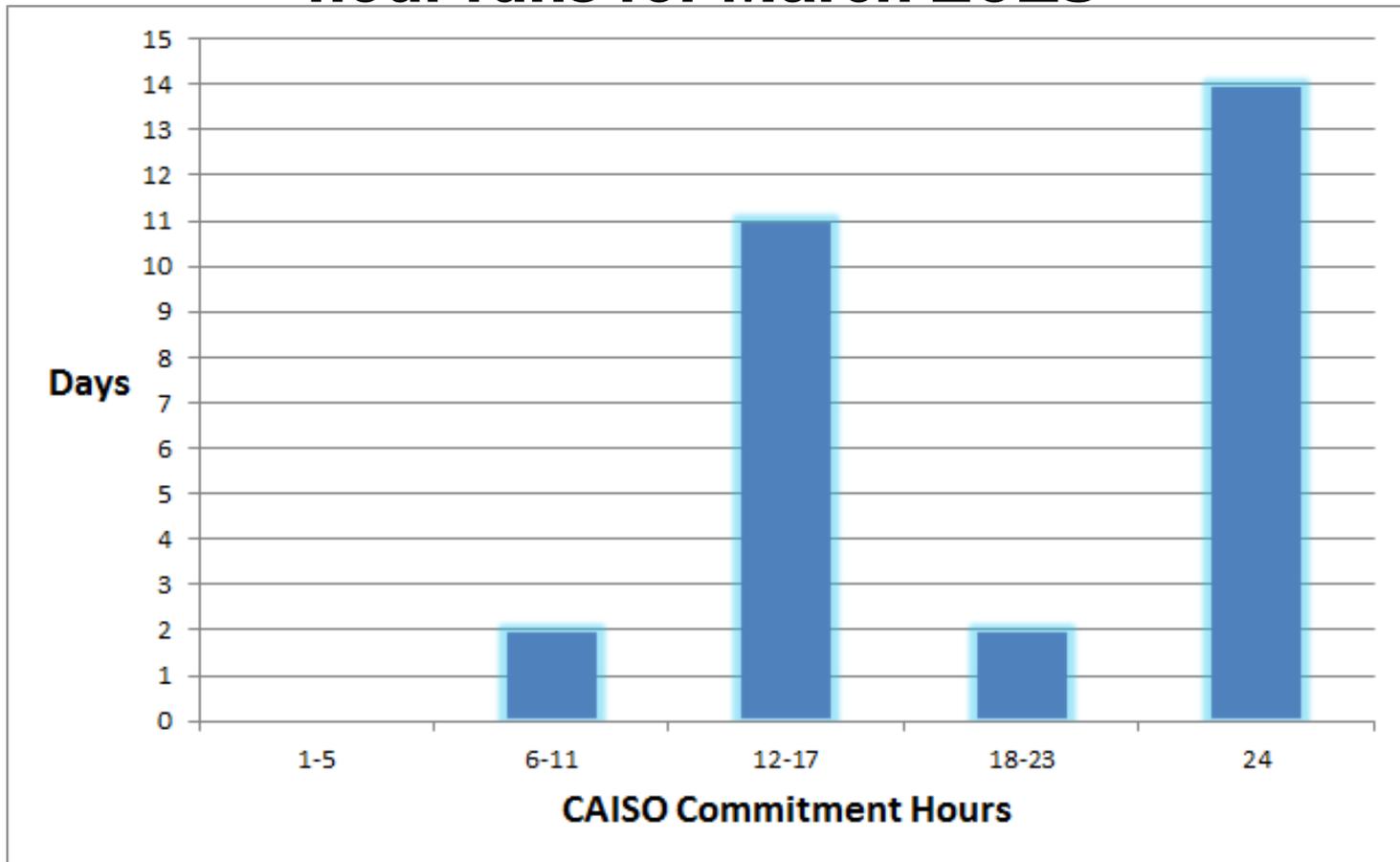
LEC PPC Meeting  
April 9, 2018



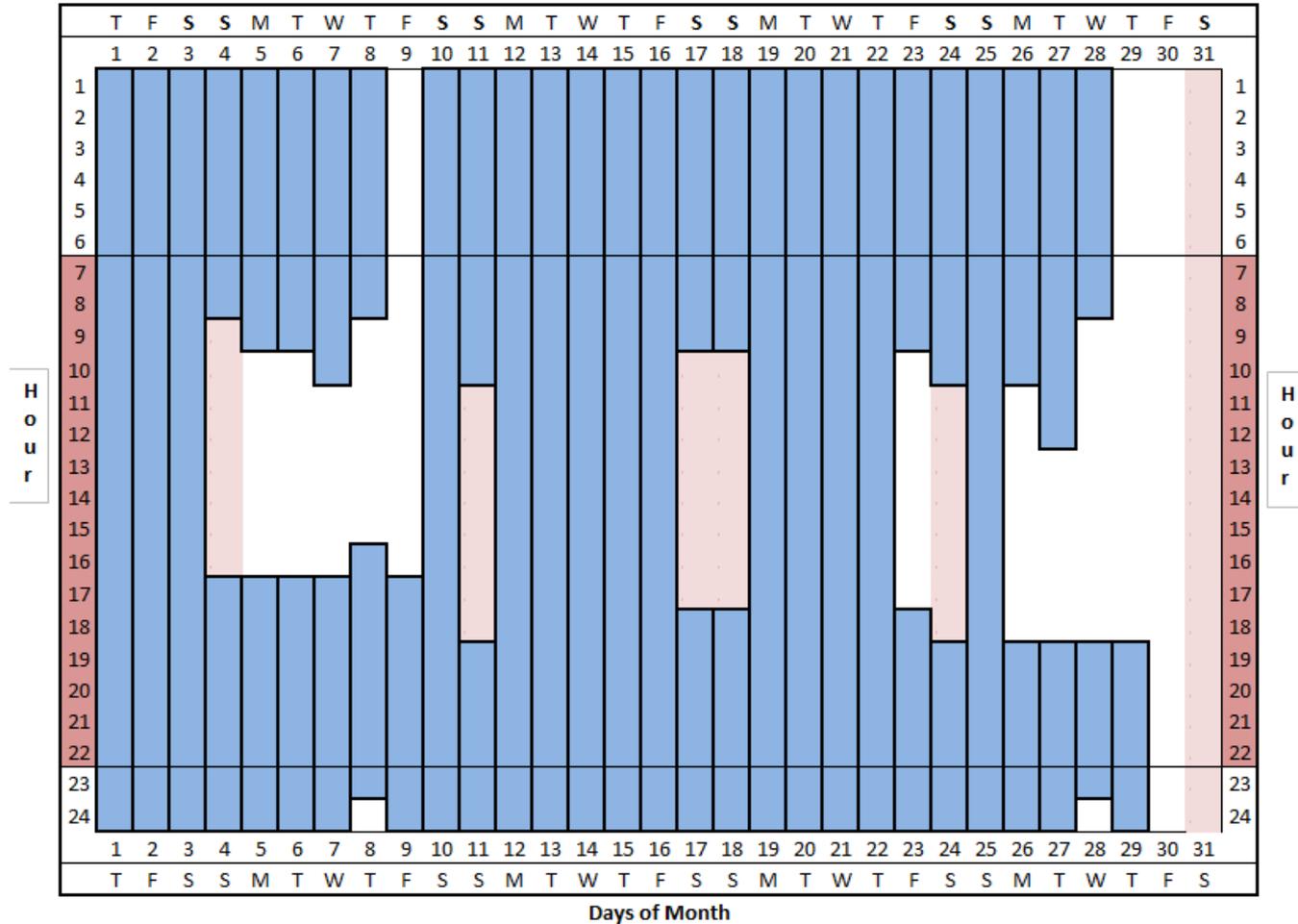
## LEC Operational Results for March 2018

- Resource Adequacy Availability Metric:
  - 99.98% LEC Monthly Availability
  - compared to**
  - 96.50% CAISO RA Incentive Mechanism Availability Standard
    - \$4,880 RAAIM Availability Incentive Payment
  
- LEC was committed by CAISO for Market energy 29 of 31 available days
  - 2 days not committed due to economics

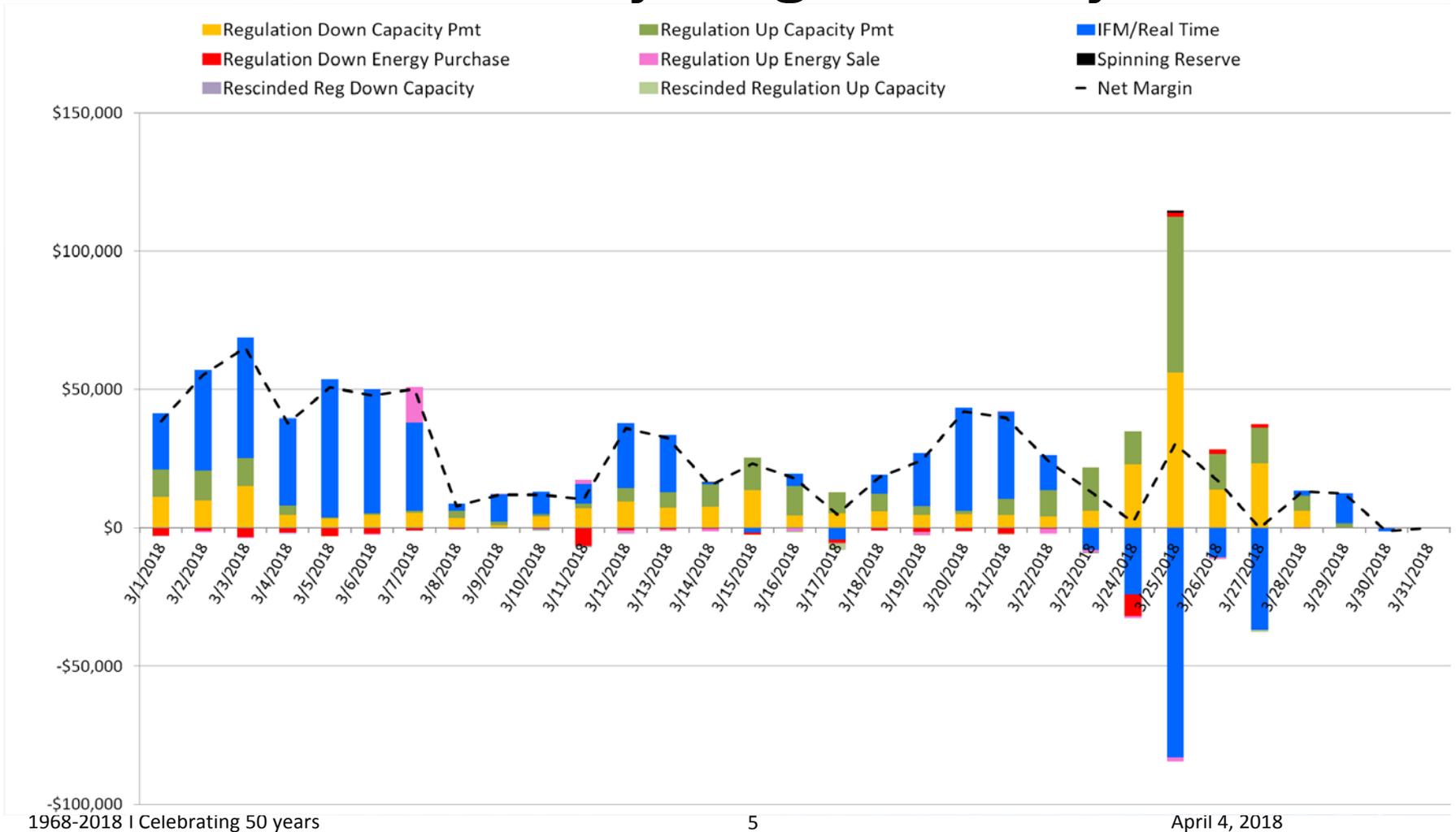
# Frequency Tabulation of Daily CAISO commitment hour runs for March 2018



# Daily CAISO Commitment Runs for March 2018



# March 2018 LEC Daily Margin Profile by Product



# 3/27/2018 LEC Daily Margin Profile by Product

Last Refresh at: 4/3/2018 1:51:16 PM

## LEC Operation & Margin Report for 3/27/2018

Confidential

UOM: MWh  
**4,327**  
DA Energy Schedule

UOM: MWh  
**3,698**  
Metered Gen

UOM: Dth  
**28,046**  
Consumed Gas

Available MW  
**0.00!**  
Goal: 290.80 (-100%)

Daily Margin \$  
**484**  
Goal: 0

- Opr Date
- 27-MAR-18
  - 28-MAR-18
  - 29-MAR-18
  - 30-MAR-18
  - 31-MAR-18
  - 01-APR-18
  - 02-APR-18
  - Current
  - 04-APR-18

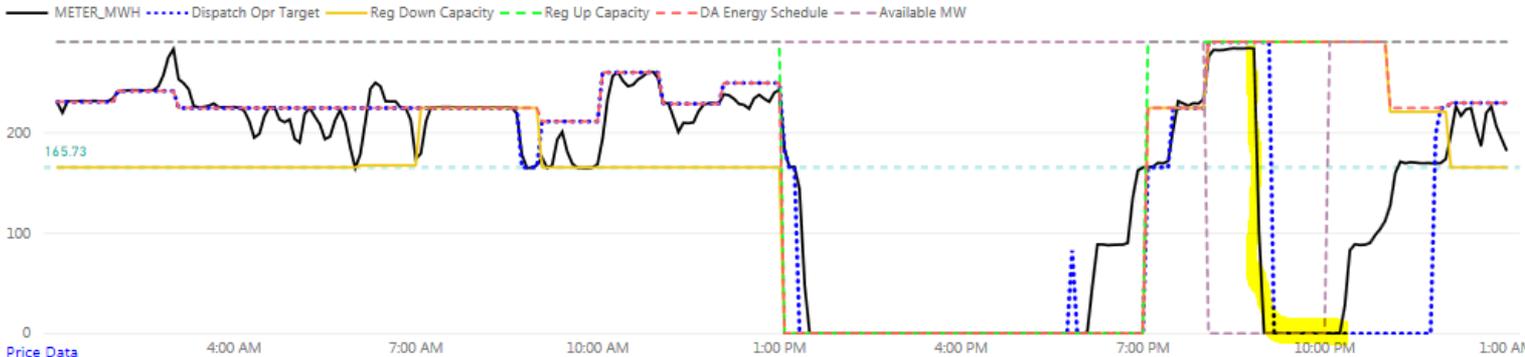
UOM: \$/CO2e  
**\$15.17**  
Daily GHG Index

UOM: \$/Dth  
**\$2.56**  
Daily CG Index

UOM: MWh  
**249.96**  
Pos Deviations

UOM: MWh  
**-83.33**  
Neg Deviations

Awarded Scheds and Meter Production



Hourly Margin \$

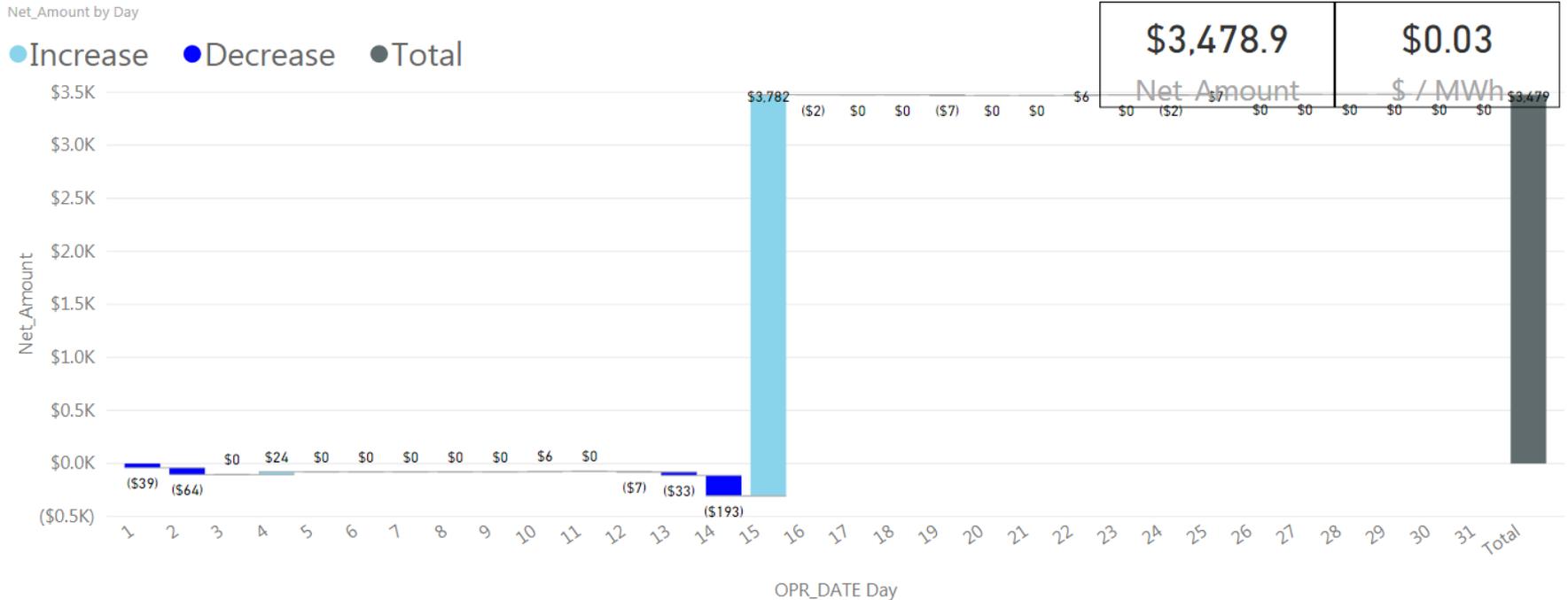
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
-1.860	-1.763	-2.046	-1.761	-1.070	383	4,700	4,178	1,348	4,934	-982	-1,194	-3,543	0	0	0	-6	-4,490	1,867	5,118	2,784	-4,310	-1,745	

## March 2018 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$ 5,116,800	
Regulation Up Capacity	\$ 233,000	
Regulation Down Capacity	\$ 272,200	
Spinning Reserve	\$ 900	
<b>Total Gross LEC Revenue</b>		<b>\$ 5,622,900</b>
LEC CAISO GMC Costs	\$ (58,500)	
CAISO Energy & Capacity Buyback Costs	\$ (315,200)	
Total Monthly LEC Fuel Cost	\$ (3,171,300)	
Total Monthly GHG Obligation	\$ (812,400)	
Variable Operations & Maintenance Cost	\$ (491,600)	
<b>Total Costs</b>		<b>\$ (4,849,000)</b>
<b>Net Cumulative Monthly Margin</b>		<b>\$ 773,900</b>

Average Margin \$/MWh \$ 5.6

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

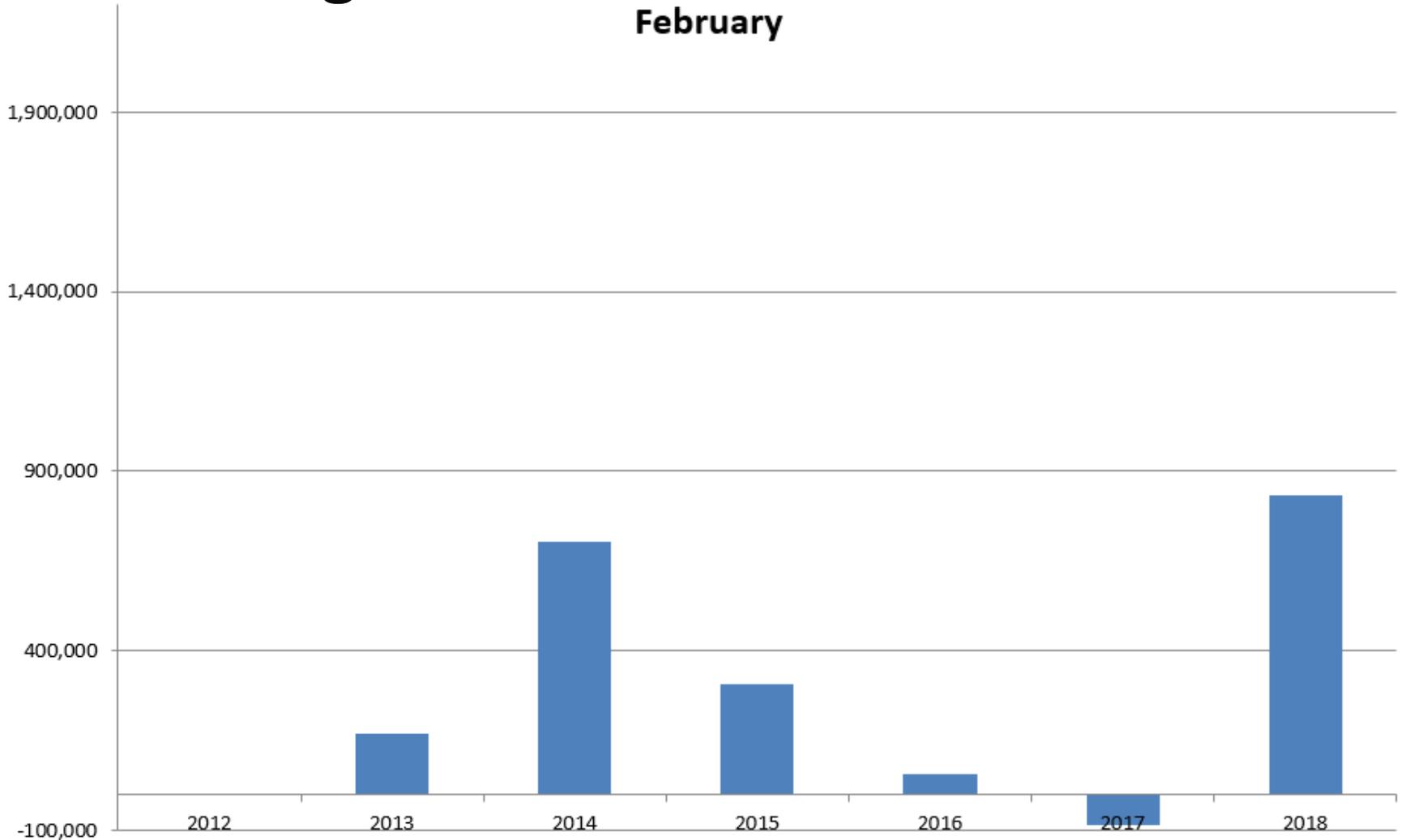


# February Asset Report

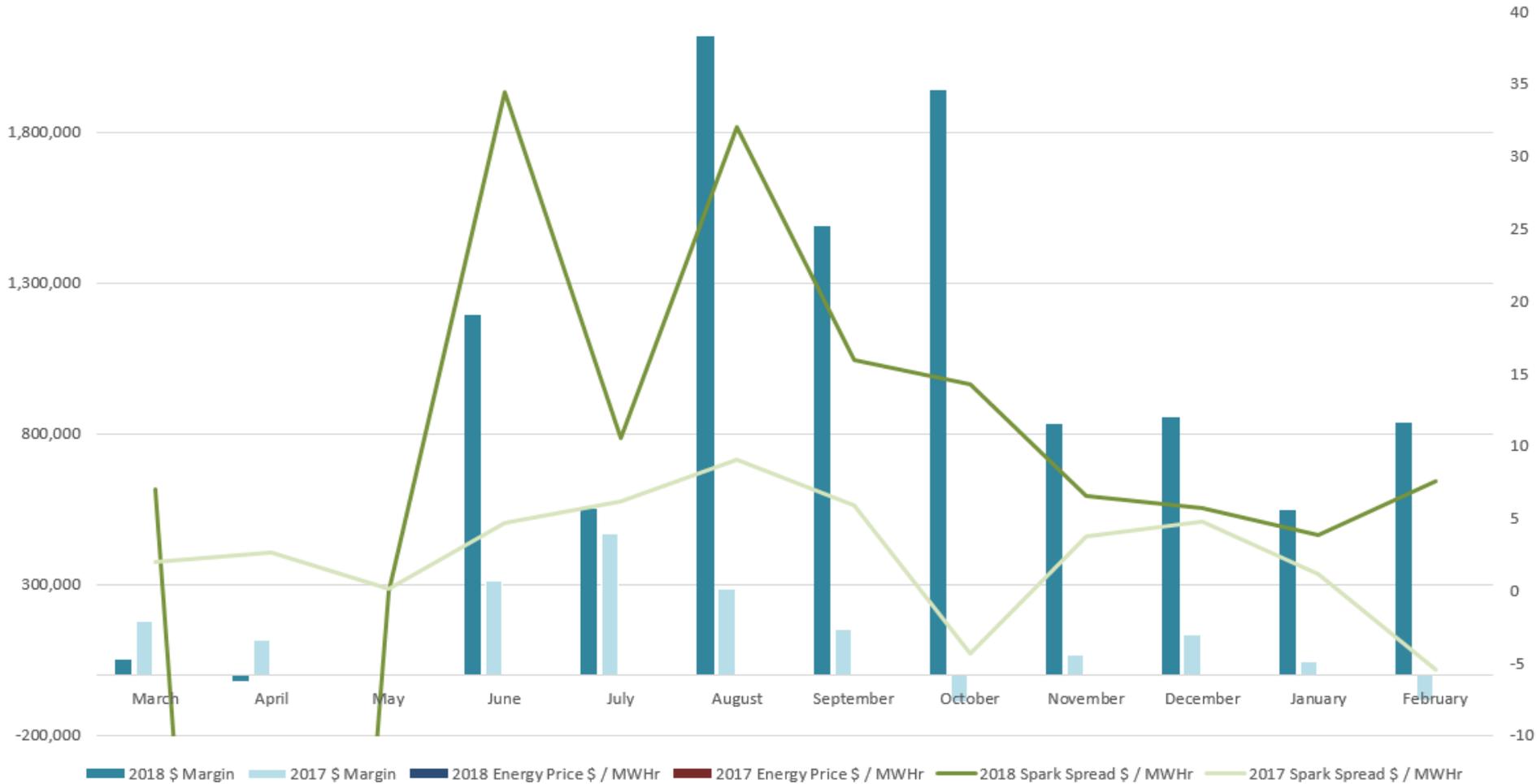
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	4,409,634	1,484,912	1,073,302	2,924,722	197%	
VOM	3,266,959	1,276,909	1,138,139	1,990,050	156%	
Fixed	1,188,172	871,738	929,651	316,434	36%	
Projects	167,733	219,704	219,704	(51,971)	-24%	
A&G	166,499	186,896	186,896	(20,397)	-11%	
Debt	2,181,150	2,201,387	2,201,387	(20,237)	-0.92%	
Net Cost	(2,560,878)	(3,271,722)	(3,602,475)	710,844	-22%	
Net Annual Cost		(32,670,255)	(41,127,058)	\$8,456,803		
				Below budget by 20.56%		

# Historical Margins

February



### Historical Monthly Comparison



Lodi Energy Center  
Monthly Budget Analysis  
Expenditures  
Report Date: 04/02/2018

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2017 Budget	Percent Used	Comments
VOM	2,131,885	2,263,977	3,222,709	5,791,354	4,153,010	4,556,401	5,484,941	3,316,046	535,555	812,569	854,905	3,002,532	36,125,884	18,381,034	196.5%	
Capacity Factor	25%	32%	46%	65%	63%	72%	68%	59%	6%	2%	11%	38%	41%	16%	257.4%	Higher than planned
Fuel Consumed (mmBTU, estimated)	408,530	491,555	682,614	978,397	913,511	1,073,960	1,018,875	808,764	87,570	23,338	161,783	521,847	7,170,745	2,587,320	277.1%	
Avg Fuel Cost (\$/mmBTU)	4.26	4.31	3.75	3.57	3.55	3.34	3.41	3.17	4.75	4.97	4.06	3.67	3.61	5.75	62.8%	Much lower than forecast
Power Produced (MWhr, estimated)	54,015	66,206	93,624	136,039	126,574	149,299	141,195	110,674	12,784	3,407	23,618	76,182	993,617	377,711	263.1%	
Avg Power Price (\$/MWhr)	51.53	73.18	52.16	49.46	41.08	38.78	37.53	39.84	49.22	48.62	45.78	40.18	45.16	52.32	86.3%	Slightly lower than forecast
Operations / Variable / LTSA	29,334	86,135	58,161	1,442,649	118,611	52,057	1,128,046	49,087	43,941	676,464	57,240	630,712	4,372,436	1,263,067	346.2%	
Fuel (estimated)	1,738,553	2,120,273	2,560,852	3,494,733	3,243,482	3,584,525	3,472,957	2,563,684	415,728	115,881	657,468	1,916,730	25,884,867	14,877,170	174.0%	
AB32 GHG Offset (estimated)	329,888	22,196	556,527	795,806	740,179	859,656	825,299	654,943	70,644	18,827	130,513	420,982	5,425,459	2,044,488	265.4%	
CA ISO Charges (estimated)	34,109	35,373	47,170	58,166	50,738	60,163	58,639	48,332	5,241	1,397	9,683	34,109	443,121	196,309	225.7%	
Routine O&M (Fixed)	725,314	810,496	882,256	741,746	835,642	734,382	911,675	1,188,172	783,780	1,481,573	788,781	806,780	10,690,597	11,210,509	95.4%	
Maintenance / Fixed	170,690	182,526	274,205	255,132	284,832	224,854	368,796	277,321	235,000	687,761	235,000	235,000	3,431,117	3,336,592	102.8%	Routine
Administration	14,307	2,096	4,956	5,999	5,299	2,518	6,089	2,106	17,000	17,000	17,000	17,000	111,370	230,934	48.2%	
Mandatory Costs	36,388	135,865	10,376	6,814	36,849	11,826	15,683	22,961	7,000	60,000	12,000	30,000	385,762	291,959	132.1%	Permit Renewals
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	341,905	397,968	590,000	397,968	397,968	4,766,320	5,051,714	94.4%	
Insurance	0	0	0	0	4,525	0	47,433	420,619	0	0	0	0	472,577	765,367	61.7%	
Power Management & Settlements	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,259	1,479,119	1,479,117	100.0%	
Other Costs	574	16,407	8,939	0	0	0	4,202	0	3,552	3,552	3,553	3,553	44,332	54,826	80.9%	
Projects	167,733	167,733	172,993	171,602	208,965	214,399	173,675	167,733	219,705	219,704	219,704	219,705	2,323,651	2,636,452	88.1%	
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	0	5,305	5,304	5,304	5,305	77,521	63,652	121.8%	
Capital Projects	0	0	0	0	0	46,666	0	0	46,666	46,667	46,667	46,666	233,332	560,000	41.7%	
A&G	153,787	164,932	191,347	153,371	143,902	147,607	160,998	166,499	186,896	186,896	186,896	186,895	2,030,026	2,242,744	90.5%	
Administrative & General (Allocated)	134,528	143,874	163,801	132,923	124,780	125,093	136,275	138,969	156,947	156,947	156,947	156,946	1,728,030	1,883,356	91.8%	
Generation Services Shared	19,259	21,058	27,546	20,448	19,122	22,514	24,723	27,530	29,949	29,949	29,949	29,949	301,996	359,388	84.0%	
<b>Total O&amp;M Cost</b>	<b>3,178,719</b>	<b>3,407,138</b>	<b>4,469,305</b>	<b>6,858,073</b>	<b>5,341,519</b>	<b>5,652,789</b>	<b>6,731,289</b>	<b>4,838,450</b>	<b>1,725,936</b>	<b>2,700,742</b>	<b>2,050,286</b>	<b>4,215,912</b>	<b>51,170,158</b>	<b>34,470,739</b>	<b>148.4%</b>	
Debt Service	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,181,150	2,181,150	2,201,386	2,201,386	2,201,386	2,201,386	26,376,166	26,416,640	99.8%	
Revenues	2,783,231	4,844,949	4,883,330	6,728,660	5,200,061	5,790,403	5,298,908	4,409,634	629,171	165,665	1,081,269	3,060,787	44,876,069	19,760,321	227.1%	
ISO Energy Sales (estimated)	2,783,231	4,844,744	4,883,142	6,728,660	5,200,061	5,790,403	5,298,908	4,409,634	629,171	165,665	1,081,269	3,060,787	44,875,676	19,760,321	227.1%	
Other Income	0	205	188	0	0	0	0	0	0	0	0	0	393	0		
<b>Net</b>	<b>(\$2,596,875)</b>	<b>(\$763,576)</b>	<b>(\$1,787,362)</b>	<b>(\$2,330,800)</b>	<b>(\$2,342,845)</b>	<b>(\$2,063,773)</b>	<b>(\$3,613,531)</b>	<b>(\$2,609,965)</b>	<b>(\$3,298,151)</b>	<b>(\$4,736,462)</b>	<b>(\$3,170,403)</b>	<b>(\$3,356,512)</b>	<b>(\$32,670,255)</b>	<b>(\$41,127,058)</b>		Below budget by 20.56%



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:** April 9, 2018  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended March 31, 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 \$42,901.

Investments - The carrying value of the LEC's investment portfolio totaled \$37,457,043 at month end. The current market value of the portfolio totaled \$36,978,173.

The overall portfolio had a combined weighted average interest rate of 1.770% with a bond equivalent yield (yield to maturity) of 1.499%. Investments with a maturity greater than one year totaled \$18,480,000. During the month \$2.2 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 12 basis points (from 1.64% to 1.76%) and rates on one year T-Bills increased by 7 basis points (from 2.02% to 2.09%).

To the best of my knowledge and belief, all securities held by LEC as of March 31, 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

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**MARCH 31, 2018**

### **TABLE OF CONTENTS**

	<u><b>PAGE</b></u>
<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  
March 31, 2018**

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
<b>MANDATORY FUNDS</b>					
Debt Service Account	645	14,041,628	14,042,273	37.45%	14,037,257
Debt Service Reserve	-	12,106,698	12,106,698	32.28%	11,788,117
O & M Reserve	-	11,236,461	11,236,461	29.96%	11,080,543
	<b>645</b>	<b>37,384,787</b>	<b>37,385,432</b>	<b>99.70%</b>	<b>36,905,917</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	72,256	72,256	0.19%	72,256
Transmission Upgrade Escrow <sup>1</sup>	42,256	-	42,256	0.11%	-
Participant Deposit Account	-	-	-	0.00%	-
	<b>\$ 42,901</b>	<b>\$ 37,457,043</b>	<b>\$ 37,499,944</b>	<b>100.00%</b>	<b>\$ 36,978,173</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  
March 31, 2018**

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ -	\$ 193	\$ 428	\$ -	\$ (2,180,923)	\$ 2,180,947	645
Debt Service Reserve	-	76	-	-	(76)	-	-
O & M Reserve	-	39	-	-	(39)	-	-
	-	308	428	-	(2,181,038)	2,180,947	645
<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>\$ 315</b>	<b>\$ 428</b>	<b>\$ -</b>	<b>\$ (2,181,038)</b>	<b>\$ 2,180,947</b>	<b>\$ 652</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  
March 31, 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	2,180,923	(428)	15,120	-	-	2,195,615
Debt Service Reserve	76	-	(6,693)	-	-	(6,617)
O & M Reserve	39	-	(1,532)	-	-	(1,493)
	<u>\$ 2,181,038</u>	<u>\$ (428)</u>	<u>\$ 6,895</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,187,505</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	-	-	-	-	-	-
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 2,181,038</u>	<u>\$ (428)</u>	<u>\$ 6,895</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,187,505</u>

**Less Non- Cash Activity**

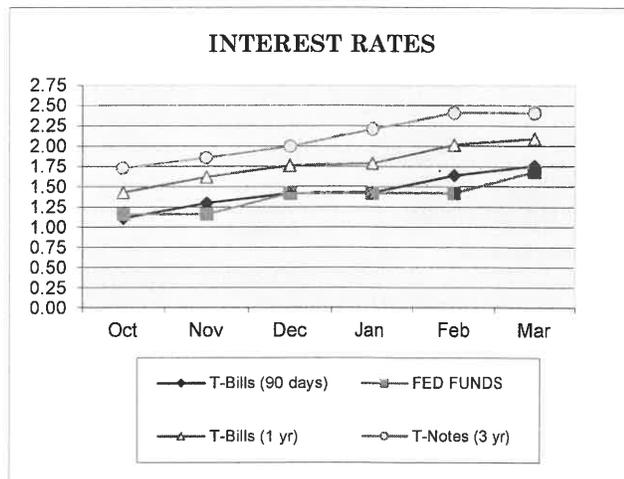
Disc/(Prem) Amortization & Gain/(Loss) on Sale	<u>(6,895)</u>
<b>Net Change in Investment --Before Non-Cash Activity</b>	<u><u>\$ 2,180,610</u></u>

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

**Northern California Power Agency  
Lodi Energy Center  
Interest Rate/Yield Analysis  
March 31, 2018**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b><u>1.770%</u></b>	<b><u>1.499%</u></b>
Debt Service Account	1.470%	1.497%
Debt Service Reserve	2.368%	1.653%
O & M Reserve	1.506%	1.337%
GHG Cash Account	1.205%	1.205%

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Fds (Ovrnight)	1.68%	0.91%
T-Bills (90da.)	1.76%	0.78%
Agency Disc (90da.)	1.69%	0.77%
T-Bills (1yr.)	2.09%	1.03%
Agency Disc (1yr.)	2.12%	1.10%
T-Notes (3yr.)	2.41%	1.53%



**Northern California Power Agency  
Total Portfolio  
Investment Maturities Analysis  
March 31, 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	\$ -	\$ 14,070	\$ -	\$ -	\$ 2,933	\$ 18,395	\$ -	\$ 35,398	94.91%
Corporate Bonds (MTN)	-	-	-	-	-	-	-	-	0.00%
US Bank Trust Money Market	6	-	-	-	-	-	-	6	0.02%
Commercial Paper	-	-	-	-	-	-	-	-	0.00%
Investment Trusts (LAIF)	1,670	-	-	-	-	-	-	1,670	4.48%
U.S.Treasury Market Acct.	75	-	-	-	-	-	-	75	0.20%
U.S.Treasury Bill/Note	-	-	-	-	63	85	-	148	0.40%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
<b>Total Dollars</b>	<b>\$ 1,751</b>	<b>\$14,070</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,996</b>	<b>\$18,480</b>	<b>\$0</b>	<b>\$ 37,297</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>4.69%</b>	<b>37.72%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>8.03%</b>	<b>49.55%</b>	<b>0.00%</b>	<b>100.00%</b>	

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  
03/31/2018**

**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	1,295	0.600	07/01/2013	1,295	1,295	1	0.600	1,295	SYS79003	79003	1,295
Federal Home Loan Ba	USBT	3,542,000	1.350	12/28/2017	3,522,342	05/25/2018	54	1.376	3,533,145	313385XF8	26505	3,534,827
Federal Home Loan Ba	USBT	698,000	1.474	01/31/2018	694,568	05/31/2018	60	1.502	696,053	313385XM3	26520	696,284
Federal Home Loan Ba	USBT	488,000	1.705	03/27/2018	486,498	05/31/2018	60	1.734	486,638	313385XM3	26565	486,613
Federal Home Loan Ba	USBT	489,000	1.640	02/27/2018	486,906	06/01/2018	61	1.669	487,597	313385XN1A	26529	487,641
<b>Fund Total and Average</b>		<b>\$ 5,218,295</b>	<b>1.427</b>		<b>\$ 5,191,609</b>		<b>56</b>	<b>1.454</b>	<b>\$ 5,204,728</b>			<b>\$ 5,206,660</b>

**LEC Issue #1 2010B DS Fund**

US Bank Trust	USB	1,134	0.600	07/01/2013	1,134	1,134	1	0.600	1,134	SYS79004	79004	1,134
Federal Home Loan Ba	USBT	735,000	1.350	12/28/2017	730,921	05/25/2018	54	1.376	733,163	313385XF8	26506	733,512
Federal Home Loan Ba	USBT	729,000	1.475	01/31/2018	725,416	05/31/2018	60	1.502	726,966	313385XM3	26518	727,208
Federal Home Loan Ba	USBT	727,000	1.705	03/27/2018	724,762	05/31/2018	60	1.734	724,972	313385XM3	26566	724,934
Federal Home Loan Ba	USBT	729,000	1.640	02/27/2018	725,878	06/01/2018	61	1.669	726,908	313385XN1A	26528	726,974
<b>Fund Total and Average</b>		<b>\$ 2,921,134</b>	<b>1.542</b>		<b>\$ 2,908,111</b>		<b>59</b>	<b>1.570</b>	<b>\$ 2,913,143</b>			<b>\$ 2,913,762</b>

**LEC Issue #2 2010A DS Fund**

US Bank Trust	USB	1,257	0.600	07/01/2013	1,257	1,257	1	0.600	1,257	SYS79011	79011	1,257
Federal Home Loan Ba	USBT	2,844,000	1.350	12/28/2017	2,828,216	05/25/2018	54	1.376	2,836,890	313385XF8	26507	2,838,241
Federal Home Loan Ba	USBT	441,000	1.475	01/31/2018	438,832	05/31/2018	60	1.502	439,770	313385XM3	26516	439,916
Federal Home Loan Ba	USBT	438,000	1.705	03/27/2018	436,652	05/31/2018	60	1.734	436,778	313385XM3	26567	436,755
Federal Home Loan Ba	USBT	439,000	1.640	02/27/2018	437,120	06/01/2018	61	1.669	437,740	313385XN1A	26527	437,780
<b>Fund Total and Average</b>		<b>\$ 4,163,257</b>	<b>1.431</b>		<b>\$ 4,142,077</b>		<b>56</b>	<b>1.458</b>	<b>\$ 4,152,435</b>			<b>\$ 4,153,949</b>

**LEC Issue #2 2010B DS Fund**

US Bank Trust	USB	831	0.600	07/01/2013	831	831	1	0.600	831	SYS79012	79012	831
Federal Home Loan Ba	USBT	355,000	1.350	12/28/2017	353,030	05/25/2018	54	1.376	354,113	313385XF8	26508	354,281
Federal Home Loan Ba	USBT	350,000	1.474	01/31/2018	348,279	05/31/2018	60	1.502	349,024	313385XM3	26523	349,140
Federal Home Loan Ba	USBT	349,000	1.705	03/27/2018	347,926	05/31/2018	60	1.734	348,026	313385XM3	26568	348,008
Federal Home Loan Ba	USBT	351,000	1.640	02/27/2018	349,497	06/01/2018	61	1.669	349,993	313385XN1A	26526	350,025
<b>Fund Total and Average</b>		<b>\$ 1,405,831</b>	<b>1.541</b>		<b>\$ 1,399,563</b>		<b>59</b>	<b>1.569</b>	<b>\$ 1,401,987</b>			<b>\$ 1,402,285</b>

**LEC Issue#1 2017A DS Fund**

<b>Fund Total and Average</b>												
		<b>\$ 1,405,831</b>	<b>1.541</b>		<b>\$ 1,399,563</b>		<b>59</b>	<b>1.569</b>	<b>\$ 1,401,987</b>			<b>\$ 1,402,285</b>

Northern California Power Agency  
Treasurer's Report

03/31/2018

LEC Issue#1 2017A 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
Federal Home Loan Ba	USBT	183,000	1.705	03/27/2018	182,437	05/31/2018	60	1.734	182,489	313385XM3	26569	182,480
Federal Home Loan Ba	USBT	183,000	1.640	02/28/2018	182,225	06/01/2018	61	1.669	182,475	313385XN1A	26543	182,491
<b>Fund Total and Average</b>		<b>\$ 366,000</b>	<b>1.672</b>		<b>\$ 364,662</b>		<b>.61</b>	<b>1.702</b>	<b>\$ 364,964</b>			<b>\$ 364,971</b>
<b>GRAND TOTALS:</b>		<b>\$ 14,074,517</b>	<b>1.470</b>		<b>\$ 14,006,022</b>		<b>57</b>	<b>1.497</b>	<b>\$ 14,037,257.</b>			<b>\$ 14,041,627</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2018



Northern California Power Agency  
Treasurer's Report  
03/31/2018

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	190	0.600	07/01/2013	190	06/30/2019	1	0.600	190	SYS79005	79005	190
U.S. Treasury	USB	85,000	1.625	02/27/2018	84,641	05/25/2021	455	1.945	84,419	912828WSS	26538	84,665
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	08/12/2021	1,150	1.659	4,242,760	31335GBZ7	26337	4,360,000
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	06/10/2022	1,229	1.699	143,291	3137EAE09	26454	147,208
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/12/2020	1,531	1.760	4,011,768	313379069	26463	4,159,657
<b>Fund Total and Average</b>		<b>\$ 8,695,190</b>	<b>1.872</b>		<b>\$ 8,759,785</b>		<b>1326</b>	<b>1.711</b>	<b>\$ 8,482,428</b>			<b>\$ 8,751,920</b>

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	396	0.600	07/01/2013	396	01/31/2019	1	0.600	396	SYS79006	79006	396
U.S. Treasury	USB	38,000	1.823	02/27/2018	37,349	06/12/2020	305	1.872	37,362	912796PP8	26534	37,413
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	07/01/2019	803	1.540	2,190,431	313370E38	26455	2,229,260
<b>Fund Total and Average</b>		<b>\$ 2,183,396</b>	<b>3.349</b>		<b>\$ 2,292,891</b>		<b>795</b>	<b>1.545</b>	<b>\$ 2,228,189</b>			<b>\$ 2,267,069</b>

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	623	0.600	07/01/2013	623	01/31/2019	1	0.600	623	SYS79013	79013	623
U.S. Treasury	USB	25,000	1.823	02/27/2018	24,572	06/12/2020	305	1.872	24,581	912796PP8	26535	24,614
Federal Home Loan Ba	USB	1,025,000	4.375	07/28/2017	1,082,708	07/01/2019	456	1.400	1,052,296	31333XU6G6	26456	1,062,472
<b>Fund Total and Average</b>		<b>\$ 1,050,623</b>	<b>4.315</b>		<b>\$ 1,107,903</b>		<b>452</b>	<b>1.410</b>	<b>\$ 1,077,500</b>			<b>\$ 1,087,709</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,929,209</b>	<b>2.368</b>		<b>\$ 12,160,579</b>		<b>1148</b>	<b>1.653</b>	<b>\$ 11,788,117.</b>			<b>\$ 12,106,698</b>

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.  
Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2018  
Investment #26337 FFCB Callable anytime



Northern California Power Agency  
 Treasurer's Report  
 03/31/2018

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	74,925	0.002	07/18/2013	74,925		1	0.002	74,925	SYS70041	70041	74,925
Federal National Mtg	UBOC	2,993,000	1.875	08/28/2015	2,998,142	02/19/2019	324	1.220	2,926,459	3135G0ZA4	26248	2,949,559
Federal Home Loan Ba	USB	3,615,000	1.540	06/30/2017	3,613,952	06/05/2020	796	1.550	3,551,123	3130ABJ00	26440	3,614,221
Federal National Mtg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	821	1.300	2,930,280	3136G3UJ2	26341	3,000,000
<b>Fund Total and Average</b>		<b>\$ 11,220,681</b>	<b>1.506</b>		<b>\$ 11,284,775</b>		<b>560</b>	<b>1.337</b>	<b>\$ 11,080,543</b>			<b>\$ 11,236,461</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,220,681</b>	<b>1.506</b>		<b>\$ 11,284,775</b>		<b>560</b>	<b>1.337</b>	<b>\$ 11,080,543.</b>			<b>\$ 11,236,461</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2018



Northern California Power Agency  
 Treasurer's Report  
 03/31/2018

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
	<b>Fund Total and Average</b>	<b>\$ 72,256</b>	<b>1.205</b>		<b>\$ 72,256</b>		<b>1</b>	<b>1.205</b>	<b>\$ 72,256</b>			<b>\$ 72,256</b>
	<b>GRAND TOTALS:</b>	<b>\$ 72,256</b>	<b>1.205</b>		<b>\$ 72,256</b>		<b>1</b>	<b>1.205</b>	<b>\$ 72,256</b>			<b>\$ 72,256</b>

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.  
 Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2018



**Lodi Energy Center Project Participant Committee**  
**LEC Financial Reports**

AGENDA ITEM NO.: 8

---

**Date:** April 9, 2018  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** March 31, 2018 Financial Reports (Unaudited)

---

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

	March	
	2018	2017
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 72,256	\$ 71,541
Interest receivable	90	96
Inventory and supplies - at average cost	2,110,855	2,084,236
Prepaid insurance	357,776	318,073
Due from (to) Agency, net	15,036,642	9,416,888
<b>TOTAL CURRENT ASSETS</b>	<b>17,577,619</b>	<b>11,890,834</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	1,718,197	5,550,696
Investments	35,702,303	31,389,172
Interest receivable	79,096	52,549
<b>TOTAL RESTRICTED ASSETS</b>	<b>37,499,596</b>	<b>36,992,417</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	423,802,356	423,640,289
Less: accumulated depreciation	(77,900,476)	(63,289,640)
	345,901,880	360,350,649
Construction work-in-progress	120,854	106,360
<b>TOTAL ELECTRIC PLANT</b>	<b>346,022,734</b>	<b>360,457,009</b>
<b>OTHER ASSETS</b>		
Regulatory assets	22,966,001	21,028,798
<b>TOTAL OTHER ASSETS</b>	<b>22,966,001</b>	<b>21,028,798</b>
<b>TOTAL ASSETS</b>	<b>\$ 424,065,950</b>	<b>\$ 430,369,058</b>

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

	March	
	2018	2017
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 3,201,254	\$ 245,435
Operating reserves	13,868,715	12,485,628
Current portion of long-term debt	10,355,000	9,950,000
Accrued interest payable	5,078,078	5,460,655
<b>TOTAL CURRENT LIABILITIES</b>	<b>32,503,047</b>	<b>28,141,718</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	1,716,023	1,715,410
Long-term debt, net	340,623,455	351,415,696
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>342,339,478</b>	<b>353,131,106</b>
<b>TOTAL LIABILITIES</b>	<b>374,842,525</b>	<b>381,272,824</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	41,385,735	42,452,844
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	(21,239,038)	(20,236,585)
Restricted	20,308,203	20,479,676
Unrestricted	8,768,525	6,400,299
<b>TOTAL NET POSITION</b>	<b>7,837,690</b>	<b>6,643,390</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 424,065,950</b>	<b>\$ 430,369,058</b>

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

	Nine Months Ended March	
	2018	2017
<b>SALES FOR RESALE</b>		
Participants	\$ 18,402,972	\$ 26,535,139
Other	48,400,449	12,752,807
<b>TOTAL SALES FOR RESALE</b>	<b>66,803,421</b>	<b>39,287,946</b>
<b>OPERATING EXPENSES</b>		
Operations	32,729,824	13,405,291
Depreciation	10,959,098	10,955,216
Purchased power	4,104,690	2,365,999
Maintenance	3,034,961	2,968,609
Administrative and general	3,144,585	3,072,328
Transmission	766,676	333,990
Intercompany (sales) purchases	183,882	193,791
<b>TOTAL OPERATING EXPENSES</b>	<b>54,923,716</b>	<b>33,295,224</b>
<b>NET OPERATING REVENUES</b>	<b>11,879,705</b>	<b>5,992,722</b>
<b>OTHER REVENUES (EXPENSES)</b>		
Interest expense	(11,447,941)	(11,947,958)
Interest income	507,555	164,938
Other	1,857,772	7,872,941
<b>TOTAL OTHER REVENUES (EXPENSES)</b>	<b>(9,082,614)</b>	<b>(3,910,079)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>	<b>1,313,546</b>	<b>1,870,969</b>
<b>REFUNDS TO PARTICIPANTS</b>	<b>(2,480,578)</b>	<b>(277,707)</b>
<b>INCREASE IN NET POSITION</b>	<b>1,630,059</b>	<b>3,675,905</b>
<b>NET POSITION</b>		
Beginning of year	6,207,631	2,967,485
End of period	\$ 7,837,690	\$ 6,643,390

**Lodi Energy Center  
FY 2018 Operating Costs  
As of March 31, 2018**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Routine O&amp;M Costs</b>					
Variable	\$ 1,263,067	\$ 3,092,994	\$ (1,829,927)	0%	A
Fixed	3,336,592	2,339,245	997,347	30%	
Administration	230,934	57,540	173,394	75%	
Mandatory Costs	291,959	295,677	(3,718)	0%	B
<b>Routine O&amp;M Costs without Labor</b>	5,122,552	5,785,456	(662,904)	0%	
<b>Labor</b>	5,051,714	3,401,997	1,649,717	33%	
<b>Total Routine O&amp;M Cost</b>	10,174,266	9,187,453	986,813	10%	
<b>Other Costs</b>					
Fuel	14,877,170	25,370,934	(10,493,764)	0%	C
CA ISO Charges	196,309	766,676	(570,367)	0%	D
CA ISO Purchased Energy	3,724,590	4,104,690	(380,100)	0%	E
Debt Service	26,416,640	19,751,770	6,664,870	25%	
Insurance	765,367	568,332	197,035	26%	
Other Costs	54,826	23,818	31,008	57%	
Generation Services Shared	359,388	204,201	155,187	43%	
Administrative & General (Allocated)	1,883,356	1,225,242	658,114	35%	
Power Management Allocated Costs	1,479,117	1,109,338	369,779	25%	
<b>Total O&amp;M Cost</b>	59,931,029	62,312,454	(2,381,425)	0%	
<b>Projects</b>					
Operations & Maintenance	63,652	56,303	7,349	12%	F
Capital	560,000	13,830	546,170	98%	
Maintenance Reserve	2,012,800	1,509,600	503,200	25%	
<b>Total Projects</b>	2,636,452	1,579,733	1,056,719	40%	
<b>Annual Cost</b>	62,567,481	63,892,187	(1,324,706)	0%	
<b>Less: Third Party Revenue</b>					
Interest Income	171,889	273,312	(101,423)	0%	G
ISO Energy Sales	19,760,321	46,723,416	(26,963,095)	0%	
Ancillary Services Sales	396,879	1,677,033	(1,280,154)	0%	
	20,329,089	48,674,154	(28,345,065)	0%	
<b>Net Annual Cost to Participants</b>	\$ 42,238,392	\$ 15,218,033	\$ 27,020,359	64%	

<b>Total Variable Costs</b>	20,061,136	33,335,294	(13,274,158)
<b>Total Fixed Costs</b>	42,506,345	30,556,893	11,949,452
	\$ 62,567,481	\$ 63,892,187	\$ (1,324,706)

<b>Net Cumulative Generation (MWh)</b>	377,711	1,016,097
<b>Total O&amp;M Cost Per MWh</b>	\$ 158.67	\$ 61.33
<b>Net Annual Cost Per MWh</b>	\$ 111.83	\$ 14.98

**Footnotes:**

**General** - The plant ran 29 days during the month.

March 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.

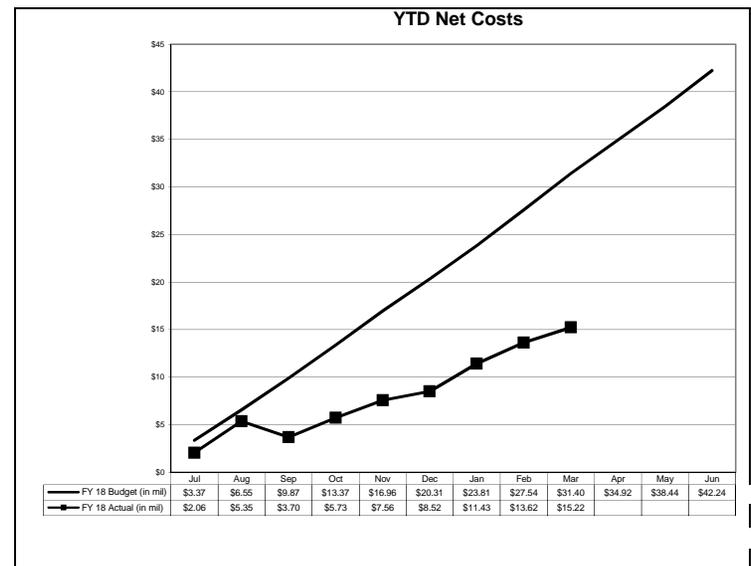
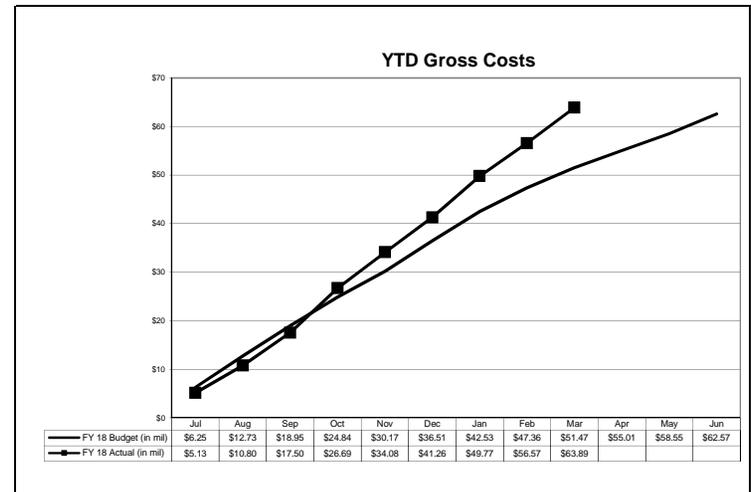
**C** - Higher fuel costs due to higher generation and higher natural gas costs per mmBtu.

**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.

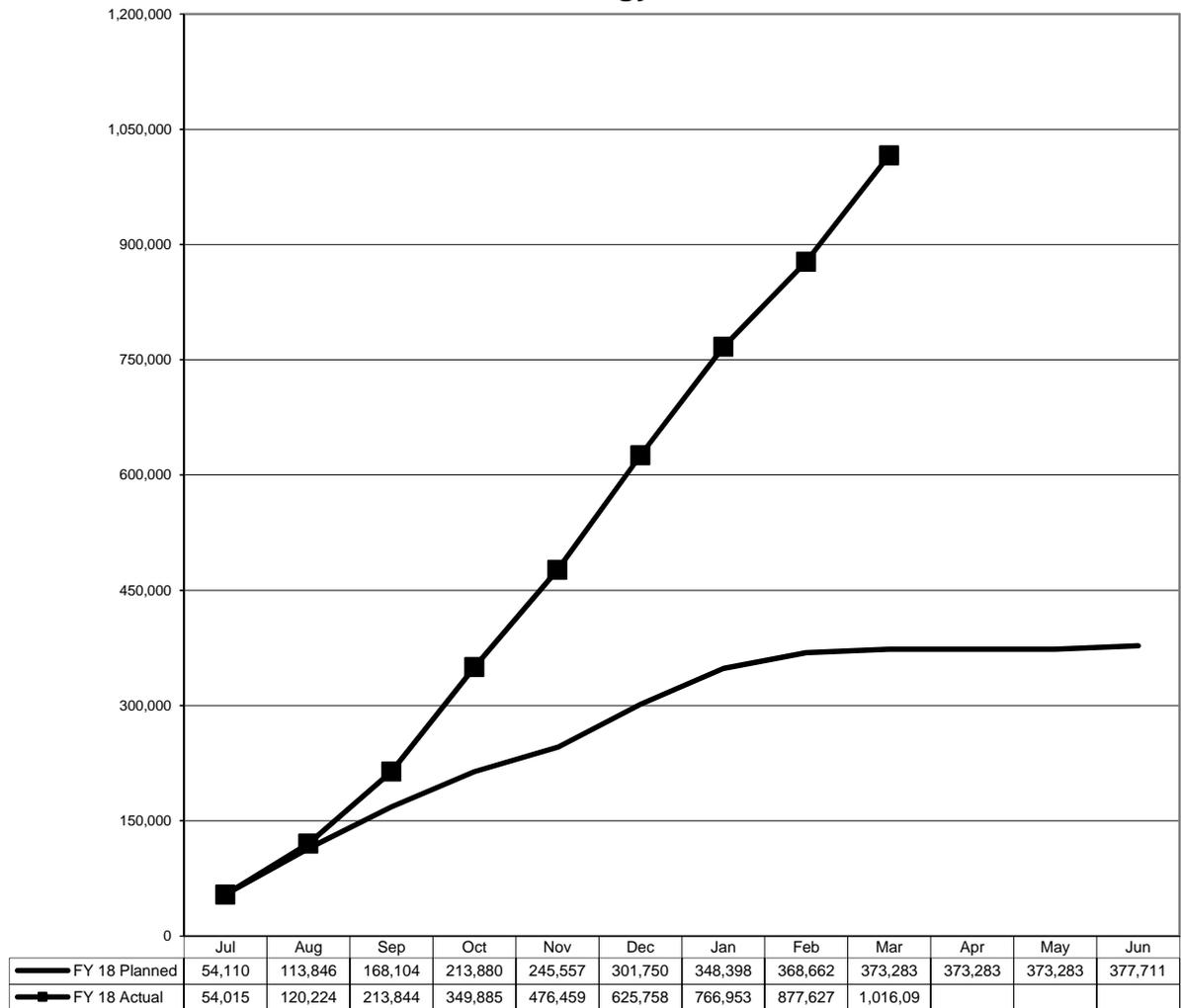


**Note:** Decrease in September net costs due to adjustment of energy sales in prior periods.

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

In MWh

**Lodi Energy Center**



**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:** April 9, 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

IDENTIFIER	Actual													Compliance Year 2013
	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	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													
IDENTIFIER	Actual												Compliance Year 2014
	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	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 Total
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
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	Total
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
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
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	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	Actual	Estimated	Estimated	Estimated	Estimated	Compliance Year 2018 Total	Cumulative Totals Total	Charge Code	Source
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE				
Energy (MWh)	141,193	110,674	11,052	3,066	21,256	68,564	355,806	5,829,530		Forecast/Meter
Gas Schedule (MMBtu)	1,007,872	801,081	79,574	22,077	153,045	493,659	2,557,309	41,522,107		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	43,230	4,294	1,191	8,259	26,640	138,005	2,241,000		derived
Cumulative MT Obligation (MT)	879,273	922,503	926,797	927,989	936,248	962,888	962,888	4,437,443		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)	(356,669)	(352,375)	(351,183)	(342,924)	(316,284)	(316,284)		MTA SHORTFALL	derived

Forecast has been updated through June 2018

NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative)  
April 2018

IDENTIFIER	AZUSA	BART	BIGGS	CDWR	GRI	HEA	LOD	LOM	MID	PLU	PWRPA	SNCL	UKI	TOTAL	Charge Code	Source
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%		MARS
Obligation Accounts																
Current MT Compliance Obligation (MTO) Balance (MT)	27,480	65,108	2,643	353,217	19,378	16,207	92,437	19,989	105,696	7,749	26,318	254,022	17,616	1,007,861		derived
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		derived
MTA Shortfall (MT)	(975)	(12,691)	(312)	(99,258)	(1,771)	(1,456)	(21,393)	(6,389)	(6,660)	(114)	(1,150)	(9,013)	(806)	(161,988)	MTA SHORTFALL	Derived
Monthly GHG Price \$/MT	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	14.77	MTA SHORTFALL	ICE Index
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	MTA SHORTFALL	Derived
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	4,780	755	0	0	0	0	0	2,652	70,424	CCA BALANCE	Accounting
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	NET GHG OBLIG	Derived

\* 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:** April 4, 2018

**Meeting Date:** April 9, 2018

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

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

---

### Proposal

Approve the Multi-Task General Services Agreement with Herold & Mielenz, Inc., for motor maintenance and other necessary services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 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

Motor maintenance and other necessary services are required from time to time 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 similar agreements in place with Koffler, and seeks bids from as many qualified providers as possible and enter into additional enabling agreements as 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 \$750,000 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 Herold & Mielenz, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
HEROLD AND MIELENZ, 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 Herold And Mielenz, Inc., a corporation with its office located at 3531 51<sup>st</sup> Avenue, Sacramento, CA 95823-1092 ("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** SEVEN HUNDRED FIFTY THOUSAND dollars (\$750,000) 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.** Not Applicable~~

~~**6.6 Maintenance Labor Agreement.** Not Applicable~~

## **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.~~ Not Applicable

Commented [MS1]: Still working with NCPA General Counsel to determine whether DIR is applicable to this contract.

Formatted: Font: Not Bold

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.~~ Not Applicable

Formatted: Indent: Left: 0.5", Hanging: 0.5"

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:

Herold And Mielenz, Inc.  
3531 – 51<sup>st</sup> Avenue  
Sacramento, CA 95823-1092

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

HEROLD AND MIELENZ, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**WILLIAM MIELENZ, Manager CEO**

Attest:

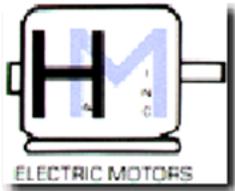
\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

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

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

Herold And Mielenz, Inc. ("Contractor") shall provide motor maintenance and other necessary services 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.



**HEROLD & MIELENZ, INC.**  
3531 51<sup>ST</sup> Avenue  
Sacramento, CA 95823  
Phone: (916) 422-7493 ~ Fax (916) 422-7689

Herold & Mielenz is an industrial electric motor/pump repair facility. We are capable of repairing motors/pumps up to 15,000lbs. all work is done at our facility in Sacramento, CA. Herold Mielenz is also a resale distributor for new motor/pumps as well

Customers bring the motor/pumps to us or we can pick up the repair at the customers site. On occasion we will go to a customers site to do an evaluation, such as a vibration analysis or assessment of possible repair.

**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:

**Hourly Rates Field Service:**

	<u>Hourly</u>	<u>Overtime/Rush</u>	<u>Holiday</u>
Journeyman	\$127.50	\$191.25	\$255.00
Apprentice	\$ 85.00	\$127.50	\$170.00

*Note: Pricing includes Travel Time.*

**Hourly Rates Shop:**

	<u>Hourly</u>	<u>Overtime/Rush</u>	<u>Holiday</u>
Labor	\$ 85.00	\$127.50	\$170.00

*Note: Our Truck Pickup and Delivery, No Charge*

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

Pricing for services 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 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.



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

AGENDA ITEM NO.: 11

---

**Date:** April 4, 2018

**Meeting Date:** April 9, 2018

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

**Subject:** Chemical Waste Management – Three Year Industrial Waste & Disposal Services Agreement; Applicable to the following projects: All NCPA Plant Facilities – Geysers Geothermal, Hydro and Lodi.

---

### Proposal

Approve the Industrial Waste & Disposal Services Agreement with Chemical Waste Management for disposal at the Kettleman Hills Landfill location, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over three years for use at all plant facilities – Geysers Geothermal, Hydro and Lodi.

### Background

Industrial waste disposal is required on a regular basis from the Geysers Geothermal Facility and from time to time from NCPA's Hydro and Lodi Facilities

### 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 Chemical Waste Management Arlington Landfill, Oregon, and seeks bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

### Fiscal Impact

Upon execution, the total cost of the agreement is not-to-exceed \$1,500,000 over three 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)

- Industrial Waste & Disposal Services Agreement with Chemical Waste Management



# INDUSTRIAL WASTE & DISPOSAL SERVICES AGREEMENT

**COMPANY:** \_\_\_\_\_  
*A WASTE MANAGEMENT COMPANY*

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Signed:** \_\_\_\_\_  
*Authorized Signature*

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_ *Date*

**CUSTOMER:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Signed:** \_\_\_\_\_  
*Authorized Signature*

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Term:** \_\_\_\_\_ *Date*

## AGREEMENT

This INDUSTRIAL WASTE & DISPOSAL SERVICES AGREEMENT, consisting of the terms and conditions set forth herein, and Exhibit A, and/or Confirmation Letter(s) and the Profile Sheet(s) entered into from and after the date hereof from time to time (all of the foregoing being collectively referred to as the "Agreement"), is made as of the Effective Date shown above by and between the Customer named above, on its and its subsidiaries and affiliates behalf (collectively, "Customer") and the Waste Management entity named above ("the Company").

## TERMS AND CONDITIONS

**1. SERVICES PROVIDED.** The Company and/or its affiliates will provide Customer with collection, management, transportation, disposal, treatment and recycling services ("Services") for Customer's non-hazardous Solid Waste, Special Waste, Hazardous Waste, and/or Recyclables, as described on Exhibit A and/or Confirmation Letter(s) and/or applicable Profile Sheets (collectively "Industrial Waste"). **"Solid Waste"** means garbage, refuse and rubbish including those which are recyclable but excluding Special Waste and Hazardous Waste. **"Special Waste"** includes polychlorinated biphenyl ("PCB") wastes, industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/de-characterized wastes, incinerator ash, medical wastes, demolition debris and other materials requiring special handling in accordance with any applicable federal, state, provincial or local laws or regulations. **"Hazardous Waste"** means any hazardous, toxic, or radioactive substances, as such terms are defined by any applicable federal, state, provincial or local laws or regulations. **"Nonconforming Waste"** means waste that (a) is not in conformance with waste descriptions given by Customer under this Agreement, in an Exhibit A, Confirmation Letter(s) or the Profile Sheet incorporated herein; (b) is prohibited from being received, managed or disposed of at a transfer, storage or disposal facility used hereunder by federal, state or local law, regulation, ordinance, permit or other legal requirement; (c) is non-hazardous Solid Waste that contains regulated Special Waste or Hazardous Waste; (d) is or contains any infectious waste, radioactive, volatile, corrosive, flammable, explosive, biomedical, biohazardous material, regulated medical or hazardous waste or toxic substances, as defined pursuant to or listed or regulated under applicable federal, state or local law, except as stated on Exhibit A, the Profile Sheet or Confirmation Letter; or (e) contains information protected by federal, state or local privacy or data security laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA").

**2. CUSTOMER WARRANTIES.** Customer hereby represents and warrants that all Industrial Waste collected by or delivered to the Company shall be in accordance with waste descriptions given in this Agreement and shall not be or contain any Nonconforming Waste. When the Company handles Special or Hazardous Waste for Customer, Customer will provide the Company with a Generator's Waste Profile Sheet ("Profile Sheet") describing all Special or Hazardous Waste, and provide a representative sample of such waste on request. In the event this Agreement includes transportation by the Company, Customer shall, at the time of tender, provide to the Company accurate and complete documents, shipping papers or manifests as are required for the lawful transfer of the Industrial Waste under all applicable federal, state or local laws or regulations. Tender or delivery shall be considered nonconforming if not in accordance with this Section. Customer further represents and warrants that it will comply with all applicable laws, ordinances, regulations, orders, permits or other legal requirements applicable to the Industrial Waste. Customer shall provide the Company and its Subcontractors a safe work environment for Services performed on any premises owned or controlled by Customer.

**3. TERM OF AGREEMENT.** The term of this agreement shall be 36 months commencing on the effective date set forth above.

///

///

///

///

**4. INSPECTION; REJECTION OF WASTE.** Title to and liability for Nonconforming Waste shall remain with Customer at all times. Company shall have the right to inspect, analyze or test any waste delivered by Customer. If Customer's Industrial Waste is Nonconforming Waste, Company can, at its option, reject Nonconforming Waste and return it to Customer or require Customer to remove and dispose of the Nonconforming Waste at Customer's expense. Customer shall indemnify, hold harmless (in accordance with Section 9) and pay or reimburse Company for any and all costs, damages and/or fines incurred as a result of or relating to Customer's tender or delivery of Nonconforming Waste or other failure to comply or conform to this Agreement, including costs of inspection, testing and analysis. Company also may reject any Industrial Waste that could adversely impact the receiving facility, or Company may terminate the Agreement or the applicable Exhibit A related to such Industrial Waste.

**5. SPECIAL HANDLING; TITLE.** If Company elects to handle, rather than reject, Nonconforming Waste, Company shall have the right to manage the same in the manner deemed most appropriate by Company given the characteristics of the Nonconforming Waste. Company may assess and Customer shall pay additional charges associated with delivery of Nonconforming Waste, including, but not limited to, special handling or disposal charges, and costs associated with different quantities of waste, different delivery dates, modifications in operations, specialized equipment, and other operational, environmental, health, safety or regulatory requirements. Title to and ownership of acceptable Industrial Waste shall transfer to Company upon its final acceptance of such waste.

**6. COMPANY WARRANTIES.** Company hereby represents and warrants that: (a) Company will manage the Industrial Waste in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations; and (b) it will use disposal and recycling facilities that have been issued permits, licenses, certificates or approvals required by valid and applicable laws, ordinances and regulations necessary to allow the facility to accept, treat and/or dispose of Industrial Waste. Except as provided herein, Company makes no other warranties and hereby disclaims any other warranty, whether implied or statutory.

**7. LIMITED LICENSE TO ENTER.** When a Customer is transporting Industrial Waste to a Company facility, Customer and its subcontractors shall have a limited license to enter a disposal facility for the sole purpose of off-loading Industrial Waste at an area designated, and in the manner directed, by Company. Customer shall, and shall ensure that its subcontractors, comply with all rules and regulations of the facility, as amended. Company may reject Industrial Waste, deny Customer or its subcontractors entry to its facility and/or terminate this Agreement in the event of Customer's or its subcontractors' failure to follow such rules and regulations.

**8. CHARGES AND PAYMENTS.** Customer shall pay the rates ("Charges") set forth on Exhibit A or a Confirmation Letter, which may be modified as provided in this Agreement. Company reserves the right, and Customer acknowledges that it should expect Company to increase or add Charges payable by Customer hereunder during the Term. The rates may be adjusted by Company to account for: any changes or modifications to, or differences between, the actual equipment and Services provided by Company to Customer and those specified on Exhibit A; any increase in or to recoup all or any portion of, disposal, transportation, processing, fuel or environmental compliance fees or costs, or recovery of the Company's and affiliates' costs associated with host community fees, waste disposal taxes and similar charges paid to municipal or other governmental authorities or agencies to engage in recycling and waste collection, transfer, processing, disposal and treatment; any change in the composition, amount or weight

of the Industrial Waste collected by Company from Customer's service location(s) from what is specified on Exhibit A (including for container overages or overflows) of the Industrial Waste; increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state or federal laws or regulations, including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters. Company also reserves the right to charge Customer additional charges for Services provided by Company to Customer, whether requested or incurred by Customer, including, but not limited to, dig out, minimum load charges, profile approval charges, all at such rates that Company is charging its customers at such time. The Company may also increase the charges by an amount equal to the average percentage increase for the previous twelve-month period in the Consumer Price Index for Water & Sewer & Trash Collection Services, as published by the U.S. Department of Labor, with the amount of the increase based on the most current information available from the U.S. Department of Labor 30 days prior to the date of the increase, unless the parties have otherwise agreed to a different CPI as stated in an Exhibit A. Increases in Charges for reasons other than as provided above require the consent of Customer which may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, payment of the invoice reflecting such changes, and written notice to Customer of any such changes and Customer's failure to object to such changes, which shall be deemed to be Customer's affirmative consent to such changes. Customer acknowledges and agrees that any increased Charges under this section are not represented to be solely an offset or pass through of Company's costs. All rate adjustments as provided above and in Section 5 shall take effect upon notification from Company to Customer. Customer shall pay the rates in full within thirty (30) days of the invoice date.

Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Customer check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Customer acknowledges that any late charge charged by Company is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to Company for late payment. If payment is not made when due, Company retains the right to suspend Services until the past due balance is paid in full. In addition to full payment of outstanding balances, Customer shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, Company may immediately terminate this Agreement for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 14.

**9. INDEMNIFICATION.** The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability (including reasonable attorneys' fees) which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by Company's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (1) during the collection or transportation of Customer's Industrial Waste by Company, or (2) as a result of the disposal of Customer's Industrial Waste, after the date of this Agreement, in a facility owned by a subsidiary or affiliate of the Company provided that the Company's indemnification obligations will not apply to occurrences involving Nonconforming Waste.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability (including reasonable attorneys' fees) which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Customer or its employees, agents or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company.

Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement except for third party claims related to violations of law.

**10. UNCONTROLLABLE CIRCUMSTANCES.** Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events beyond its reasonable control, including, but not limited to, strikes, riots, imposition of laws or governmental orders, fires, acts of God, and inability to obtain equipment, permit changes and regulations, restrictions (including land use) therein, and the affected party shall be excused from performance during the occurrence of such events.

**11. RECYCLING SERVICES.** Where recycling services are provided, the following will apply as specifications. Single stream recyclable materials will consist of Customer's entire volume of clean, dry, paper or cardboard without wax liners; clean, dry and empty aluminum food and beverage containers, ferrous (iron) or steel cans, aerosol cans, and rigid container plastics #1-7, including narrow neck containers and tubs, but excluding foam and film plastics. No individual items may be excluded from the recycling container. Glass may be included only with specific approval of Company. Any material not set forth above is a non-recyclable. Single stream recyclables may contain up to 10% non-recyclables. Wastepaper, cardboard, plastics, and metals shall be provided in accordance with the most current ISRI Scrap Specifications Circular and any amendments thereto or replacements thereof. For all other recyclables, including construction and demolition debris as so defined under applicable law or regulation, Customer shall provide recyclables in accordance with industry standards. Recyclables may not contain any Hazardous Waste, Non-Conforming Waste, or Special Waste. In the event that the recyclables do not meet the specifications, Customer shall have the sole responsibility for any resulting settlement or adjustments including price reductions, transportation, and disposal costs. In the event costs of processing recyclables exceeds the commodity value, a recyclable material offset will be charged per ton. Company reserves the right, in its sole discretion, upon notice to Customer, to discontinue acceptance of any category of Recyclables as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials which are subject to this Agreement. Title to Recyclables provided by Customer to Company is transferred

to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law.

**12. ASSIGNMENT & SUBCONTRACTING.** This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Customer acknowledges and agrees that the Company may utilize unaffiliated subcontractors that are not affiliates of Company to provide the Services to Customer.

**13. ENTIRE AGREEMENT.** This Agreement and its exhibits and attachments represent the entire understanding and agreement between the parties relating to the Services and supersedes any and all prior agreements, whether written or oral, between the parties regarding the same; provided that, the terms of any national service agreement or lease agreement for compactors or specialty equipment between the parties shall govern over any inconsistent terms herein.

**14. TERMINATION; LIQUIDATED DAMAGES.** Company may immediately terminate this Agreement, (a) in the event of Customer's breach of any term or provision of this Agreement, including failure to pay on a timely basis, or (b) if Customer becomes insolvent, the subject of an order for relief in bankruptcy, receivership, reorganization dissolution, or similar law, or makes an assignment for the benefit of its creditors or if Company deems itself insecure as to payment ("Default"). Notice of termination shall be in writing and deemed given when delivered in person or by certified mail, postage prepaid, return receipt requested. In the event Customer terminates this Agreement prior to the expiration of the Term ("Term") for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay any outstanding fees for waste transported or disposed of by Company.

///

///

///

**15. EQUIPMENT.** All equipment furnished by Company shall remain its property; however

Customer shall have care, custody and control of the equipment and shall be liable for all loss or damage to the equipment and for its contents while at Customer's service location(s). Customer will not overload, move or alter the equipment, or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, Company's equipment shall be in the condition in which it was provided, normal wear and tear excepted. Customer shall provide safe and unobstructed access to the equipment on the scheduled collection day. Company may suspend Services or terminate this Agreement in the event Customer violates any of the requirements of this provision. Customer shall pay, if charged by Company, any additional Charges, determined by Company in its sole discretion, for overloading, moving or altering the equipment or allowing a third party to do so, and for any service modifications caused by or resulting from Customer's failure to provide access. Customer warrants that Customer's property is sufficient to bear the weight of Company's equipment and vehicles and agrees that Company shall not be responsible for any damage to Customer's pavement or any other surface resulting from the equipment or Services.

**16. CONFIDENTIALITY.** Except as required by law, including specifically the

California Public Records Act, the parties agree that the rates set forth on Exhibit A, a Confirmation Letter, including any adjustments thereto, and any other pricing information shall be considered confidential and shall not be disclosed to third parties without the other party's written approval.

**17. MISCELLANEOUS.** (a) The prevailing party will be entitled to recover reasonable fees

and court costs, including attorneys' and expert fees, in enforcing this Agreement. In the event Customer fails to pay Company all amounts due hereunder, Company will be entitled to collect all reasonable collection costs or expenses, including reasonable attorneys' and expert fees, court costs or handling fees for returned checks from Customer; (b) The validity, interpretation and performance of this Agreement shall be construed in accordance with the law of the state in which the Services are performed; (c) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be deemed severable from and shall not affect the remainder of this Agreement, which shall remain in full force and effect; (d) Customer's payment obligation for Services and the Warranties and Indemnification made by each party shall survive termination of this Agreement.

///

///

///



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

AGENDA ITEM NO.: 12

---

**Date:** April 4, 2018

**Meeting Date:** April 9, 2018

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

**Subject:** TNT Industrial Contractors, 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 TNT Industrial Contractors, Inc. for general T&M maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPAA”), or by SCPAA Members.

### Background

General T&M 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 (“SCPAA”), or by SCPAA 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 similar agreements in place with Performance Mechanical, Inc., Danick Mechanical and RAM Mechanical and 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 TNT Industrial Contractors, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
TNT INDUSTRIAL CONTRACTORS, 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 TNT Industrial Contractors, Inc., a corporation with its office located at 3600 51<sup>st</sup> Avenue, Sacramento, CA 95823 ("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 MILLION dollars (\$2,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

**2.3 Payment of Taxes.** 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.
- 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:

TNT Industrial Contractors, Inc.  
Attention: Joshua Twist  
3600 51<sup>st</sup> Avenue  
Sacramento, CA 95823

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

TNT INDUSTRIAL CONTRACTORS, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**JOSHUA TWIST,**  
President

Attest:

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

Approved as to Form:

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

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

TNT Industrial Contractors, Inc. ("Contractor") shall provide T&M 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:

- Piping work
- Hydrotesting
- HRSG maintenance
- Catalyst maintenance
- Troubleshooting
- Underground piping maintenance
- Outage support
- Rotating Equipment Alignment
- Structural steel work as necessary to provide access for necessary facility maintenance

The Scope of Work excludes any work that would qualify as a public works project under the 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:

**These rates are effective through June 30, 2019**

Classification	Straight Time	Overtime	Double-time
Pipefitter Journeyman	\$106.84	\$142.00	\$172.51
Pipe Welder / Foreman	\$118.25	\$154.96	\$201.00
Carpenter	\$106.00	\$151.00	\$193.00
Laborer	\$79.20	\$100.80	\$122.40
Shop man / Truck Driver	\$75.20	\$96.80	\$118.40
Project Manager	\$105.00		
Sr. Project Manager	\$125.00		

**Working Hours:** - Straight time pay for the first 8 hours in a regular working shift, and time and one half pay up to 10 hours. After 10 hours they shall receive double time pay. On Saturdays, Pipefitters receive time and one half for the first 10 hours of work, and double time after 10 hours. On Sundays and holidays Pipefitters will receive double-time pay.

**Show up time:** - Workers whom show up for work and no work is provided shall receive the following show up time pay: Pipefitters – 4 hours, Laborers – 2 hours. This is language that is in our collective bargaining agreements. We will organize and manage our projects to make sure our craftsmen are properly utilized to prevent all non-productive expenditures.

**Shop Fabrication:** - Any shop fabrication that takes place will have a \$75 fee per day.

**Equipment:** - All rental equipment will be charged at local rental rates plus **10%** overhead and **10%** profit.

**Materials:** - Will be billed at cost plus **10%** overhead and **10%** profit markup.

**Subcontractors-** Will be billed at cost plus **ten** percent mark up. Our payment terms are **Net Fifteen Days**.

**Bookkeeping services** will be billed at \$65.00 per hour, not to exceed forty hours per work week.

**These rates are subject to change due to insurance or other unforeseen costs. You will be notified in advance of any possible changes.**

## TNT Industrial Contractors, Inc. 2018 Equipment Rates

Equipment	Standard Equipment Stock 3/4T Truck	T & M Per Hourly Rate	T & M Per Day Rental Price
Cutting torch setup	Yes	\$ 5.00	\$ 40.00
Bandsaw, portable	Yes	\$ 1.88	\$ 15.00
Air impact wrenches		\$ 3.13	\$ 25.00
Chain hoist	Yes	\$ 8.75	\$ 70.00
Cable come-a-long	Yes	\$ 1.88	\$ 15.00
Magnetic drill press		\$ 6.25	\$ 50.00
7.5 Ton boom truck		\$ 62.50	\$ 500.00
Forklift 4K electric		\$ 18.75	\$ 150.00
Portable generator		\$ 6.25	\$ 50.00
Electrical distribution panel		\$ 7.50	\$ 60.00
Gang box		\$ 3.13	\$ 25.00
Ironworker / press		\$ 18.75	\$ 150.00
Multi ton rollers		\$ 3.13	\$ 25.00
9 inch grinder	Yes	\$ 1.88	\$ 15.00
4.5 inch grinder	Yes	\$ 1.13	\$ 9.00
Straight grinder	Yes	\$ 2.50	\$ 20.00
Roto-hammer	Yes	\$ 3.13	\$ 25.00
Gas cut-off saw		\$ 6.25	\$ 50.00
Electric cut-off saw 10"		\$ 6.25	\$ 50.00
7.25" worm drive carpenter saw	Yes	\$ 3.13	\$ 25.00
Pipe cutter 1/2" - 4"	Yes	\$ 3.13	\$ 25.00
Pipe roller	Yes	\$ 10.00	\$ 80.00
Pipe alignment clamp	Yes	\$ 1.25	\$ 10.00
Hydrostatic test pump ( 10,000 psig)		\$ 6.25	\$ 50.00
Fabrication table		\$ 1.25	\$ 10.00
Builders level		\$ 3.13	\$ 25.00
Laser level w/ tri-pod		\$ 6.25	\$ 50.00
Tri-pod pipe vise	Yes	\$ 3.13	\$ 25.00
Pipe jacks	Yes	\$ 0.63	\$ 5.00

Threading Machine 1/2" - 2"		\$ 12.50	\$ 100.00
Auto wire feed welders		\$ 9.38	\$ 75.00
250 Amp (gas) portable welder w/ 50' leads		\$ 15.00	\$ 120.00
250 & 300 amp (480/3/60) portable welder w/ 50' leads		\$ 12.00	\$ 96.00
Weld lead, 50 feet		\$ 1.88	\$ 15.00
Stud welder		\$ 12.50	\$ 100.00
150A Tig welder (110/1/60)		\$ 5.50	\$ 44.00
Plasma torch (480/3/60)		\$ 9.38	\$ 75.00
1/2 & 3/4 Ton pick up truck		\$ 16.88	\$ 135.00
1 Ton 12ft. Flatbed		\$ 18.75	\$ 150.00
24 ft. Flat Bed Truck		\$ 31.25	\$ 250.00
PVC heater		\$ 1.88	\$ 15.00
Fischer Pipe Saw		\$ 6.25	\$ 50.00
Gehl 10K Extendable Forklift		\$ 62.50	\$ 500.00
310 Deere Backhoe		\$ 50.00	\$ 400.00
Sullair 185 cfm Air Compressor		\$ 16.88	\$ 135.00
2 axle Dump Trailer		\$ 11.25	\$ 90.00
Gas Powered Wacker		\$ 10.63	\$ 85.00
Victaulic Groover		\$ 8.13	\$ 65.00
PAC III Walk behind concrete saw ( plus blade replacement)		\$ 10.63	\$ 85.00

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,           Joshua Twist, President

(Name of person signing affidavit)(Title)

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

TNT Industrial Contractors, 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.

**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:** April 4, 2018

**Meeting Date:** April 9, 2018

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

**Subject:** Halliburton Energy Services, 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 Halliburton Energy Services, Inc. for well related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 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

Well related 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 is currently working on additional agreements with similar service providers, including BJ Services, Schlumberger and TRB Oilfield Services. 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 \$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 Halliburton Energy Services, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
HALLIBURTON ENERGY SERVICES, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Halliburton Energy Services, Inc., a Delaware corporation with its office located at 3000 N. Sam Houston Pkwy E., Houston, Texas ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 20\_\_ ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards 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 (\$1,000,000.00) 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; provided however, notwithstanding such limit, Contractor shall be entitled to compensation for all Work satisfactorily completed pursuant to any Purchase Order(s) and the terms of 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 twenty (20) days from the date 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. Contractor's prices are exclusive of federal, state or municipal taxes, if any, which may be imposed on the Contractor's sale or use of any goods or

services performed. Agency agrees to pay such taxes in addition to the prices in Contractor's price list.

**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 sudden and accidental pollution, products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a limit of \$2,000,000 per occurrence/\$4,000,000 aggregate.

**4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$1,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** Not Applicable.
- 4.4 Pollution Insurance.** Addressed in Section 4.2.1.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein. To the extent of the liabilities assumed and indemnities given by Contractor under this Agreement, Agency shall be added by Contractor as an "additional insured" to the insurance required by section 4.2. Such coverage shall be primary, and shall provide coverage without contribution by Agency's insurance or self-insurance.
- 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 Reserved.**
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and/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 as an additional insured to the extent of the liabilities assumed and indemnities given by Contractor under this Agreement.
- 4.6 Waiver of Subrogation.** To the extent of the liabilities assumed by Contractor under this Agreement, 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 Definitions.**

**5.2.1 "Agency Group"** shall mean Agency, its contractors of any tier (other than Contractor) and/or its/their officials, commissioners, directors, officers, employees, agents, consultants and volunteers, and to the extent Agency members, SCPPA, or SCPPA members use this Agreement, Agency Group includes those entities

**5.2.2 "Contractor Group"** shall mean Contractor, its parent, subsidiary and affiliated companies, its subcontractors of any tier, and/or its/their directors, officers, employees, agents and consultants.

**5.2.3 "Liabilities"** shall mean any and all claims, judgments, liabilities, settlements, losses, damages, costs and expenses, including but not limited to, those related to attorney's fees, property damage or loss (whether the property is owned, operated or hired) and personal injury or death.

### **5.3 Indemnities.**

**5.3.1** Contractor shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, indemnify, defend and hold harmless the Agency Group from and against any and all Liabilities arising from any injury, illness, death or damage to property (whether owned operated or hired) of any member of the Contractor Group, even if due in whole or in part to the fault, breach of contract or statute, or negligence of any member of Agency Group, provided that such obligations to defend, hold harmless and indemnify the Agency Group shall not apply to the extent that such Liabilities are caused by the sole or gross negligence or willful misconduct of the Agency Group.

**5.3.2** Agency shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, indemnify, defend and hold harmless the Contractor Group from and against any and all Liabilities arising from any injury, illness, death or damage to property (whether owned operated or hired) of any member of the Agency Group, even if due in whole or in part to the fault, breach of contract or statute, or negligence of any member of Contractor Group, provided that such obligations to defend, hold harmless and indemnify the Contractor Group shall not apply to the extent

that such Liabilities are caused by the sole or gross negligence or willful misconduct of the Contractor Group.

**5.3.3** Each party shall be responsible for and shall indemnify the other party from and against any and all Liabilities incurred by, in favor of or on behalf of a third party but only to the extent such Liabilities are caused by the fault, breach of contract or statute, or negligence of the indemnifying party or any member of the indemnifying party's Group. For the avoidance of doubt, the term "third party" shall exclude any member of Contractor Group or Agency Group.

**5.3.4** Notwithstanding any provision in this Agreement to the contrary, Agency shall be responsible and liable for and shall defend, indemnify, and hold harmless Contractor Group from and against any and all Liabilities, regardless of cause or fault, arising from:

- a) any damage or loss to the well, hole, casing, reservoir or productive formation and any other surface, subsurface, or subsea loss or damage, and
- b) the use of radioactive material (including any pollution, contamination and associated clean up), and
- c) any blowout, fire, explosion, cratering or other uncontrolled loss or flow of oil, gas, water or well fluids, and
- d) removal of debris and cost of regaining control of any wild well, and e) any pollution and contamination (including clean up) originating below the surface or resulting from any seepage, blowout, fire, explosion, cratering or other uncontrolled loss or flow of oil, gas, water or well fluids;

Except that this subsection shall not apply to the extent that any of the foregoing is caused by the gross negligence or willful misconduct of Contractor Group.

**5.3.5** Contractor shall be responsible for and indemnify Agency Group for any pollution or contamination originating at or above the surface of the land from any substance in the care, custody, and control of Contractor Group, which was originally brought onto the work site by Contractor Group.

**5.3.6** Contractor shall place any Hazardous Materials in appropriate storage containers so that Agency can arrange for proper transportation and disposal offsite. Agency agrees that it will, at its sole expense and risk, store, manifest, transport and dispose of any spent or used chemicals or hazardous waste as defined by the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 *et seq.*), as amended from time to time and the regulations promulgated there under, ("Hazardous Materials") resulting from or incident to the job and assumes all responsibilities and obligations associated in any manner with such Hazardous Chemicals. Furthermore, Contractor shall not be responsible for the signing of manifests or for the storage, transportation or disposal of such Hazardous Materials. The cost and responsibility for storage, transportation and disposal of such Hazardous Materials shall be the responsibility of Agency. Agency shall fully protect and indemnify Contractor Group from any liability incurred by Contractor, under statute, regulation, or otherwise, arising from Agency's failure to properly store, manifest, transport and/or dispose of such Hazardous Materials.

**5.3.7** UNLESS SPECIFICALLY STATED TO THE CONTRARY, THE RELEASE, DEFENSE INDEMNITY AND HOLD HARMLESS OBLIGATIONS IN SECTIONS 5.3.1 THROUGH 5.3.5 SHALL APPLY EVEN IF THE LIABILITY OR CLAIMS ARE CONTRIBUTED TO OR CAUSED BY THE SOLE, JOINT, OR CONCURRENT ACTIVE OR PASSIVE NEGLIGENCE, FAULT OR STRICT LIABILITY OF THE INDEMNITEE, INCLUDING BUT NOT LIMITED TO, THE AIRWORTHINESS OF ANY AIRCRAFT, OR PRODUCT LIABILITY, WHETHER IN THE DESIGN, MANUFACTURE, MAINTENANCE, OR MARKETING THEREOF, OR FROM A FAILURE TO WARN OF SUCH DEFECT, OR ANY DEFECT IN DATA, PRODUCTS, SUPPLIES, MATERIALS, OR EQUIPMENT. BOTH PARTIES ACKNOWLEDGE THAT THIS STATEMENT IS CONSPICUOUS AND AFFORDS FAIR AND ADEQUATE NOTICE.

**5.3.8** Neither Party shall be liable to the other for any indirect, special, punitive, exemplary or consequential damages including, but not limited to, damages for lost production, lost revenue, lost product, lost profits, or lost business or business interruptions, from any cause whatsoever, including but not limited to the negligence or breach of duty, statutory or otherwise, of either Party, and each Party hereby releases the other in this regard.

**5.3.9** The indemnities provided for in this Section 5.3 shall be limited to the extent necessary for compliance with laws or regulations applicable to the performance of the Services hereunder, and to the extent any such laws or regulations are in variance with the indemnities provided in this Agreement, such indemnity shall be deemed to be amended so as to comply with such laws or regulations.

**5.4** **Transfer of Title.** If Contractor's Work involves its transporting hazardous materials, Contractor shall be deemed to be in exclusive possession and control of such materials and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of such materials, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur when Contractor or its agents complete transfer of such materials into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. For clarification, it is understood by the Parties that Contractor's only transportation of hazardous materials will be the transport of Contractor's materials to the work site prior to commencement of the Work. In the event a spill, leak, discharge or release, prior to the delivery of such Contractor materials to the work site, requires notification to a federal, state or local regulatory agency, Contractor shall be responsible for all such notifications. Should Contractor be required to remedy or remove such materials as a result of a leak, spill, release or discharge of such materials into the environment at Agency's Site or elsewhere, and where such leak, spill, release or discharge of such materials occurs prior to the delivery of such Contractor materials to the work site, Contractor agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

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

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

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

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that is 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 Contractor's failure to comply with the provisions of the Affordable Care Act in the performance of the Services by any employee, agent, or subcontractor of Contractor.

**6.2 Contractor Not Agent.** 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.** Not applicable.

## **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 in its possession or required to be delivered by Contractor in order to complete the applicable scope of work, excluding the data specified in Section 9.1;
  - 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
  - 8.4.4** Seek the remedies available to Agency under Section 11.

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

- 9.1 Records Created as Part of Contractor's Performance.** Except for data or information related to the performance of Contractor's personnel, materials and/or equipment, 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, which are the property of Agency. If requested by Agency, Contractor shall provide to Agency any data or information regarding the performance of the materials used by Contractor in the performance of the Work and injected and/or left on site.
- 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 to the extent necessary for the Agency to verify the accuracy amounts charged by Contractor and Contractor's compliance with the requirements of this Agreement and comply with applicable laws. 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 for the verification the accuracy amounts charged by Contractor and Contractor's compliance with the requirements of this Agreement and comply with applicable law.

**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 of Confidential Information, 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 (subject to Section 5.3.4 and 5.3.5) 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. Contractor's 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 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** Contractor warrants that all Work (including but not limited to all equipment and materials supplied in connection therewith) shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement and the Purchase Order applicable to such Work, all with the degree of high professional skill normally exercised by or expected from recognized professional firms engaged in the practice of supplying services of a nature similar to the Work in question. Contractor further warrants that, in addition to furnishing all tools, equipment and supplies customarily required for performance of work, Contractor shall furnish personnel with the training, experience and physical ability, as well as adequate supervision, required to perform the Work in accordance with the preceding standards and the other requirements of this Agreement and the Purchase Orders. Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, within thirty (30) days after Contractor leaves the work site all further services 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 or the applicable Purchase Order, provided that Contractor's liability shall not exceed an amount equal to the cost of the defective Work. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof), any goods or other materials provided by Contractor under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable notice from Agency within such one (1) year period, replace or repair (excluding downhole retrieval and installation unless due to Contractor's gross negligence in performance of the Work) the same to remedy such defects or breach. Unless otherwise expressly permitted by the applicable Purchase Order, all materials and supplies to be used by Contractor in the performance of the Work shall be new and conform to specifications.

**11.2** Notwithstanding the foregoing, because of the uncertainty of variable well conditions and the necessity of Contractor relying on facts and supporting service(s) furnished by Agency and others, Contractor is unable to guarantee:

**11.2.1** The effectiveness of the equipment and materials, nonetheless, Contractor does warrant that its equipment will comply with the stated specifications i.e. a pump is able to pump at the pump's rated capacity,

**11.2.2** The accomplishment of Agency's intended purposes or results for which the services and equipment were sold and/or used,

**11.2.3** The accuracy of any log or chart interpretation, research analysis, job recommendation or other data or service furnished by Contractor to Agency under the terms hereof, or

**11.2.4** The accuracy of data transmitted by electronic means, and Contractor shall not be responsible for accidental or intentional interception of such data by others. Should data be corrupted in transmission for whatever reason, Contractor shall provide data to Agency by another means.

**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.

**11.4** THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS OR OTHERWISE, WHICH EXTEND BEYOND THOSE STATED IN SECTION 11.1.

**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 a written accident report, 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** Not Used.
- 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 not make campaign contributions or make gifts to elected officials or employees of Agency and if this Agreement is used by Agency members, SCPA or SCPA members their elected officials or employees in violation of 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:

Halliburton Energy Services, Inc.  
Attention: Michael Noel  
34722 7<sup>th</sup> Standard Road  
Bakersfield, CA 93314

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** Not Used.

**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.

## SIGNATURES ON FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

HALLIBURTON ENERGY SERVICES, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**ISAAC PATERNTI,**  
Sales Manager

Attest:

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

Approved as to Form:

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

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

Halliburton (“Contractor”) shall provide injection well related 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:

- Acidizing Services
- Cementing Services (Plug Backs, Cement Casing, PTA etc)
- Coil Tubing Service
- Miscellaneous Pumping Services (Nitrogen, Well Kills, etc)
- Tools and Completion Services (CIBP, Packers, Retainers etc)
- Sperry Directional Drilling Services (Directional Motors, Drill Bits etc)
- Wireline Logging and Perforating Services (GR/Neut Log, CBL, Casing Inspection logs, Perforating Guns etc)

## **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:

Work performed varies and will be bid at the time services are needed.

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

HALLIBURTON ENERGY SERVICES, INC.

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**EXHIBIT D**  
**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

HALLIBURTON ENERGY SERVICES, INC.

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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



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

AGENDA ITEM NO.: 14

---

**Date:** April 4, 2018

**Meeting Date:** April 9, 2018

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

**Subject:** Leidos Engineering, LLC – Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

---

### Proposal

Approve the Multi-Task Professional Services Agreement with Leidos Engineering, LLC for professional engineering services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 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

Professional engineering services, including transmission and distribution design, grid planning, power delivery, and environmental and asset management services, are required from time to time related to project support and plant operations at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. Leidos Engineering, LLC is a provider of these services.

### Selection Process

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place (specify other enabling agreements) for similar services. 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 Professional Services Agreement with Leidos Engineering, LLC



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
LEIDOS ENGINEERING, LLC**

This Professional Services Agreement (“Agreement”) is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 (“Agency”) and Leidos Engineering, LLC, a Delaware limited liability company with its principal office located at 11951 Freedom Drive, Reston, VA 20190 (“Consultant”) (together sometimes referred to as the “Parties”) as of \_\_\_\_\_, 20\_\_ (“Effective Date”) in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, for bodily injury, death, personal injury and property damage caused by the operations of Consultant. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, and Consultant shall be solely responsible for any self-insured retention or deductible.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) or equivalent for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, and Consultant shall be solely responsible for any self-insured retention or deductible. 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. Consultant shall maintain umbrella insurance in an amount not less than ten million dollars (\$10,000,000).

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

**4.4 All Policies Requirements.**

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

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

**4.4.4 Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Consultant shall provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, including the specific Agency member, SCPPA or Agency member for which the Services are to be performed.

**4.5 Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of

any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall include a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

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

**Section 5. INDEMNIFICATION, CONSULTANT'S RESPONSIBILITIES, AND LIMITATION OF LIABILITY.**

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description 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 Limitation of Liability.** No employee of Consultant shall have individual liability to the Agency. To the extent permitted by law, the total liability of Consultant, its officers, directors, shareholders, employees and subconsultants for any and all claims arising out of a Purchase Order, including attorneys' fees, and whether caused by negligence, errors, omissions, strict liability, breach of contract or contribution, or indemnity claims based on third party claims, shall not exceed in the aggregate, the revenue actually received by Consultant under this Agreement, under the specific Purchase Order at issue, or the insurance limits whichever is greater. In no event and under no circumstances shall either party be liable to the other party for any principal, interest, loss of anticipated revenues,

earnings, profits, increased expense of operation or construction, loss by reason of shutdown or non-operation due to late completion or otherwise or for any other economic, consequential, indirect or special damages.

**Section 6. STATUS OF CONSULTANT.**

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

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

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

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

**6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any

capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

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

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

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

**7.1 Governing Law.** The laws of the State of California shall govern this Agreement.

**7.2 Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

**7.3 Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

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

**8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon thirty (30) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency,

however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1** Immediately terminate the Agreement;
  - 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
  - 8.4.3** Retain a different consultant to complete the Services not finished by Consultant; and/or
  - 8.4.4** Charge Consultant the difference between the costs to complete the Services that are unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services, if Consultant is unable to cure the incomplete or non-confirming Services within thirty (30) days of written notice from Agency specifying the non-conformities.

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

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

for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

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

**9.4 Confidential Information and Disclosure.**

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

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

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

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

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

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

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

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

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

**10.2** **Venue**. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

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

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

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

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

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

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

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

Keith Deaton  
Leidos Engineering, LLC Corporate Headquarters  
11951 Freedom Drive  
Reston, VA 20190

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

**10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

**10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

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

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

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

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

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

**10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

**10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

LEIDOS ENGINEERING, LLC

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**KEITH DEATON, VP Power Delivery  
Services Division Manager**

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

At the request of Agency, Leidos Engineering, LLC (“Consultant”) shall provide the following services to the Northern California Power Agency, its Members, SCPPA, and SCPPA Members, including but not limited to:

- Transmission and Distribution design and engineering services
- Grid Planning services
- Power Delivery services
- Environmental services
- Asset Management services
- Smart Grid services

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

Billing Class	Hourly Rate	Typical Project Roles
3	\$38.00	Clerical, Administration, Junior Engineers, and Technicians
4	\$51.00	
5	\$64.00	
6	\$77.00	
7	\$90.00	Staff Engineers, Consultants, and Technicians
8	\$102.00	
9	\$115.00	
10	\$128.00	
11	\$141.00	Senior Engineers, Consultants and Technicians, Managers, and Principals
12	\$154.00	
13	\$166.00	
14	\$179.00	
15	\$192.00	Executive Engineers and Consultants, Senior Project Managers, and Principals
16	\$205.00	
17	\$218.00	
18	\$230.00	
19	\$243.00	
20	\$256.00	
21	\$269.00	Executive Engineers and Consultants, Senior Project Managers, and Senior Principals
22	\$282.00	
23	\$294.00	
24	\$307.00	
25	\$320.00	
26	\$333.00	
27	\$346.00	
28	\$358.00	
29	\$371.00	
30	\$384.00	
31	\$397.00	

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

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

**EXHIBIT C**  
**CERTIFICATION**

**Affidavit of Compliance for Contractors**

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

(Name of person signing affidavit)(Title)

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

LEIDOS ENGINEERING, INC. (Company name)

for contract work at:

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

(Project name and location)

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

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

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

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