



12745 N. Thornton Road  
Lodi, CA 95242

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## LEC PPC Agenda

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**Subject: April 10, 2023 Lodi Energy Center Project Participant Committee Meeting**

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

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

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

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NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16 <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 1425 River Park Drive, Suite 300 Sacramento, CA 95825	SILICON VALLEY POWER/CITY OF SANTA CLARA 881 Martin Avenue Santa Clara, CA 95050	CITY OF UKIAH 300 Seminary Avenue Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702		

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

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

**1. Review Safety Procedures**

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

**PUBLIC FORUM**

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

**3. Meeting Minutes – Approval of March 6, 2023 Regular Meeting Minutes**

**MONTHLY REPORTS**

**4. Operational Report for March 2023**

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

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

**7. Bidding Strategies Report**

**CONSENT CALENDAR**

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

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

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

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

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

- 11. OST Trucks and Cranes, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with OST Trucks and Cranes, Inc. for crane related services, with a not-to-exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 12. Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy First Amendment to MTGSA** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task General Services Agreement with Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy for chiller, HVAC services, modifying Exhibit A and Exhibit B to add to the scope of work and modify pricing, with no changes to the contract term or not-to-exceed amount, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 13. Tetra Engineering Group, Inc. MTPSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Professional Services Agreement with Tetra Engineering Group, Inc. for HRSG inspection, steam plant assessments, root cause failures, and consulting engineering related services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 14. NCPA Cyber Liability Insurance Renewal** – Staff is seeking a recommendation for approval to delegate authority to the General Manager to renew the Agency's Cyber Liability Insurance program from April 2023 to April 2024.

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

### **BUSINESS ACTION ITEMS**

- 15. Siemens Energy, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Siemens Energy, Inc. for T3000 maintenance and support services, with a not to exceed amount of \$6,000,000, for use at NCPA's Combustion Turbine and Geothermal facilities, and for use at the City of Redding and the City of Roseville.
- 16. Lodi Energy Center FY2024 Annual Budget** – Staff is seeking a recommendation for approval of the Lodi Energy Center FY2024 proposed annual budget, including approval of modifications to the PMOA Schedule 1, Exhibit 2.

### **INFORMATIONAL/ DISCUSSION ITEMS**

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

### **ADJOURNMENT**

Next Regular Meeting: May 8, 2023 at 10:00 a.m. Pacific Standard Time.

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



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# LEC PPC Meeting Minutes

**Date:** March 6, 2023

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

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

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

## 1. Review Safety Procedures

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

## 2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:04 a.m. by Chairman Brock Costalupes. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Schmidt	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah -	Absent	1.7857%
Summary		
Present	7	86.9536%
Absent	6	13.0464%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	March 6, 2023	



## **Public Forum**

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

### **3. Meeting Minutes**

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

**Date:** 3/6/2023

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

**Moved by:** Lodi  
**Seconded by:** Lompoc

**Discussion:** There was no further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	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	86.9536%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.0464%
Result:		Motion Passes

## **MONTHLY REPORTS**

### **4. Operational Reports for February 2023**

Ryan Johnson presented the Operational Report for February. There were no OSHA recordable accidents and no NERC/WECC violations. There was one Notice of Violation issued by SJVAPCD for water wash NOx exceedance. There was one forced outage on February 11 for HRG lining repairs, which lasted approximately 24 hours. There are no changes to the 2023 outage schedule.

The operational report reflected monthly production of 121,823 MWH, 456 service hours, and equivalent operating availability of 96.4%. The report set for the Capacity Factor @ 302MW Pmax of 60%. There were 2 hot starts, 5 warm starts, and 4 cold starts during the month.

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

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 24 out of 27 available days; Bob presented details regarding the days committed. Most startups were for mid-term runs, with twenty-four 24-hour runs in the month of February. The CAISO Commitment runs, DA Energy LMP values, and Daily and Monthly Margins were reviewed with the Committee.

#### **6. Monthly Asset Report**

Rafael Santana presented the monthly asset report for January 2023. Rafael reviewed forecast costs versus actual costs for the month. Rafael reviewed the monthly historical comparisons as well as the 12-month history. It was noted that, once again, January was a very good month.

#### **7. Bidding Strategies Report**

Jesse Shields presented the Bidding Strategies Report for February 2023. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee. Jesse reiterated that January was a good month, in part due to inflated gas prices.

#### **Consent Calendar (Items 8 – 16)**

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

**Date:** 3/6/2023

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for January 2023; **9.** Financial Report for January

2023; **10.** GHG Reports (excerpted from the Monthly ARB); **11.** PMOA Schedule 6.00 revisions to update the contact information for the City of Lodi and for NCPA's Lodi Energy Center Plant Manager and the Assistant General Manager Generation Services; **12.** Reliability Optimization, Inc. First Amendment to MTCSA for predictive maintenance testing services, accepting assignment to RTS Reliability Testing Services, LLC, with no change to the contract term or not-to-exceed amount, for continued use at all facilities owned and/or operated by NCPA, its Members, by SCPPA, and SCPPA Members; **13.** HRST, Inc. 5-year MTGSA for HRSG related inspection services, not-to-exceed \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, by SCPPA, and SCPPA Members; **14.** Swaim Biological Incorporated 5-year MTPSA for biological monitoring and support services, not-to-exceed \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members; **15.** Control Components, Inc. First Amendment to MTGSA-EMS for valve and maintenance services, accepting assignment to IMI Critical Engineering LLC, with no changes to the contract term or not-to-exceed amount, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members; **16.** PMOA Schedule 1.00 Exhibit 5.00 updates to CAISO charges.

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

**Lompoc**  
**CDWR**

Discussion:

There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
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<b>Vote Summary</b>		
Total Ayes	7	86.9536%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.0464%

	<p>Result: Motion Passes</p>
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## **INFORMATIONAL ITEMS**

### **17. FY2024 Budget Presentation**

Rafael presented the LEC PPC with updates to the FY2024 budget. Rafael highlighted some of the changes made, including updates to the energy price estimates. Rafael and Ken Goeke explained how they re-ran the MWHrs used for Energy Production, Fuel, and Operations Assumptions, which then changed some of the FY2024 projections – the impact of those changes in the actual LEC Budget were shown. There was a discussion around the revenue estimates in forecasts, and Rafael stated NCPA would take another look at these numbers. The final FY2024 LEC Budget will be presented for approval in the April LEC PPC meeting.

### **18. NCPA Natural Gas Service Agreements**

Michael DeBortoli shared that a vendor had approached NCPA recently regarding the sale of renewable natural gas. If NCPA wanted the ability to purchase renewable natural gas from vendors, updates may be required to the current Natural Gas Service Agreements. MID mentioned they had explored this option internally and their initial investigation indicated these purchases may not be favorable. Mike stated these purchases could offset GHG credits. NCPA will continue to look into the issue, and will bring any proposed modifications to the Natural Gas Services Agreements back to the PPC in the future if needed.

### **19. Additional Operational Updates**

- A. DWR reached out to NCPA staff recently, expressing an interest in having a third party perform a benchmarking study of LEC. DWR indicated they had found value in similar studies they had conducted internally in the past. Mike DeBortoli cautioned that a benchmarking study may be difficult for the LEC, as it is a unique gas plant due to the HRSG and how the plant is run. Randy Howard recommended that NCPA share the Risk Audit Report which was recently performed by FM Global, and Mike agreed this could be beneficial to participants. A request was made to have DWR share the average cost of similar studies they had commissioned in the past, as well as an example outline of a typical benchmarking study (including the Scope of Work); DWR agreed to work on gathering additional information for review of LEC participants.
- B. Jeremy Lawson shared an update regarding the ongoing Natural Gas Rate negotiations. The current negotiated rate was temporarily extended, and now terminated on July 1, 2023, at which point it will move to a day-by-day basis. NCGC is participating in the current rate case and attempting to build in an optional fix/variable rate methodology. The settlement completion date for the current settlement process is unknown. NCPA will return to the PPC with analysis and recommendation for steps forward once they are available. NCPA will continue to provide regular updates to PPC members as they are available.

## **Adjournment**

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

The meeting was adjourned at 11:14 a.m.

Submitted by: Michelle Schellentrager

DRAFT

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 4**

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**Date:** 04/10/2023

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

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### **Safety**

- OSHA Recordable: 0 Accidents.

### **Notice of Violations**

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

### **Outage Summaries:**

- None.

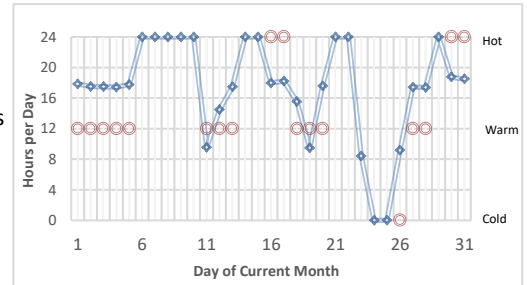
### **Planned Outage Summaries:**

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

**Generating Unit Statistics:****Date:**

3/1/2023

1. Monthly Production	140,239	MWh
2. Productivity Factor		
a. Service Hours	538	Hours
b. Service Factor	72.4	%
c. Capacity Factor @ 302MW Pmax	62.5	%
d. Hours/days load > 240 MW	379/29	h/d
3. Equivalent Operating Availability (EOA)	100.0	%
4. Forced Outage Rate (FOR)	0.0	%



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

MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1      296 +	6850	0	0.00%	0	\$0
Seg. 2      284 - 296	6870	7,009	2.02%	76,933	\$42,769
Seg. 3      275 - 284	6971	7,087	1.66%	19,022	\$8,793
Seg. 4      250 - 275	7081	7,087	0.09%	16,771	\$433
Seg. 5      225 - 250	7130	7,148	0.25%	14,551	\$1,022
Seg. 6      200 - 225	7200	7,241	0.58%	6,197	\$1,028
Seg. 7      175 - 225	7450	7,503	0.71%	2,655	\$561
Seg. 8      165 - 175	7760	7,877	1.51%	808	\$378
	7,164	7,279	0.80%	136,937	\$54,984

## 6. AGC Control Deviation

MW Range	High Dev MWh	Low Dev MWh	Total Dev MWh	Cost \$
Seg. 1      296 +	0	0	0	\$0
Seg. 2      284 - 296	0	-1	1	\$36
Seg. 3      275 - 284	0	-9	9	\$259
Seg. 4      250 - 275	0	-16	17	\$471
Seg. 5      225 - 250	0	0	0	\$13
Seg. 6      200 - 225	0	0	1	\$19
Seg. 7      175 - 225	0	0	0	\$6
Seg. 8      165 - 175	0	0	0	\$0
	1	-27	28	\$805

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	4	13	1
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	18	20	18
Start Time Deviation (%)	-13%	0%	-10%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	196	253	208
Fuel Deviation (%)	-21%	1%	-17%
Costs of Fuel Deviations (\$)	-\$860	\$158	-\$166



# **LEC PPC Meeting**

**April 10, 2023**

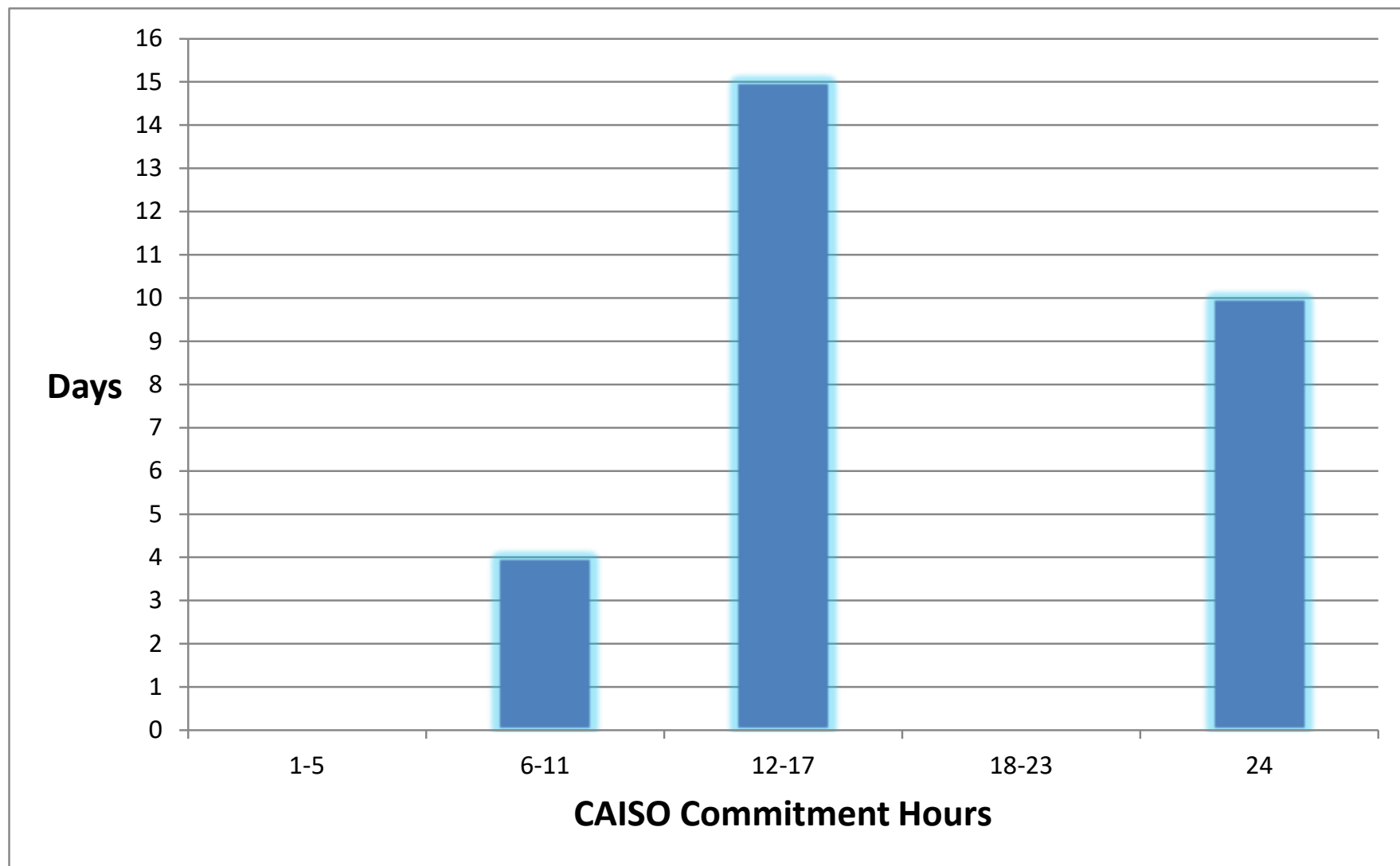
**March 2023 Market Financial Results**



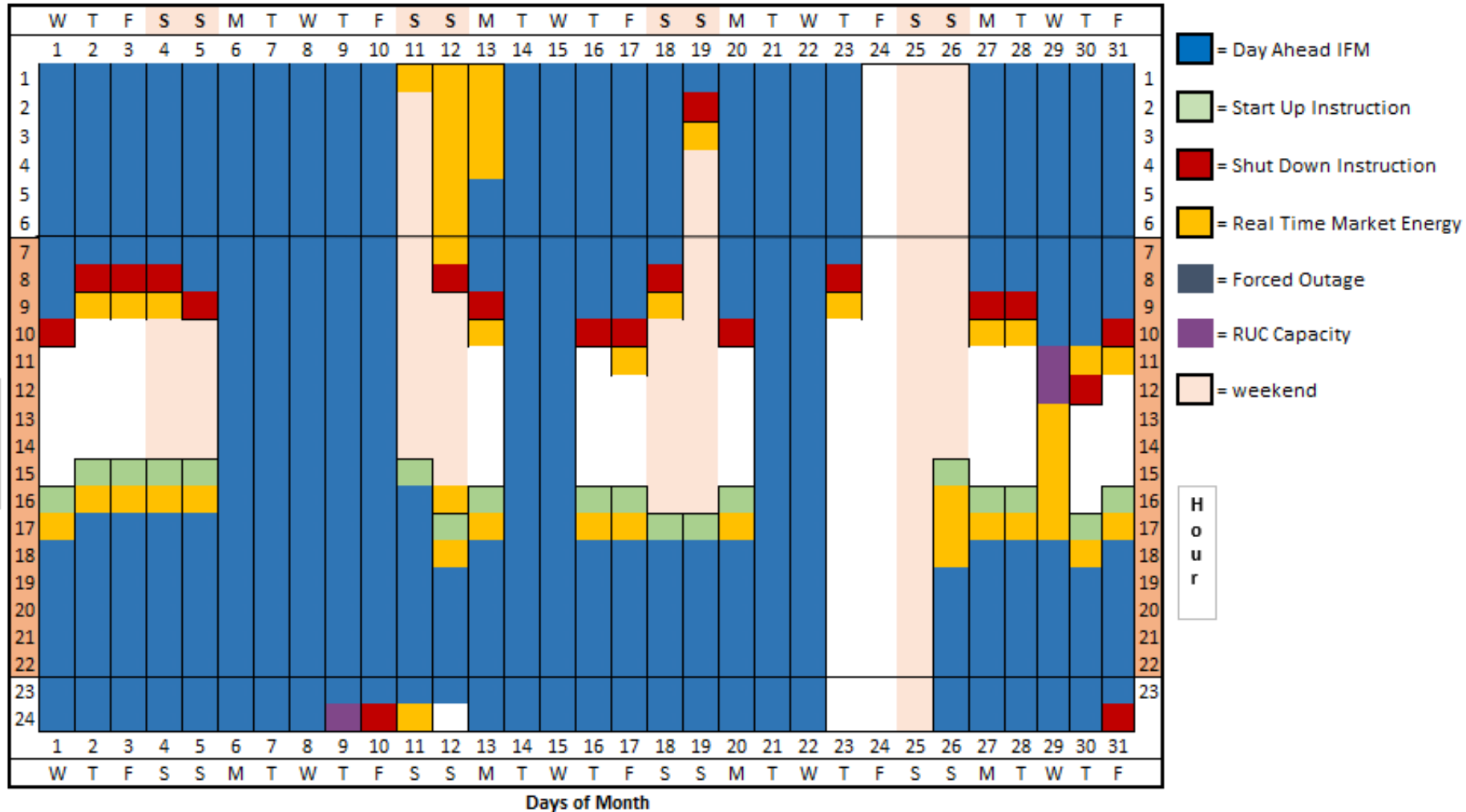
## LEC Operational Results for March 2023

- Resource Adequacy Availability Metrics:
  - 100% - Monthly Assessment Generic Performance
  - 100% - Monthly Assessment Flexible Performance   Vs
  - 96.5% Availability Standard
- Estimated RAAIM Availability Incentive Payment depending on CAISO RAAIM incentive payment rate:
  - \$3.5k - \$11k for Generic RA based on claimed 64.45 MW
  - \$ 5.7k - \$17k for Flexible RA based on claimed 92.22 MW
- LEC was committed by CAISO for Market energy 29 days of 31 available days
  - Ten (10) days of uninterrupted operations
  - Two (2) days where LEC was uneconomic
  - There were eighteen (18) starts during the month

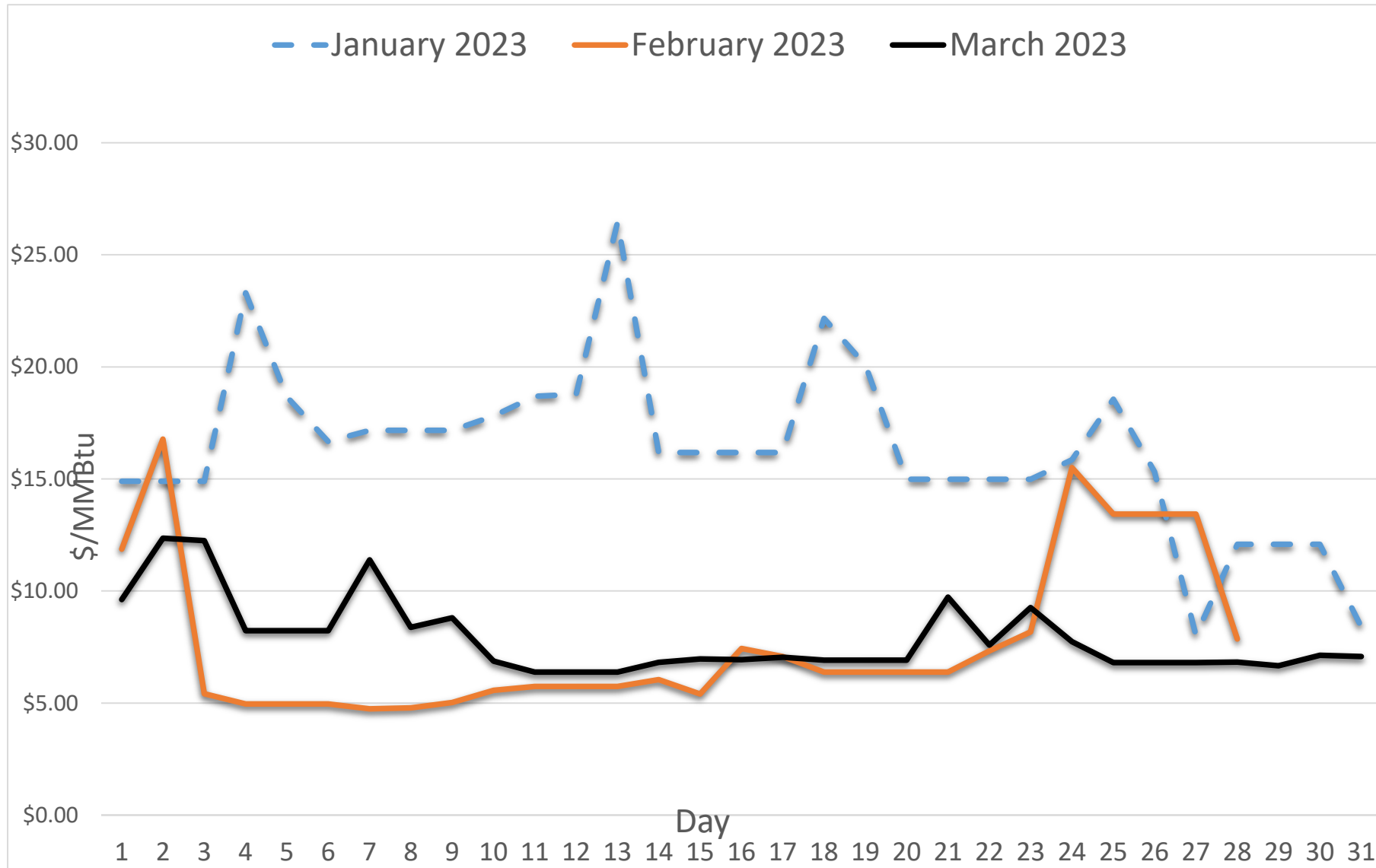
## Frequency Tabulation of Daily CAISO commitment hours for March 2023



# Daily CAISO Commitment Runs for March 2023

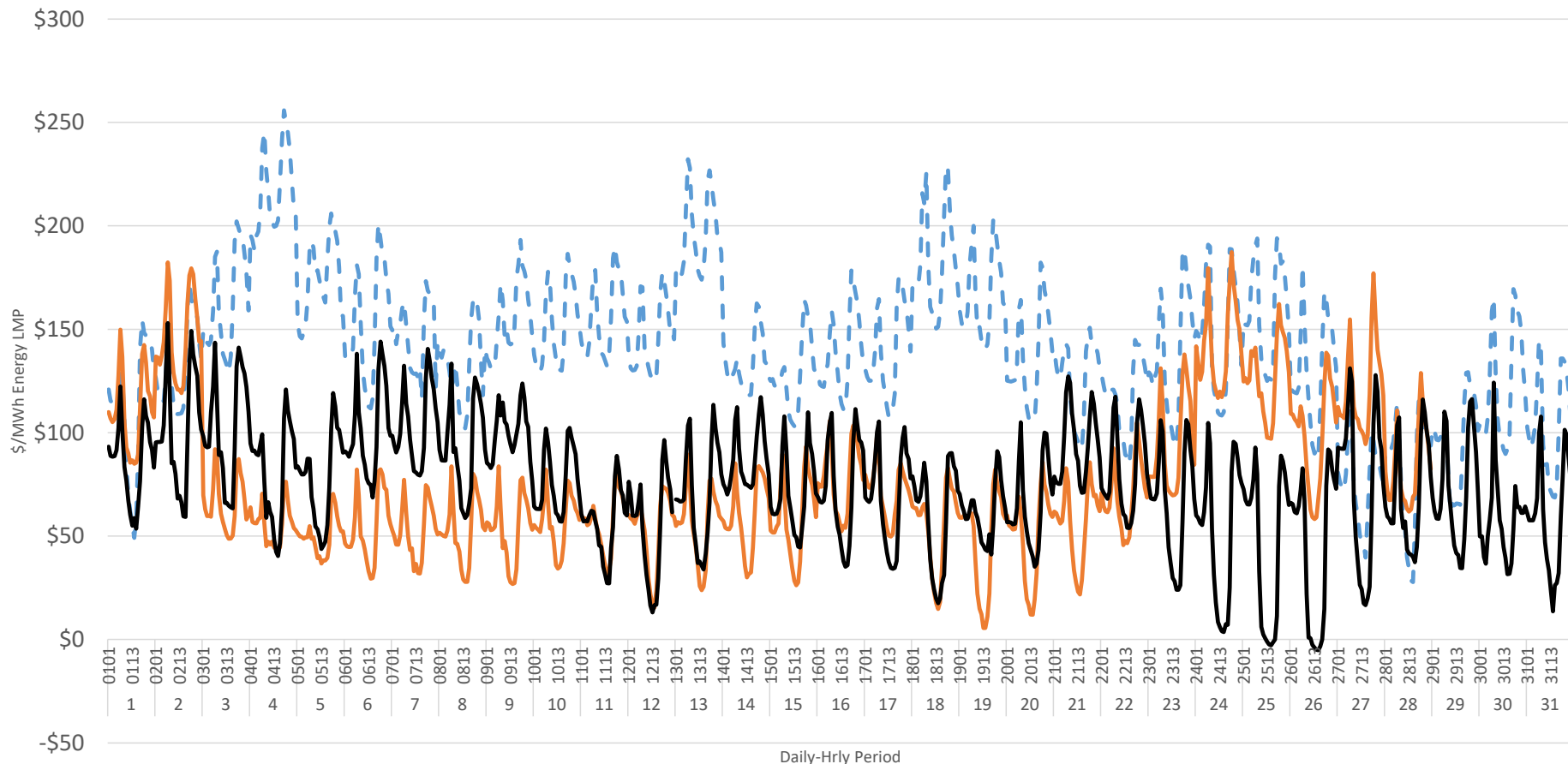


# March 2023 Daily PG&E City Gate Gas Index

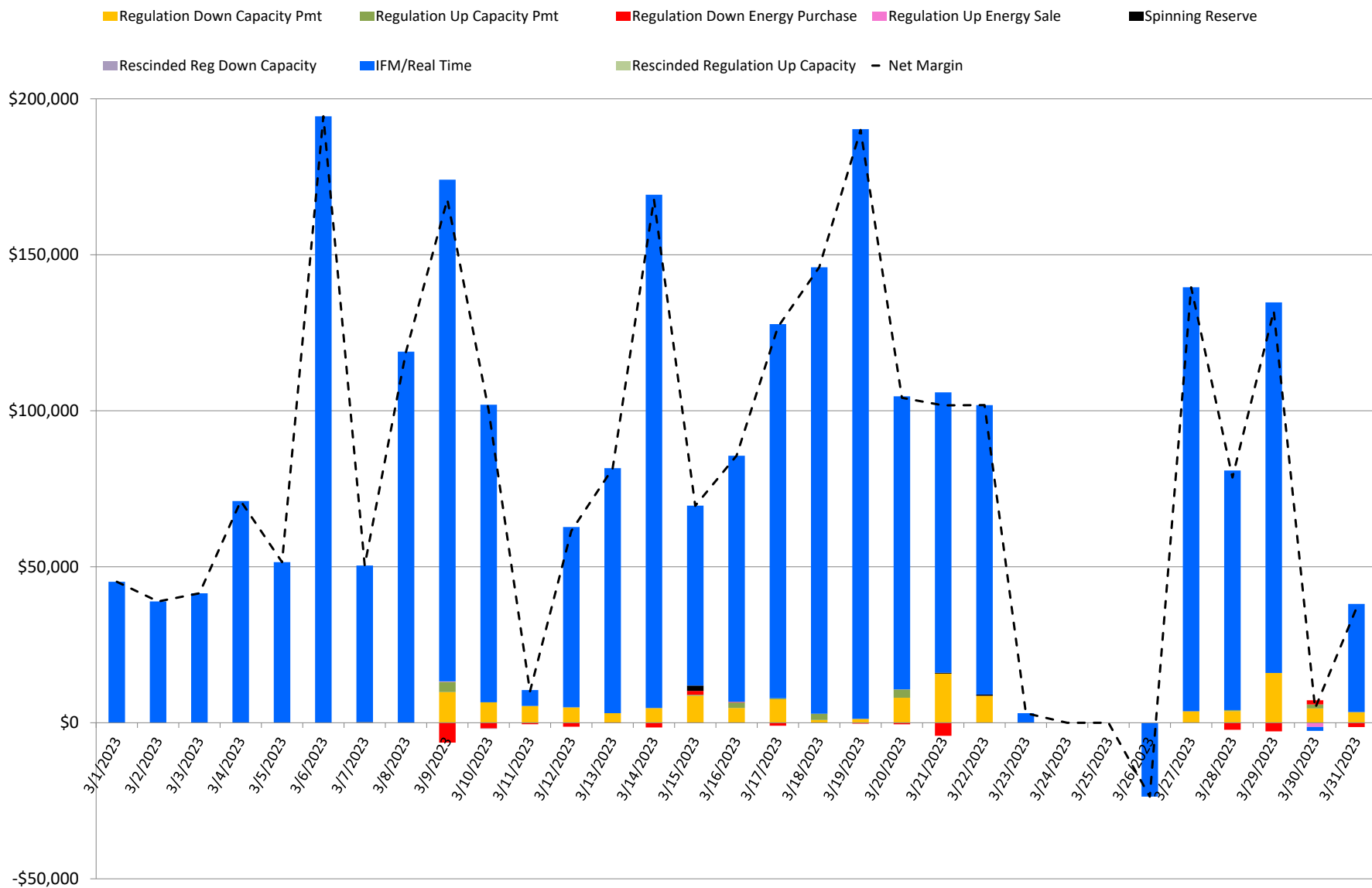


# DA Energy LMP values by Month

— January 2023 — February 2023 — March 2023



## March 2023 LEC Daily Margin Profile by Product



## March 2023 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$ 13,348,900	
Regulation Up Capacity	\$ 12,000	
Regulation Down Capacity	\$ 121,400	
Spinning Reserve	\$ 2,600	
<b>Total Gross LEC Revenue</b>		<b>\$ 13,484,900</b>
LEC CAISO GMC Costs	\$ (54,200)	
CAISO Energy & Capacity Buyback Costs	\$ (492,500)	
Total Monthly LEC Fuel Cost	\$ (8,361,500)	
Total Monthly GHG Obligation	\$ (1,677,200)	
Variable Operations & Maintenance Cost	\$ (418,300)	
<b>Total Gross Costs</b>		<b>\$ (11,003,700)</b>
<b>Cumulative Monthly Margin</b>		<b>\$ 2,481,200</b>
<b>10 Days of Accrued LT Maintenance Costs</b>	\$ (151,807)	
<b>Net Cumulative Monthly Margin</b>		<b>\$ 2,329,393</b>
<b>Average Net Margin \$/MWh</b>	\$	<b>16.6</b>

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

March 2023 Cost of Congestion Component

(\$199,221)

(\$1.42)

Net\_Amount

\$ / MWh



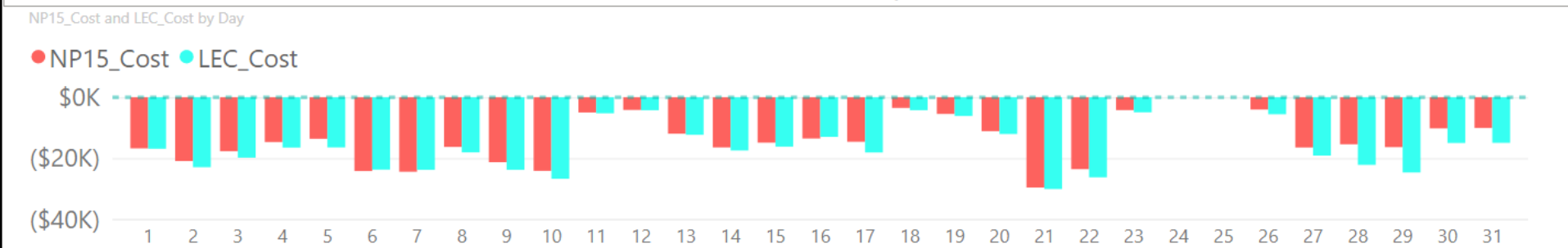
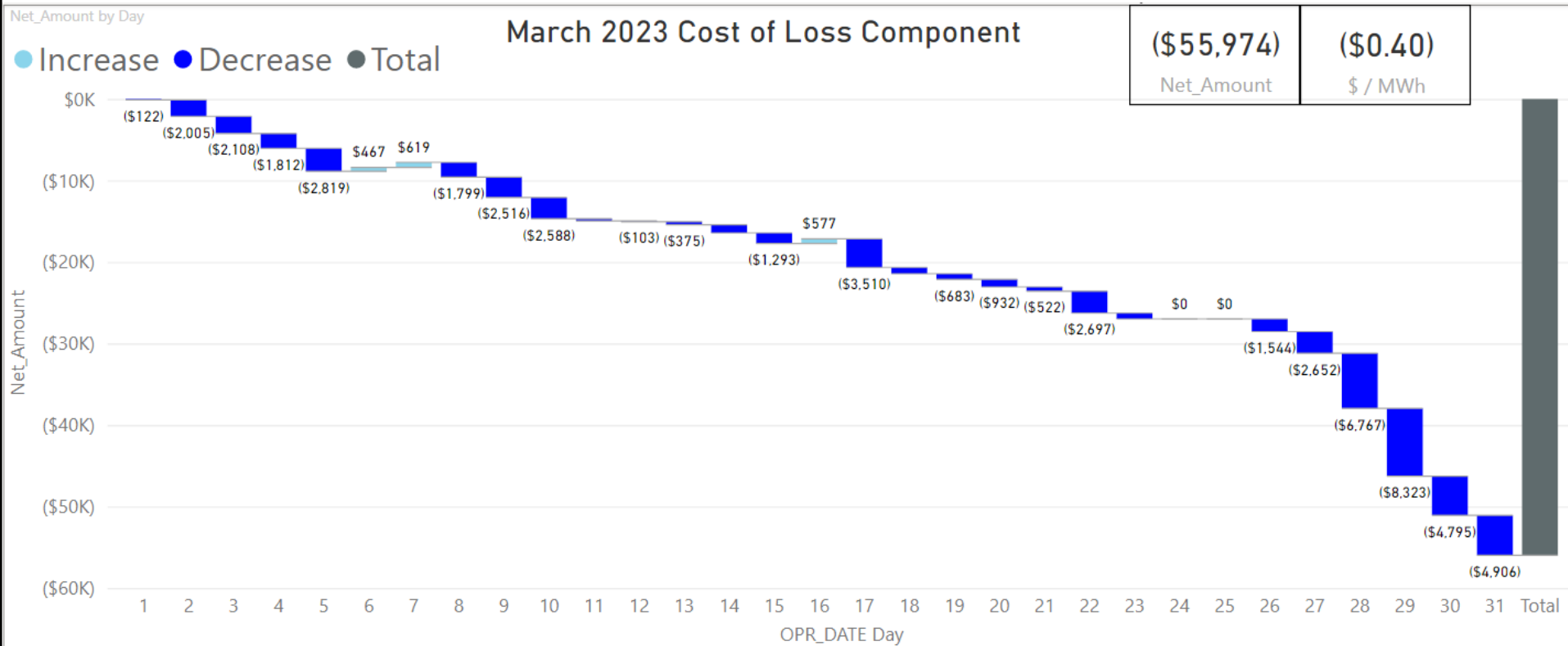
NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost





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



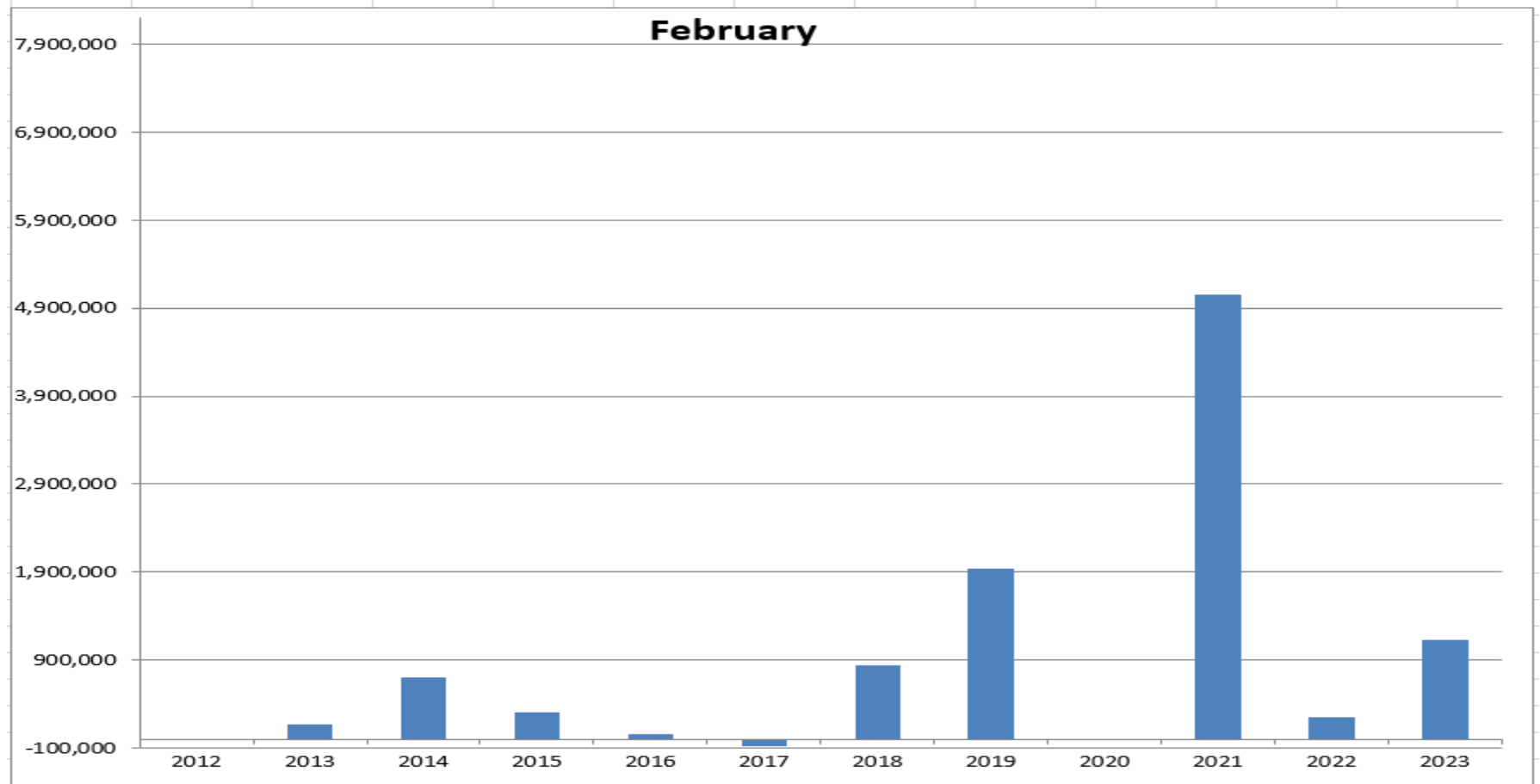
	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2023 Budget	Percent Used	Comments
VOM	4,095,484	12,532,232	10,546,727	8,160,201	14,074,428	45,954,494	23,959,683	9,641,318	13,388,171	0	8,997,669	11,621,043	162,971,449	94,127,609	173.1%	
Capacity Factor	23%	60%	46%	45%	75%	85%	74%	60%	76%	0%	62%	79%	57%	57%	100.0%	
Fuel Consumed (mmBTU, estimated)	383,556	967,914	736,096	727,663	1,159,760	1,357,546	1,180,502	876,211	1,214,852	0	1,018,559	1,214,192	10,836,851	11,557,251	93.8%	
Avg Fuel Cost (\$/mmBTU)	8.02	10.24	9.82	8.09	10.09	31.00	16.88	8.72	9.12	0.00	6.94	7.12	12.39	5.61	220.9%	
Power Produced (MWhr, estimated)	50,612	133,579	100,059	100,923	163,586	191,229	166,180	121,813	171,371	0	139,311	171,021	1,509,685	1,627,093	92.8%	Power produced down 8% vs forecast
Avg Power Price (\$/MWhr)	94.27	108.38	163.05	79.50	100.32	281.24	155.44	91.37	89.67	0.00	64.42	73.70	124.32	74.75	166.3%	Avg power price down 55% vs forecast
Operations / Variable / LTSA	61,202	505,263	199,312	966,327	78,481	342,047	1,282,613	146,174	168,398	0	140,013	833,483	4,723,313	6,088,236	77.6%	
Fuel (estimated)	3,077,263	9,916,156	7,228,629	5,884,049	11,700,884	42,083,647	19,923,300	7,641,882	11,077,637	0	7,069,617	8,647,056	134,250,119	64,819,215	207.1%	Fuel estimated down 65% vs forecast
AB32 GHG Offset (estimated)	608,065	1,590,908	1,085,290	1,093,708	1,732,208	2,041,050	1,902,939	1,401,275	1,829,385	0	1,533,796	1,828,390	16,647,014	20,249,959	82.2%	
CA ISO Charges (estimated)	348,954	519,905	2,033,496	216,117	562,855	1,487,750	850,831	451,987	312,752	0	254,243	312,114	7,351,004	2,970,199	247.5%	CA iso charges up 86% vs forecast (RT FMM & UIE Purchase)
Routine O&M (Fixed)	1,488,545	341,261	1,087,702	1,473,470	937,987	1,591,776	1,049,669	968,503	971,663	1,253,663	1,019,532	1,279,406	13,463,177	12,741,784	105.7%	
Maintenance / Fixed	511,311	-394,386	390,161	784,407	263,116	694,287	362,151	342,376	255,000	385,000	265,000	265,863	4,124,286	3,151,902	130.9%	Outage to repair HRSG baffle plates.
Administration	8,661	7,798	6,346	5,837	20,556	20,439	12,876	4,085	10,000	10,000	35,869	152,467	35,869	195,869	77.8%	
Mandatory Costs	57,504	32,740	17,496	12,537	4,861	24,562	8,850	15,926	30,000	32,000	42,000	26,880	305,356	365,380	83.6%	
Inventory Stock	0	0	0	0	0	-2,229	0	7,159	0	0	0	0	4,930	-	0.0%	
Labor	680,683	430,671	430,326	418,394	405,326	624,331	423,775	363,130	433,677	583,677	433,677	733,677	5,961,342	6,112,796	97.5%	
Insurance	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	1,313,903	1,313,901	100.0%	
Power Management & Settlements	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	1,450,728	1,450,728	100.0%	
Other Costs	0	34,052	12,987	21,909	13,742	0	11,631	5,441	12,601	12,601	12,601	12,601	150,165	151,208	99.3%	
Projects	192,549	-14,837	214,028	638,342	-185,137	172,468	118,016	181,857	279,280	529,280	279,280	279,280	2,684,407	3,631,362	73.9%	
Maintenance Reserve	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	2,008,392	2,008,392	100.0%	
Operations & Maintenance Projects	25,183	-182,203	46,662	14,745	39,113	5,102	28,973	14,491	111,914	111,914	111,914	111,914	439,723	1,342,970	32.7%	
Capital Projects	0	0	0	456,231	-391,616	0	-78,323	0	0	250,000	0	0	236,292	280,000	84.4%	
A&G	224,210	224,210	224,210	224,210	224,210	224,210	224,210	224,210	224,217	224,217	224,217	224,217	2,690,549	2,690,608	100.0%	
Administrative & General (Allocated)	189,197	189,197	189,197	189,197	189,197	189,197	189,197	189,197	189,198	189,198	189,198	189,198	2,270,368	2,270,375	100.0%	
Generation Services Shared	35,013	35,013	35,013	35,013	35,013	35,013	35,013	35,013	35,019	35,019	35,019	35,019	420,182	420,233	100.0%	
Total O&M Cost	6,000,788	13,082,866	12,072,667	10,496,223	15,051,488	47,942,948	25,351,578	11,015,888	14,863,331	2,007,161	10,520,699	13,403,946	181,809,582	113,191,363	160.6%	
Debt Service	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	25,996,201	25,996,203	100.0%	
Revenues	4,796,596	14,514,876	16,379,659	8,105,410	16,509,933	53,886,357	25,969,377	11,276,672	16,669,664	0	9,979,607	13,675,451	191,763,602	143,896,790	133.3%	
ISO Energy Sales (estimated)	4,771,209	14,476,684	16,314,404	8,023,396	16,411,049	53,782,014	25,831,649	11,130,188	15,365,993	0	8,974,125	12,604,286	187,684,997	121,619,515	154.3%	ISO Sales down 59% vs forecast
Other Income	25,387	38,192	65,255	82,014	98,884	104,343	137,728	146,484	1,303,671	0	1,005,482	1,071,165	4,078,605	22,277,275		
Net	(\$3,370,542)	(\$734,340)	\$2,140,642	(\$4,557,163)	(\$707,905)	\$3,777,059	(\$1,548,551)	(\$1,905,566)	(\$360,017)	(\$4,173,511)	(\$2,707,442)	(\$1,894,846)	(\$16,042,182)	\$4,709,224	Above budget by 440.65%	



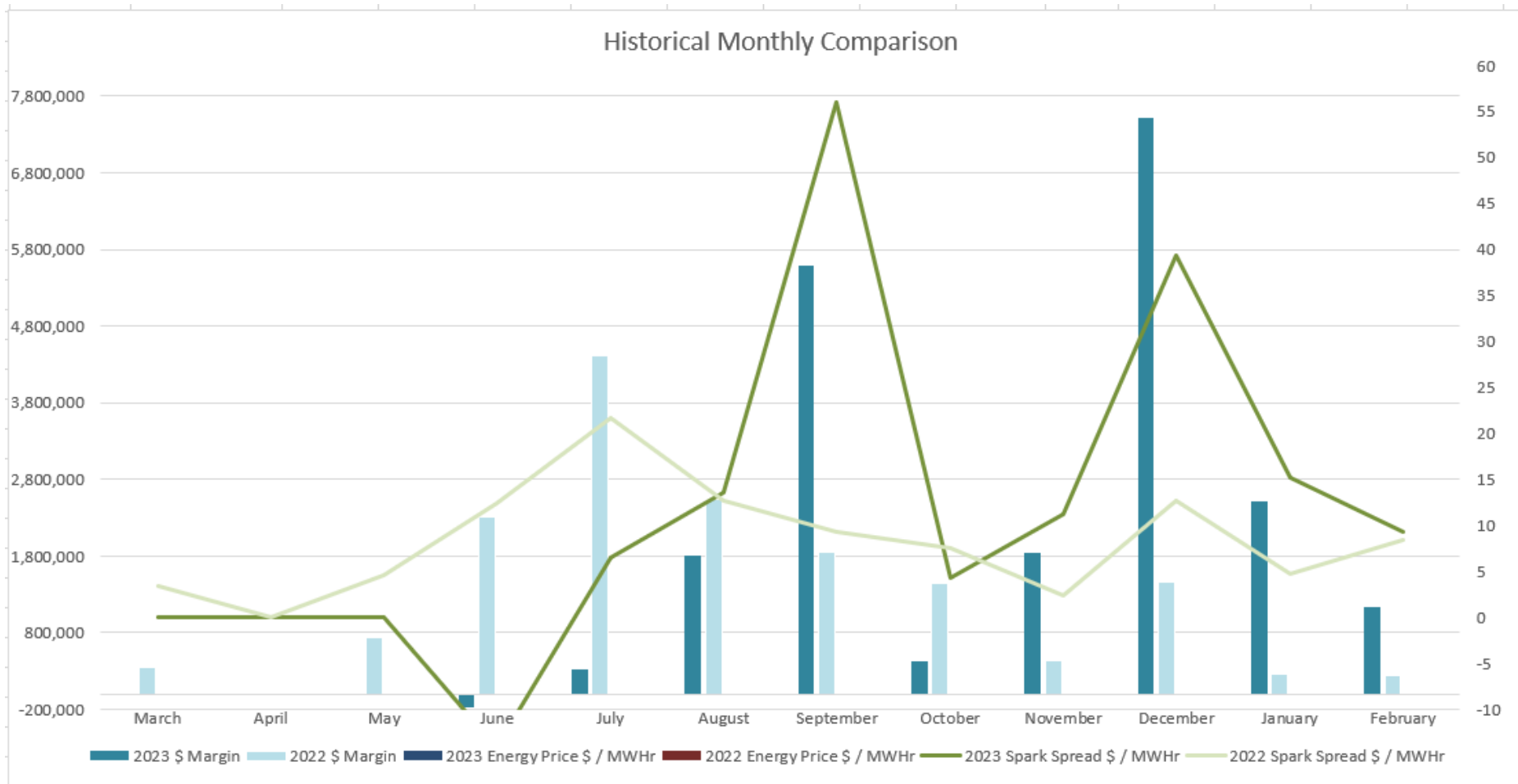
# February Asset Report

		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	11,276,672	29,136,808	9,302,113	(17,860,136)	-61%	Lower spark spread \$/MWH and ISO Energy Sales lower by 59% vs forecast
VOM	9,641,318	23,610,652	6,166,969	(13,969,334)	-59%	Capacity factor lower by 5% and power produced lower by 8% vs forecast
Fixed	968,503	956,026	936,026	12,477	1%	HRSG Outage to repair baffle plates
Projects	181,857	309,280	309,280	(127,423)	-41%	
A&G	224,210	224,217	224,217	(7)	0%	
Debt	2,166,350	2,166,350	2,166,350	(0)	0%	
Net Cost	(1,905,566)	1,870,282	(500,730)	(3,775,848)	-202%	
Net Annual Cost		(16,042,182)	4,709,224	(\$20,751,405)		
				Above budget by 440.64%		

# Historical Margins



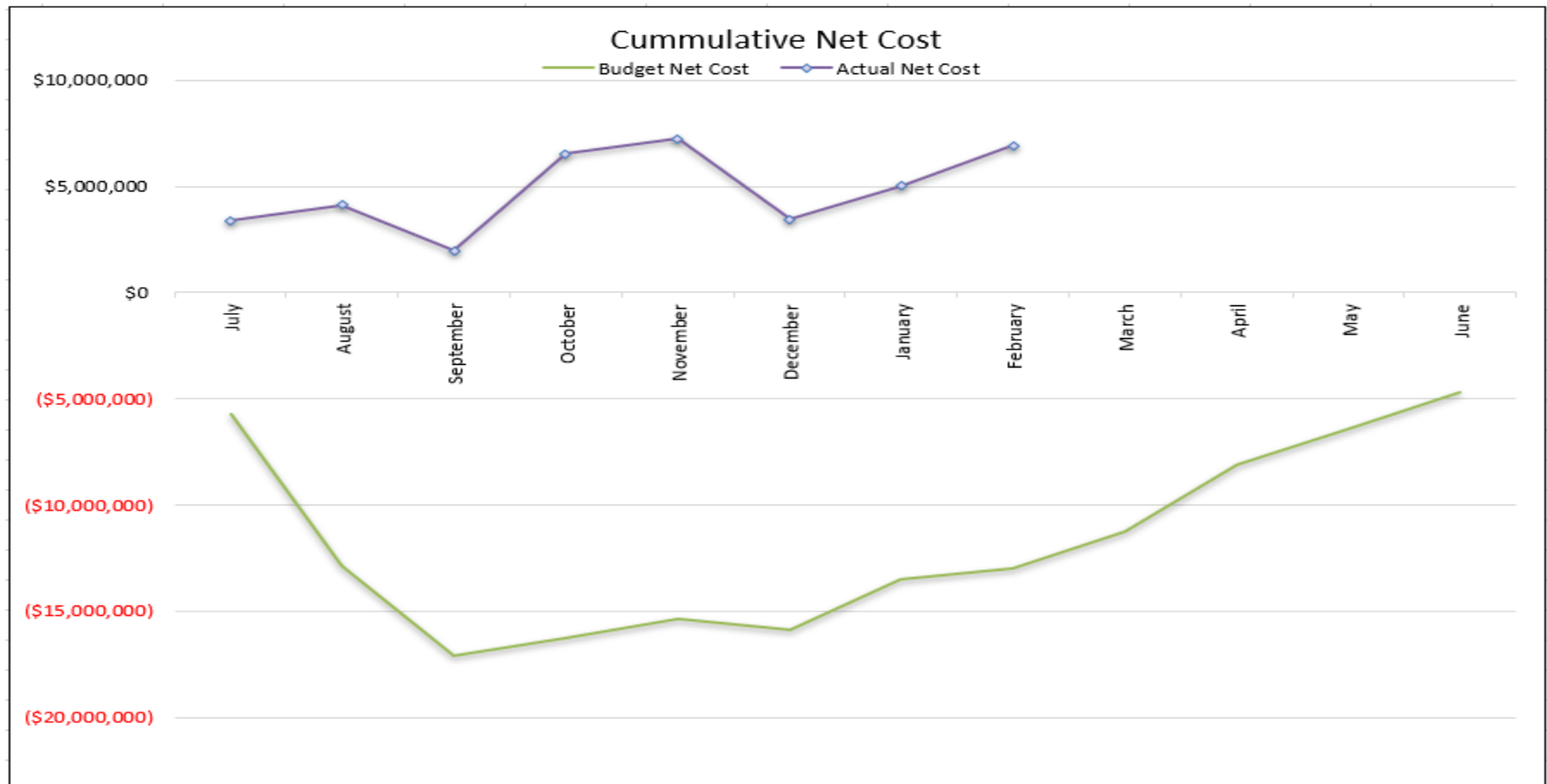
- Historical Margins for February 2023 was (1.1m) vs February 2022 (248k), third highest margin



\* Spark Spread lower from (Jan 2023) @ \$15.17 vs. (Feb 2023) @ \$9.28=  $\Delta$ \$5.89 \$/MWhr

\* February 2022 Spark Spread was @ \$8.41 \$/MWhr

\* Margin comparison from February 2022 (248k) vs February 2023 (1.1m)



\*\* On the cumulative chart, February was a good month when compared to historical results. LEC captured the third highest margin for February 2023.



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# LEC Treasurer's Report

AGENDA ITEM NO.: 8

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**Date:** April 10, 2023

**To:** LEC Project Participant Committee

**Subject:** Treasurer's Report for the Month Ended February 28, 2023

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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 \$671.

Investments - The carrying value of the LEC's investment portfolio totaled \$37,749,190 at month end. The current market value of the portfolio totaled \$36,150,224.

The overall portfolio had a combined weighted average interest rate of 3.303% with a bond equivalent yield (yield to maturity) of 3.355%. Investments with a maturity greater than one year totaled \$18,994,000. During the month \$1,577,442 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 13 basis points from 4.72% to 4.85% and rates on one year T-Bills increased 37 basis points from 4.69% to 5.06%.

To the best of my knowledge and belief, all securities held by LEC as of February 28, 2023 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

*Monty Hanks*

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

*Sandra Ainsworth*

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**FEBRUARY 28, 2023**

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**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**February 28, 2023**

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 671	\$ 13,223,080	\$ 13,223,751	35.03%	\$ 13,218,929
Debt Service Reserve	-	12,613,581	12,613,581	33.41%	12,057,531
O & M Reserve	-	11,832,365	11,832,365	31.34%	10,793,600
	<b>671</b>	<b>37,669,026</b>	<b>37,669,697</b>	<b>99.78%</b>	<b>36,070,060</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	80,164	80,164	0.22%	80,164
Participant Deposit Account	-	-	-	-	-
	<b>\$ 671</b>	<b>\$ 37,749,190</b>	<b>\$ 37,749,861</b>	<b>100.00%</b>	<b>\$ 36,150,224</b>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**February 28, 2023**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ -	\$ 1	\$ 302	\$ -	\$ (2,167,078)	\$ 2,166,379	\$ (396)
Debt Service Reserve	-	-	-	-	-	-	-
O & M Reserve	-	13,361	36,630	-	(49,991)	-	-
	-	13,362	36,932	-	(2,217,069)	2,166,379	(396)
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	373	-	(640,000)	639,627	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 13,735</b>	<b>\$ 36,932</b>	<b>\$ (640,000)</b>	<b>\$ (1,577,442)</b>	<b>\$ 2,166,379</b>	<b>\$ (396)</b>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**February 28, 2023**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR MATURED	DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	\$ 2,167,078	\$ (302)	\$ 41,318	\$ -	\$ -	\$ 2,208,094
Debt Service Reserve	-	-	11,629	-	-	11,629
O & M Reserve	49,991	(36,630)	(448)	-	-	12,913
	<u>2,217,069</u>	<u>(36,932)</u>	<u>52,499</u>	<u>-</u>	<u>-</u>	<u>2,232,636</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	(639,627)	-	-	-	-	(639,627)
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 1,577,442</u>	<u>\$ (36,932)</u>	<u>\$ 52,499</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,593,009</u>

**Less Non- Cash Activity**

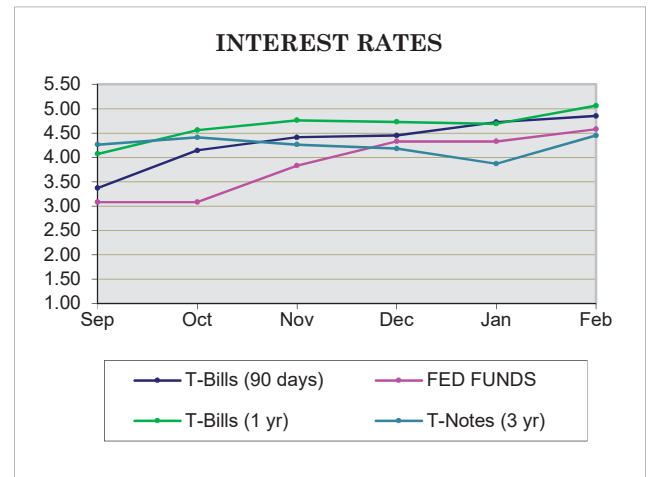
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(52,499)
<b>Net Change in Investment –Before Non-Cash Activity</b>	<u><u>\$ 1,540,510</u></u>

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

**Northern California Power Agency/Lodi Energy Center**  
**Interest Rate/Yield Analysis**  
**February 28, 2023**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>3.303%</b>	<b>3.355%</b>
Debt Service Account	<b>4.598%</b>	<b>4.752%</b>
Debt Service Reserve	<b>3.385%</b>	<b>3.427%</b>
O & M Reserve	<b>1.760%</b>	<b>1.710%</b>
GHG Cash Account	<b>4.530%</b>	<b>4.530%</b>

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>4.58%</b>	<b>0.08%</b>
T-Bills (90da.)	<b>4.85%</b>	<b>0.34%</b>
Agency Disc (90da.)	<b>4.82%</b>	<b>0.36%</b>
T-Bills (1yr.)	<b>5.06%</b>	<b>1.14%</b>
Agency Disc (1yr.)	<b>5.08%</b>	<b>1.04%</b>
T-Notes (3yr.)	<b>4.45%</b>	<b>1.75%</b>

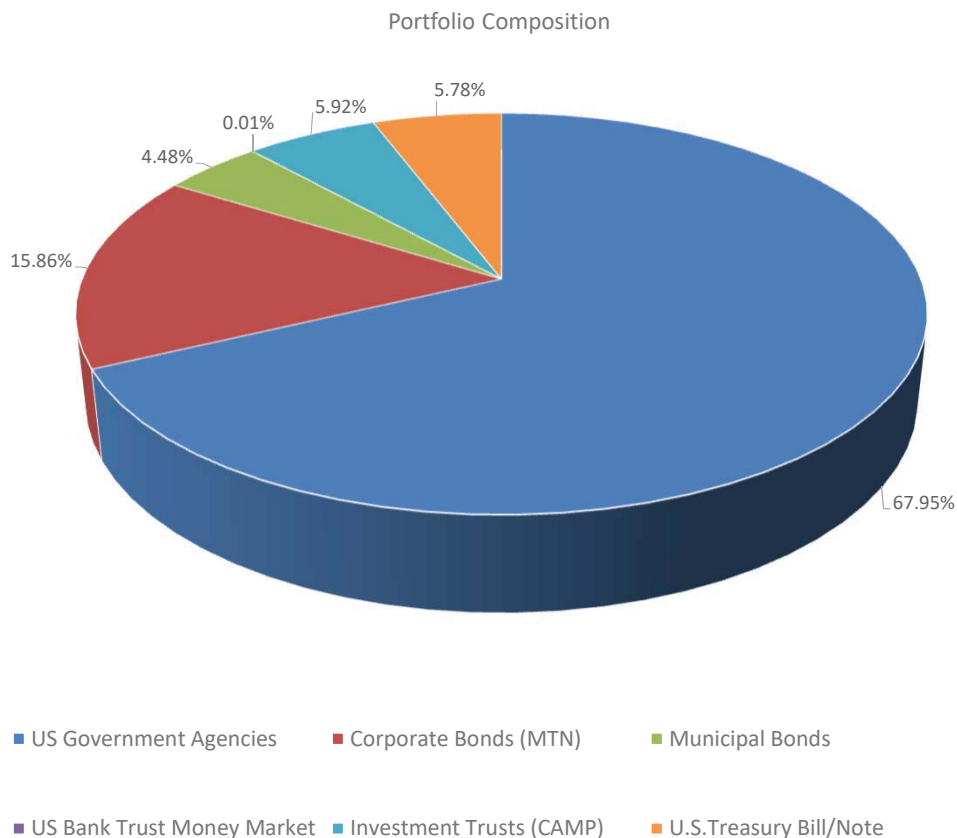


**Northern California Power Agency  
Total Portfolio  
Investment Maturities Analysis  
February 28, 2023**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ 12,250	\$ 676	\$ -	\$ 50	\$ 12,800	\$ -	\$ 25,776	67.95%
Corporate Bonds (MTN)	-	-	1,523	-	-	4,494	-	6,017	15.86%
Municipal Bonds	-	-	-	-	-	1,700	-	1,700	4.48%
US Bank Trust Money Market	5	-	-	-	-	-	-	5	0.01%
Investment Trusts (CAMP)	2,244	-	-	-	-	-	-	2,244	5.92%
U.S.Treasury Bill/Note	-	2,194	-	-	-	-	-	2,194	5.78%
<b>Total Dollars</b>	<b>\$ 2,249</b>	<b>\$14,444</b>	<b>\$2,199</b>	<b>\$0</b>	<b>\$ 50</b>	<b>\$18,994</b>	<b>\$0</b>	<b>\$ 37,936</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>5.93%</b>	<b>38.07%</b>	<b>5.80%</b>	<b>0.00%</b>	<b>0.13%</b>	<b>50.07%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.

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



# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



## Northern California Power Agency

## Treasurer's Report

02/28/2023

## LEC Issue #1 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	434	0.010		434		1	0.010	434	SYS79004	79004	434
Federal Home Loan Ba	USBT	736,000	4.540	12/28/2022	721,799	05/30/2023	90	4.693	727,293	313384GF0	27502	727,646
U.S. Treasury	USBT	730,000	4.650	02/24/2023	721,042	05/30/2023	90	4.773	721,474	912797FG7	27550	721,514
Federal Home Loan Ba	USBT	732,000	4.659	01/30/2023	720,535	05/31/2023	91	4.799	723,245	313384GG8	27535	723,377
<b>Fund Total and Average</b>		<b>\$ 2,198,434</b>	4.616		<b>\$ 2,163,810</b>		<b>90</b>	<b>4.754</b>	<b>\$ 2,172,446</b>			<b>\$ 2,172,971</b>

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	689	0.010		689		1	0.010	689	SYS79012	79012	689
Federal Home Loan Ba	USBT	2,950,000	4.580	12/06/2022	2,884,322	05/30/2023	90	4.749	2,915,102	313384GF0	27493	2,916,223
Federal Home Loan Ba	USBT	795,000	4.539	12/28/2022	779,660	05/30/2023	90	4.693	785,595	313384GF0	27503	785,977
U.S. Treasury	USBT	789,000	4.650	02/24/2023	779,318	05/30/2023	90	4.773	779,784	912797FG7	27551	779,828
Federal Home Loan Ba	USBT	791,000	4.660	01/30/2023	778,611	05/31/2023	91	4.799	781,540	313384GG8	27536	781,682
<b>Fund Total and Average</b>		<b>\$ 5,325,689</b>	4.596		<b>\$ 5,222,600</b>		<b>90</b>	<b>4.751</b>	<b>\$ 5,262,710</b>			<b>\$ 5,264,399</b>

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	3,822,000	4.580	12/06/2022	3,736,907	05/30/2023	90	4.749	3,776,786	313384GF0	27494	3,778,238
Federal Home Loan Ba	USBT	680,000	4.540	12/28/2022	666,879	05/30/2023	90	4.693	671,956	313384GF0	27504	672,282
U.S. Treasury	USBT	675,000	4.649	02/24/2023	666,717	05/30/2023	90	4.773	667,116	912797FG7	27552	667,153
Federal Home Loan Ba	USBT	676,000	4.660	01/30/2023	665,412	05/31/2023	91	4.799	667,915	313384GG8	27537	668,037
<b>Fund Total and Average</b>		<b>\$ 5,853,000</b>	4.593		<b>\$ 5,735,915</b>		<b>90</b>	<b>4.751</b>	<b>\$ 5,783,773</b>			<b>\$ 5,785,710</b>
<b>GRAND TOTALS:</b>		<b>\$ 13,377,123</b>	4.598		<b>\$ 13,122,325</b>		<b>90</b>	<b>4.752</b>	<b>\$ 13,218,929.</b>			<b>\$ 13,223,080</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 02/28/2023



## Northern California Power Agency

## Treasurer's Report

02/28/2023

## LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	1,834	0.010		1,834		1	0.010	1,834	SYS79005	79005	1,834
Federal Home Loan Mt	USBT	4,800,000	5.010	12/29/2022	4,800,000	12/29/2025	1,034	5.010	4,752,192	3134GY7C0	27506	4,800,000
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	1,097	0.840	3,939,909	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	1,199	0.799	133,452	3130AN4T4	27270	150,361
Fund Total and Average		\$ 9,381,834	2.974		\$ 9,382,362		1066	2.973	\$ 8,827,387			\$ 9,382,195

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	769	0.010		769		1	0.010	769	SYS79006	79006	769
Federal Home Loan Ba	USBT	2,311,000	4.580	12/06/2022	2,259,548	05/30/2023	90	4.749	2,283,661	313384GF0	27495	2,284,539
Fund Total and Average		\$ 2,311,769	4.578		\$ 2,260,317		90	4.748	\$ 2,284,430			\$ 2,285,308

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	1,023	0.010		1,023		1	0.010	1,023	SYS79013	79013	1,023
Federal Home Loan Ba	USBT	956,000	4.580	12/06/2022	934,716	05/30/2023	90	4.749	944,691	313384GF0	27496	945,054
Fund Total and Average		\$ 957,023	4.575		\$ 935,739		90	4.744	\$ 945,714			\$ 946,077
GRAND TOTALS:		\$ 12,650,626	3.385		\$ 12,578,418		816	3.427	\$ 12,057,531.			\$ 12,613,580

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 02/28/2023

## Callable Dates:

Inv #

27199	FFCB	Anytime
27506	FHLMC	12/29/2023





## Northern California Power Agency

## Treasurer's Report

02/28/2023

## LEC O &amp; M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		0	1.329		0		1	1.329	0	SYS70047	70047	0
First American Govt.	USBGC	0	4.100		0		1	4.100	0	SYS70041	70041	0
California Asset Mgm	CMP	2,164,283	4.530	09/09/2022	2,164,283		1	4.530	2,164,283	SYS70075	70075	2,164,283
Federal Farm Credit	USBGC	50,000	5.125	02/28/2023	49,991	02/28/2024	364	5.143	49,948	3133EPCB9	27557	49,991
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	641	1.776	451,445	14912L6G1	26952	476,443
Nashville Met Gov	USBGC	500,000	0.610	02/18/2021	500,000	07/01/2025	853	0.610	451,885	592112UB0	27176	500,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	881	0.579	901,540	3136G4D75	27047	1,000,482
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	901	0.600	899,960	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	943	0.530	670,973	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	943	0.530	599,402	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	1,075	0.699	443,700	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	1,156	1.200	431,175	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	1,233	1.050	881,170	57629WDE7	27250	1,004,917
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	1,274	1.250	85,307	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	1,293	1.227	439,165	14913R2Q9	27290	498,681
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	1,334	1.567	752,947	872898AA9	27335	855,416
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	1,349	1.490	455,605	74460DAG4	27310	515,179
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	1,349	1.475	941,289	74460DAG4	27341	1,064,926
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,553	3.654	173,806	088006KB6	27424	182,046
Fund Total and Average		\$ 11,828,283	1.760		\$ 11,854,140		892	1.710	\$ 10,793,600			\$ 11,832,364
GRAND TOTALS:		\$ 11,828,283	1.760		\$ 11,854,140		892	1.710	\$ 10,793,600.			\$ 11,832,364

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 02/28/2023

## Callable Dates:

Inv #

27047	FHLMC	Quarterly
27057	FNMA	Quarterly
27083	FFCB	Anytime
27084	FFCB	Anytime
27170	APPL	Anytime starting 1/8/2026
27222	JPM	Annually starting 4/30/2023
27259	BAC	Semi-annually



Northern California Power Agency  
Treasurer's Report  
02/28/2023

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		0	1.329		0		1	1.329	0	SYS70046	70046	0
California Asset Mgm	CMP	80,164	4.530	09/13/2022	80,164		1	4.530	80,164	SYS70077	70077	80,164
Fund Total and Average		\$ 80,164	4.530		\$ 80,164		1	4.530	\$ 80,164			\$ 80,164
GRAND TOTALS:		\$ 80,164	4.530		\$ 80,164		1	4.530	\$ 80,164.			\$ 80,164

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 02/28/2023



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

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**Date:** April 10, 2023

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

**Subject:** February 28, 2023 Financial Reports (Unaudited)

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

	February	
	2023	2022
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 80,164	\$ 378,155
Interest receivable	24,642	32,496
Inventory and supplies - at average cost	2,635,210	4,530,113
Prepaid insurance	982,721	960,150
Due from (to) Agency, net	59,160,683	25,250,736
<b>TOTAL CURRENT ASSETS</b>	<b>62,883,420</b>	<b>31,151,650</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	2,809,703	2,702,359
Investments	35,499,993	38,217,010
Interest receivable	60,208	38,434
<b>TOTAL RESTRICTED ASSETS</b>	<b>38,369,904</b>	<b>40,957,803</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	447,458,697	410,208,080
Less: accumulated depreciation	(133,681,912)	(118,451,548)
<b>TOTAL ELECTRIC PLANT</b>	<b>313,776,785</b>	<b>291,756,532</b>
<b>OTHER ASSETS</b>		
Regulatory assets	29,337,639	29,425,608
<b>TOTAL OTHER ASSETS</b>	<b>29,337,639</b>	<b>29,425,608</b>
<b>TOTAL ASSETS</b>	<b>444,367,748</b>	<b>393,291,593</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Unamortized excess cost on advance refunding of debt, net	631,136	965,584
Asset retirement obligations	195,640	190,717
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>826,776</b>	<b>1,156,301</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$ 445,194,524</b>	<b>\$ 394,447,894</b>

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

		February	
		2023	2022
<b>LIABILITIES &amp; NET POSITION</b>			
<b>CURRENT LIABILITIES</b>			
Accounts and retentions payable	\$	7,651,469	\$ 1,358,093
Operating reserves		13,821,198	17,244,209
Current portion of long-term debt		13,842,676	12,880,000
Accrued interest payable		3,180,171	3,268,369
<b>TOTAL CURRENT LIABILITIES</b>		<b>38,495,514</b>	<b>34,750,671</b>
<b>NON-CURRENT LIABILITIES</b>			
Operating reserves and other deposits		711,668	1,447,867
Asset retirement obligations		195,640	190,717
Long-term debt, net		315,948,765	293,655,000
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>316,856,073</b>	<b>295,293,584</b>
<b>TOTAL LIABILITIES</b>		<b>355,351,587</b>	<b>330,044,255</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Regulatory credits		38,455,744	43,273,349
<b>NET POSITION</b>			
Invested in capital assets, net of related debt		(2,769,939)	(1,043,041)
Restricted		10,743,789	13,243,346
Unrestricted		43,413,343	8,929,985
<b>TOTAL NET POSITION</b>		<b>51,387,193</b>	<b>21,130,290</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$</b>	<b>445,194,524</b>	<b>\$ 394,447,894</b>

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

		<b>Eight Months Ended February</b>	
		<b>2023</b>	<b>2022</b>
<b>SALES FOR RESALE</b>			
Participants	\$	44,074,841	\$ 16,487,436
Other		151,793,247	84,155,313
<b>TOTAL SALES FOR RESALE</b>		<b>195,868,088</b>	<b>100,642,749</b>
<b>OPERATING EXPENSES</b>			
Operations		127,955,919	74,346,174
Depreciation		9,434,752	9,433,365
Purchased power		6,879,250	2,784,062
Maintenance		3,321,603	3,185,260
Administrative and general		3,727,522	3,780,303
Transmission		660,876	516,201
Intercompany (sales) purchases		219,864	271,256
<b>TOTAL OPERATING EXPENSES</b>		<b>152,199,786</b>	<b>94,316,621</b>
<b>NET OPERATING REVENUES</b>		<b>43,668,302</b>	<b>6,326,128</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(8,704,040)	(8,951,542)
Interest income		2,010,495	185,115
Other		7,769,406	7,028,557
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>1,075,861</b>	<b>(1,737,870)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(380,191)</b>	<b>(378,467)</b>
<b>REFUNDS TO PARTICIPANTS</b>		<b>80,601</b>	<b>459,473</b>
<b>INCREASE IN NET POSITION</b>		<b>44,444,573</b>	<b>4,669,264</b>
<b>NET POSITION</b>			
Beginning of year		6,942,620	16,461,026
End of period	\$	51,387,193	\$ 21,130,290

**Lodi Energy Center  
FY 2023 Operating Costs  
As of February 28, 2023**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 6,088,236	\$ 3,581,568	\$ 2,506,668	41%	
Fuel & LDC Costs	64,819,215	110,730,778	(45,911,563)	0%	<b>A</b>
GHG Allowance Costs	20,249,959	8,910,994	11,338,965	56%	
CA ISO Charges	1,080,335	660,876	419,459	39%	
CA ISO Energy Purchases	1,889,864	6,879,250	(4,989,386)	0%	<b>B</b>
<b>Total Variable Costs</b>	<b>94,127,609</b>	<b>130,763,466</b>	<b>(36,635,857)</b>	<b>0%</b>	
<b>Routine O&amp;M Costs</b>					
Fixed O&M	3,151,902	2,953,502	198,400	6%	
Administration	195,869	86,598	109,271	56%	<b>C</b>
Mandatory Costs	365,380	174,476	190,904	52%	
Routine O&M Costs without Labor	3,713,151	3,219,506	493,645	13%	
Labor	6,112,796	3,776,637	2,336,159	38%	
<b>Total Routine O&amp;M Cost</b>	<b>9,825,947</b>	<b>6,996,143</b>	<b>2,829,804</b>	<b>29%</b>	
<b>Other Plant Costs</b>					
Debt Service	25,996,203	17,330,803	8,665,400	33%	
Insurance	1,313,901	875,934	437,967	33%	
Other Costs	151,208	99,762	51,446	34%	
Generation Services Shared	420,233	280,104	140,129	33%	
Administrative & General (Allocated)	2,270,375	1,513,575	756,800	33%	
Power Management Allocated Costs	1,450,728	967,152	483,576	33%	
<b>Total Other Plant Costs</b>	<b>31,602,648</b>	<b>21,067,330</b>	<b>10,535,318</b>	<b>33%</b>	
<b>Total O&amp;M Costs</b>	<b>135,556,204</b>	<b>158,826,939</b>	<b>(23,270,735)</b>	<b>0%</b>	
<b>Projects</b>					
Operations & Maintenance	1,342,970	53,066	1,289,904	96%	
Capital	280,000	377,908	(97,908)	0%	<b>D</b>
Maintenance Reserve	2,008,392	1,338,928	669,464	33%	
<b>Total Projects</b>	<b>3,631,362</b>	<b>1,769,902</b>	<b>1,861,460</b>	<b>51%</b>	
<b>Annual Cost</b>	<b>139,187,566</b>	<b>160,596,841</b>	<b>(21,409,275)</b>	<b>0%</b>	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	698,289	(448,289)	0%	
ISO Energy Sales	121,619,515	151,549,991	(29,930,476)	0%	
Ancillary Services Sales	2,317,565	243,256	2,074,309	90%	
Other Income	-	8,890	(8,890)	0%	
	124,187,080	152,500,426	(28,313,346)	0%	
<b>Net Annual Cost to Participants (without GHG Transfer Credits)</b>	<b>15,000,486</b>	<b>8,096,415</b>	<b>6,904,071</b>		
GHG Allowance Credits	19,709,710	8,910,994	10,798,716	55%	
<b>Net Annual Cost to Participants (with GHG Transfer Credits)</b>	<b>\$ (4,709,224)</b>	<b>\$ (814,579)</b>	<b>\$ (3,894,645)</b>	<b>83%</b>	
<b>Total Variable Costs</b>	<b>94,127,609</b>	<b>130,763,466</b>	<b>(36,635,857)</b>		
<b>Total Fixed Costs</b>	<b>45,059,957</b>	<b>29,833,375</b>	<b>15,226,582</b>		
	<b>\$ 139,187,566</b>	<b>\$ 160,596,841</b>	<b>\$ (21,409,275)</b>		
<b>Net Cumulative Generation (MWh)</b>	<b>1,626,895</b>	<b>1,027,972</b>			
<b>Total O&amp;M Cost Per MWh</b>	<b>\$ 83.32</b>	<b>\$ 154.51</b>			
<b>Net Annual Cost Per MWh</b>	<b>\$ (2.89)</b>	<b>\$ (0.79)</b>			
<b>Net Annual Cost Per KW Month</b>	<b>\$ (1.30)</b>	<b>\$ (0.22)</b>			

**Footnotes:**

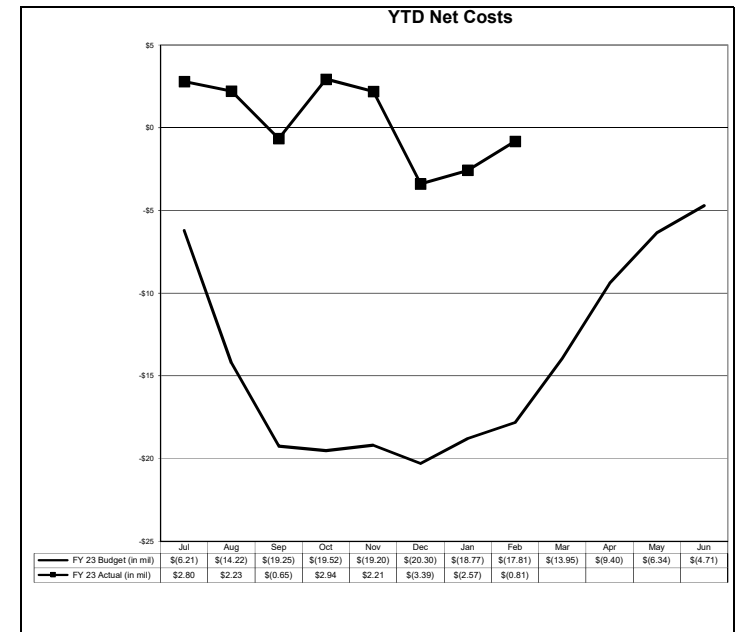
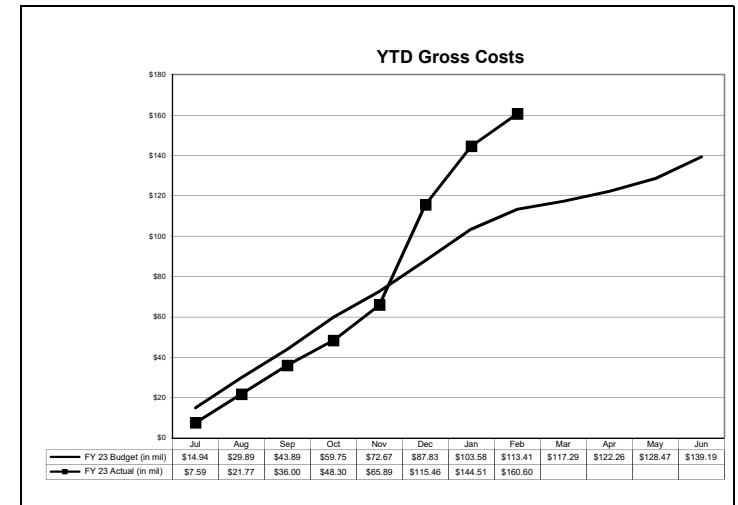
**General** - The plant ran 25 out of 28 days during the month.

**A** - Higher fuel costs due to higher prices for natural gas as costs averaged \$9/mmBtu in February.

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

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

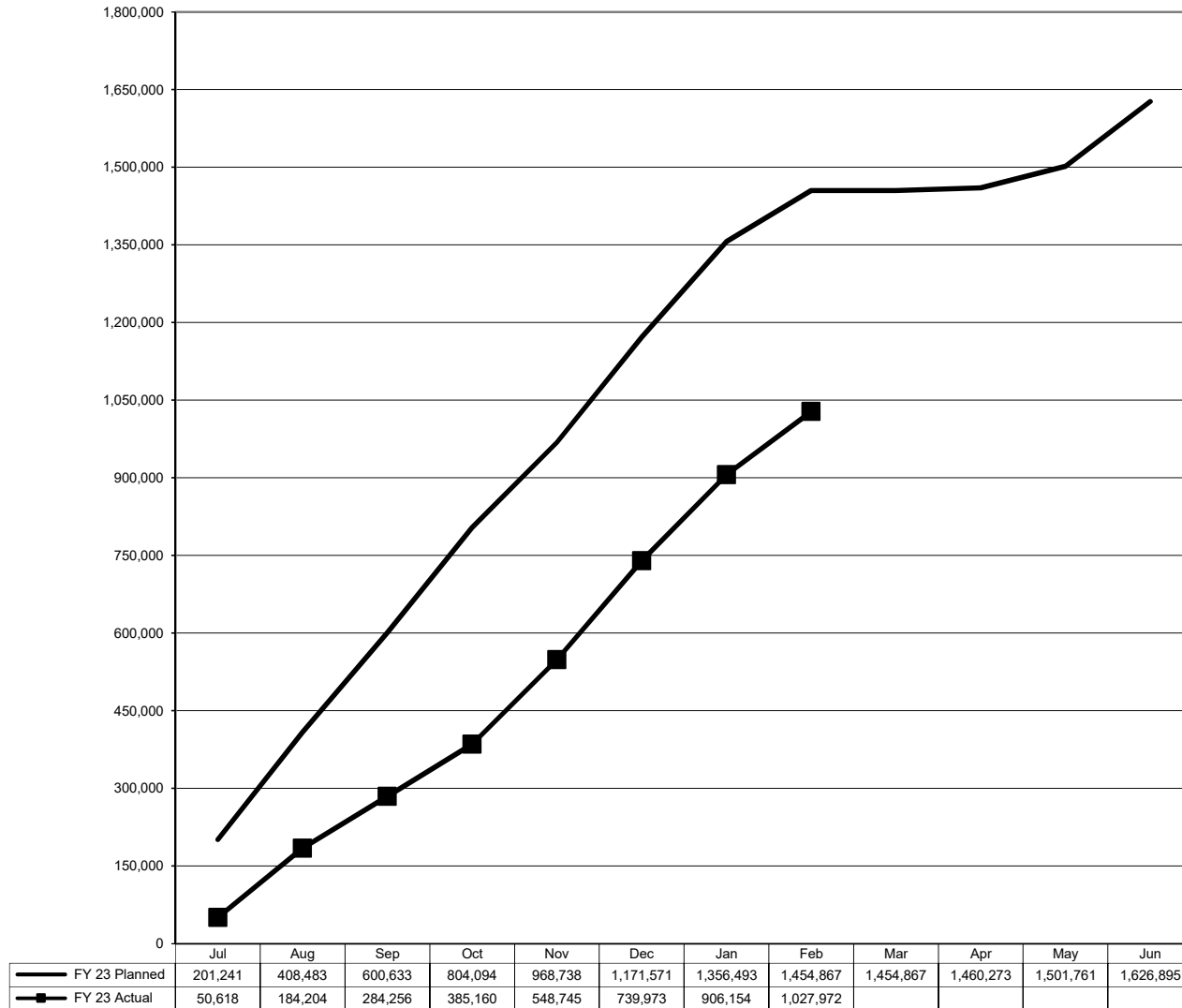
**D** - Additional costs for Torque Converter spare to bring it up to specification.



# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2023

In MWh

## Lodi Energy Center







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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

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**Date:** April 10, 2023

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

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

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[illegible]

	CY 2023 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual		Estimated										CY 2023	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	166,180	121,818	171,373	0	0	68,407	0	0	0	0	0	0	527,778	11,751,353
Gas Schedule (MMBtu)	1,184,796	877,305	1,329,852	0	0	530,842	0	0	0	0	0	0	3,922,795	84,643,700
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054		
HVAC/Water Heater (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	6,315
Monthly MT Obligation (MTO)	63,938	47,344	71,765	0	0	28,647	0	0	0	0	0	0	211,694	4,575,848
Annual Cal e-GGRT/MT Obligation True Up (MTO)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cumulative MT Obligation (MTO)	1,003,773	1,051,117	1,122,882	1,122,882	1,122,882	1,151,529	1,151,529	1,151,529	1,151,529	1,151,529	1,151,529	1,151,529	1,151,529	1,151,529
Compliance Instrument Participant Transfers														
Carryover Allowances	30,000	0	0	0	0	0	0	0	0	0	0	0	30,000	99,263
Auction Allowances	14,857	317,268	0	0	0	0	0	0	0	0	0	0	332,125	4,908,024
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	44,857	317,268	0	0	0	0	0	0	0	0	0	0	362,125	5,007,287
NCPA Compliance Instrument Purchases														
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument NCPA Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Internal Transfers (LEC from/to STIG)	0	0	0	0	0	0	0	0	0	0	0	0	0	(678)
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	3,418,853
Total Monthly Activity (MT)	44,857	317,268	0	0	0	0	0	0	0	0	0	0	362,125	5,053,609
Cumulative MT Account Balance (MTA)	1,318,166	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434	1,635,434
MTA Shortfall (MT)	(314,393)	(584,317)	(512,552)	(512,552)	(512,552)	(483,905)	(483,905)	(483,905)	(483,905)	(483,905)	(483,905)	(483,905)	(483,905)	(483,905)
Current Month CCA Balance (\$)	0	0	0	468,246	0	0	0	0	0	0	0	0	0	468,246
Monthly GHG Price	30.71	30.87	34.85	31.19	31.35	35.33	31.66	31.82	35.80	32.14	32.30	36.28		



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

AGENDA ITEM NO.: 11

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**Meeting Date:** April 10, 2023

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

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

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### Proposal

Approve the Multi-Task General Services Agreement with OST Trucks and Cranes, Inc. for crane related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various crane related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with American Crane Rental, Hatton Crane & Rigging, Maxim Crane Works, Summit Crane and Titan Crane & Rigging.

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$1,500,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with OST Trucks and Cranes, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
OST TRUCKS AND CRANES, 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 OST Trucks and Cranes, Inc., a corporation with its office located at 2951 N. Ventura Avenue, Ventura, CA 93001 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. 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 FIVE HUNDRED THOUSAND dollars (\$1,500,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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



**4.3 Professional Liability Insurance.** Not Applicable.

**4.4 Riggers Liability Insurance.** If the Services involves moving, hoisting, lifting, picking, erecting, lowering, rigging, or use of a crane, Contractor shall maintain Riggers Liability Insurance in an amount not less than the full replacement cost of the property, materials or equipment being moved, hoisted, lifted, picked, erected, lowered, rigged or craned. There shall be no sublimit for the property of others in the Contractor's care, custody or control.

**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.

The failure of Agency to identify any deficiencies in the certificate(s) or endorsement(s) provided by Contractor shall not be construed as acceptance of the noncompliant coverage nor a waiver of Contractor's obligation to maintain coverage compliant with the requirements set forth herein. Agency does not represent or warrant that coverage and limits will be adequate to protect Contractor from loss, and such coverage and limits required herein shall not be deemed a limitation on Contractor's liability under this Agreement. Agency has not waived, and is not estopped from asserting against Contractor, any claim or claims alleging Contractor's breach of any of its insurance procurement or maintenance obligations.

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

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

**4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

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

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

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

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

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

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

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

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

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

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

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

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

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

**6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall

be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

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

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 **Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 **Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770

and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**Section 11. WARRANTY.**

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

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

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

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

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

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

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

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

OST Trucks and Cranes, Inc.  
Attention: Chris Lang  
2951 N. Ventura Avenue  
Ventura, CA 93001

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
  - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
  - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
  - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

- 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCLPA or SCLPA 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

OST TRUCKS AND CRANES, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**CHRIS LANG,**  
Vice President

Attest:

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

Approved as to Form:

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

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

OST Trucks and Cranes, Inc. ("Contractor") shall provide truck and crane services, including trucks, cranes and operators, as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Engineering and Project Management for crane rental projects
- Crane and lift training
- Engineered crane lifts
- Crane rentals and crane rental services
- Rigging services
- Transportation services
- Heavy lifts/Heavy transportation services
- On-site evaluations
- Operated and Maintained Crane Rental
- Base crane rental

Contractor may provide services at all Project Site Locations.

## **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:

SEE FOLLOWING PAGE



## SCHEDULE A - TRANSPORTATION

TYPE OF EQUIPMENT	PER HOUR
Pickup Truck - Hot Shot-----	\$ 120.00
Flatbed Truck-----	\$ 123.00
Tractor & Highbed-----	\$ 133.00
Tractor w/ Stretch Semi Trailer/ Pole Dolly-----	\$ 143.00
Hydrolift Truck - 22 Ton-----	\$ 158.00
Hydrolift Truck - 23 Ton-----	\$ 168.00
Hydrolift Truck - 30 Ton-----	\$ 178.00
Tractor & Driver Only - Legal Loads - Shipper Owned ---	\$ 133.00
Tractor & Driver Only - Requiring Permit-----	\$ 138.00
Hydrolift Truck Operating Engineer-----	\$ 215.00

HEAVY DUTY LOW BED SEMI UNITS	PER HOUR
0 to 25 Ton-----	\$ 142.00
25 to 30 Ton-----	\$ 147.00
30 to 35 Ton-----	\$ 152.00
35 to 40 Ton-----	\$ 157.00
40 to 50 Ton-----	\$ 187.00
50 to 60 Ton-----	\$ 197.00
60 to 70 Ton-----	\$ 207.00
70 to 80 Ton-----	\$ 232.00
Lowbed Rail Trailer-----	Call for rates

\*\*\*Over 80 Ton - Call for Price Quote\*\*\*  
**EXTRA CHARGE FOR PERMIT COSTS - SEE SPECIAL SERVICE RATES**

EXTRA TRAILERS & SEMI TRAILERS	PER DAY
Semi Hi-Bed Trailer - Carrier Owned-----	\$ 60.00
Semi Lo-Bed Trailer - Carrier Owned-----	\$ 100.00

SPECIAL SERVICE & EQUIPMENT	PER HOUR
Helpers or <del>Swampers</del> -----	\$ 90.00
Working Foreman-----	\$ 155.00
Pilot Cars-----	\$ 100.00
Mechanic-----	\$ 150.00
All Loads Requiring Permit - Service Charge	\$ 75.00
<del>Plus</del> Insurance Charge and 3%	
Hazardous endorsement loads-----	\$ 10.00

All rates are portal to portal. All equipment and labor listed are based on a two hour minimum between the hours of 6:00 AM to 6:00 PM Monday through Friday. All other times will be a four hour minimum unless noted otherwise.  
 Subsistence will be charged at \$150.00 per night if applicable

OVERTIME	
For work performed in excess of eight hours, before 6:00 am, after 5:00 pm, Saturdays or Sundays - add to applicable rate-----	\$ 32.50

DOUBLETIME	
Shall be paid for all hours in excess of twelve (12) hours in one (1) tour of duty (Christmas Eve)-----	\$ 48.00

HOLIDAY ( 8 hour minimum)	
If holiday falls on Sunday, Monday shall be holiday or any day celebrated in lieu of holiday. (July 4, Memorial Day, Labor Day, Veteran's Day, Thanksgiving, Day After Thanksgiving, Christmas, New Year's Day) Add per hour to above rates-----	\$ 102.00

## SCHEDULE B - CRANE SERVICE

TYPE OF EQUIPMENT	PER HOUR
<b>Conventional Cranes</b>	
Truck Crane 100 Ton Capacity-----	\$ 405.00
Truck Crane 140 Ton Capacity-----	\$ 455.00
Truck Crane 150 Ton Capacity-----	\$ 465.00

<b>Hydraulic Cranes - One Man Crew</b>	
Hydraulic Crane 25 Ton Capacity-----	\$ 215.00
Hydraulic Crane 40 Ton Capacity-----	\$ 235.00
Hydraulic Crane 65 Ton RT Capacity-----	\$ 265.00

<b>Hydraulic Cranes - Two Men Crew</b>	
Hydraulic Crane 50 Ton Capacity-----	\$ 360.00
Hydraulic Crane 60 Ton Capacity-----	\$ 370.00
Hydraulic Crane 70 Ton Capacity-----	\$ 380.00
Hydraulic Crane 90 Ton Capacity-----	\$ 400.00
Hydraulic Crane 115 Ton Capacity-----	\$ 430.00
Hydraulic Crane 120 Ton Capacity-----	\$ 435.00
Hydraulic Crane 140 Ton Capacity-----	\$ 460.00
Hydraulic Crane 175 Ton Capacity-----	\$ 510.00
Hydraulic Crane 210 Ton Capacity-----	\$ 540.00
Hydraulic Crane 250 Ton Capacity-----	\$ 565.00
Hydraulic Crane 300 Ton Capacity-----	\$ 615.00

ADDITIONAL SERVICES	
Truck required to transport extra boom sections and/ or accessories Per Hour-----	\$ 150.00
Pickup/ Rigging truck to follow crane Per Day-----	\$ 110.00
Riggers/ Ironworkers Per Hour-----	\$ 140.00

ADDITIONAL BOOM CHARGE	
Length 80' - 100' inc. jib-----	\$ 6.00
Length 100' - 160' inc. jib-----	\$ 10.00
Length 160' - 220' inc. jib-----	\$ 12.00
Length 220' - 300' inc. jib-----	\$ 18.00
Length 300' - 320' inc. jib-----	\$ 25.00
Length 320' - 340' inc. jib-----	\$ 30.00
Length 340' - 360' inc. jib-----	\$ 35.00
Length 360' - 400' inc. jib-----	\$ 45.00

ACCESSORY EQUIPMENT	PER DAY
Dragline, Clam Bucket or <del>Manbasket</del> -----	\$ 200.00
Spreader Bars, Breaking Ball, Concrete Buckets-----	\$ 70.00
Anti-tool blocking w/ OSHA approved <del>Manbasket</del> -----	\$ 250.00
Test Weights-----	Call for Rates
Lift Plans-----	Call for Rates

**MINIMUM CHARGE FOR ALL SERVICE WILL BE FOUR (4) HOURS**  
**All Rates are Portal to Portal**

## SCHEDULE B - CRANE SERVICE

...continued from previous page

### OVERTIME / DOUBLETIME / TRIPLETIME CHARGES

**Overtime** - For work performed in excess of eight hours, before 6:00 am, after 5:00 pm or on Saturdays or Sundays  
-add to applicable rates

	PER HOUR
1 Man Crane-----	\$ 57.65
2 Men Crane-----	\$ 115.25

**Doubletime** - Sundays, Monday thru Saturday after the 12<sup>th</sup> hour, or working with crafts receiving doubletime.  
-add to applicable rates

1 Man Crane-----	\$ 90.25
2 Men Crane-----	\$ 180.50

**Triplettime** - All holidays to be an 8 hour minimum - add to applicable rate

1 Man Crane-----	\$ 135.75
2 Men Crane-----	\$ 271.50

**Holidays**-New Year's Day, Presidents' Day, Memorial Day, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas Day, The first Saturday after the first Friday in June and December or other special union requirements.

If any of the holidays fall on Sunday, the Monday following shall be considered a holiday.

**Standby Time** for State, County, and City Permits or other misc. requirements will be charged for at regular crew time only - this rate is per hour

1 Man Crane-----	\$ 130.00
2 Men Crane-----	\$ 255.00

**Subsistence** - 45 to 77.5 miles per man per night \$ 115.00  
**Subsistence** - 77.5 miles and over per man per night \$ 225.00  
**Certified Payroll** - per job \$ 50.00

## SCHEDULE C - STORAGE

TYPE OF SERVICE	PER HOUR
30000# Forklift-----	\$ 155.00
25000# Forklift-----	\$ 150.00
20000# Forklift-----	\$ 140.00
18000# Forklift-----	\$ 120.00
16000# Forklift-----	\$ 115.00
8000# Forklift-----	\$ 120.00

Helpers or Swimmers-----	\$ 87.00
Tubular Storage - per rack	\$ 150.00
Storage of non-tubular items	Call for Rates

Dunnage will be charged for or furnished by contractor.

Office Space and Special Service Rates available upon request.

**OVERTIME-4 hour minimum call out**  
For work performed in excess of eight hours, before 6:00 am, after 5:00 pm or on Saturdays or Sundays Add to above rates -----

	\$ 32.50
--	----------

**DOUBLETIME-**  
Shall be paid for all hours in excess of twelve (12) hours in one (1) tour of duty.

	\$ 48.00
--	----------

**HOLIDAYS-8 hour minimum call out**  
If any of the holidays fall on Sunday, the Monday following shall be considered a holiday.  
(July 4, Memorial Day, Labor Day, Veteran's Day, Thanksgiving, Day After Thanksgiving, Christmas, New Year's Day)

Add per hour to above rates -----	\$ 102.00
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<p align="center"><b>SCHEDULE E</b></p> <p align="center"><b>ROLL OFF TRUCKS AND CONTAINERS</b></p>
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TYPE OF EQUIPMENT	PER HOUR
Roll Off Truck for 1 Container-----	\$ 132.00
Roll Off Truck for 2 Containers -----	\$ 142.00
Tractor and Semi Roll-Off Trailer-----	\$ 142.00
Hazardous Endorsement Loads -----	\$ 10.00
Bins - Daily Rental after 7 days-----	\$ 30.00
Covered top Bin (per day) -----	\$ 35.00
Bin Liner - Small-----	\$ 30.00
Bin Liner - Large-----	\$ 35.00
Foam (per can) -----	\$ 20.00
Tyveks-----	\$ 25.00
Monthly Rental Bins -----	\$ 375.00
Disposal Costs - Actual Cost + 15% handling	

All rates are portal to portal. All equipment and labor listed are based on a two hour minimum between the hours of 6:00 AM to 6:00 PM Monday through Friday. All other times will be a four hour minimum unless noted otherwise.

**OVERTIME-4 hour minimum call out**

For work performed in excess of eight hours, before 6:00 am, after 5:00 pm or on Saturdays or Sundays Add to above rates ----- \$ 32.50

**DOUBLETIME-**

Shall be paid for all hours in excess of twelve (12) hours in one (1) tour of duty. \$ 48.00

**HOLIDAYS-8 hour minimum call out**

If any of the holidays fall on Sunday, the Monday following shall be considered a holiday.  
(July 4, Memorial Day, Labor Day, Veteran's Day, Thanksgiving, Day After Thanksgiving, Christmas, New Year's Day)

Add per hour to above rates ----- \$ 102.00

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,

---

(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

OST Trucks and Cranes, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

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

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

**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 12

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**Meeting Date:** April 10, 2023

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

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

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### Proposal

Approve the First Amendment to the Multi-Task General Services Agreement with Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy for chiller and HVAC maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, modifying Exhibit A and Exhibit B, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Chiller and HVAC maintenance services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task General Services Agreement with Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy effective December 9, 2019, for use at all NCPA, NCPA Members, SCPPA, and SCPPA Member facilities.

NCPA has utilized Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy regularly for chiller services at its CT2 plant. NCPA recently discovered this vendor can also perform boiler work. NCPA now desires to enter into a First Amendment to the Multi-Task General Services Agreement to modify Exhibit A to add boiler maintenance services to the Scope of Work and to modify Exhibit B to update pricing and add clarifying language regarding billing. NCPA has agreements in place with ACCO Engineered Systems, Inc. and Johnson Controls, Inc. for similar 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 does not have other agreements for similar services at this time. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy
- First Amendment to Multi-Task General Services Agreement with Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy





**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
MESA ENERGY SYSTEMS, INC. dba EMCOR SERVICES MESA ENERGY**

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 Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy, a corporation with its office located at 2 Cromwell, Irvine, CA 92618 ("Contractor") (together sometimes referred to as the "Parties") as of 12/9/, 2019 ("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.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Not Applicable.

**4.4 Pollution Insurance.** Not Applicable.

**4.5 All Policies Requirements.**

**4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

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

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

**4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

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

**4.6 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the



provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

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

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

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

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

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

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

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

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

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

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

**Section 7. LEGAL REQUIREMENTS.**

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

State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

**9.4.4 Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are

necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

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

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

## **Section 11. WARRANTY.**

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

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

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

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

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

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

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

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

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

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

Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy  
Attention: Mike Bruins  
3906 Kristi Court  
Sacramento, CA 95827

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive

Roseville, CA 95678

With a copy to:

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

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
  - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
  - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
  - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
  - 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
  - 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative



remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

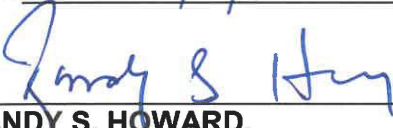
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

MESA ENERGY SYSTEMS, INC. dba  
EMCOR SERVICE MESA ENERGY

Date 12/9/19

Date 11/5/19

  
**RANDY S. HOWARD,**  
General Manager

  
**LEON RUA,**  
Branch Manager

Attest:  
  
Assistant Secretary of the Commission



Approved as to Form:



Jane E. Luckhardt, General Counsel

## EXHIBIT A

### SCOPE OF WORK

Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy ("Contractor") shall provide chiller and HVAC 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:

- Chiller Maintenance
- HVAC Maintenance

CT Facilities Specific Chiller Services to Include:

Service	Frequency Per Year
Operational Inspections	3
Annual PM	1
Megohm Ref. and Solution Pump	1
Lithium Bromide Analysis	1

#### **ABSORPTION CHILLER ANNUAL MAINTENANCE**

1. CHECK IN WITH PROPER SITE PERSONNEL
2. CHECK ABSORPTION CHILLER OPERATIONS
3. CHECK SYSTEM SAFETIES
4. CHECK SYSTEM OPERATING PRESSURES AND TEMPERATURES
5. CHECK REFRIGERANT CHARGE
6. CHECK REFRIGERANT AND SOLUTION PUMP OPERATIONS
7. CHECK REFRIGERANT AND SOLUTION PUMP AMPERAGE PER MOTOR NAMEPLATE
8. MEGOHM TEST REFRIGERANT AND SOLUTION PUMP WINDINGS
9. CALIBRATE THERMISTORS AND SENSORS AS NEEDED
10. CHECK PURGE SOLENOID VALVE
11. CHECK PURGE OPERATIONS
12. CHANGE PURGE PUMP OIL IF NEEDED
13. CHECK AND VERIFY COOLER AND CONDENSER APPROACH
14. CHECK TUBE CLEANLINESS (customer to remove end bells and reinstall)
15. LOG ENTERING AND LEAVING FLUID TEMPERATURES
16. CHECK STEAM TEMPERATURE AND PRESSURE
17. CHECK FOR UNUSUAL NOISE AND VIBRATION
18. CHECK OVERALL ABSORPTION CHILLER CONDITION
19. CLEAN AREA AROUND WORK SPACE
20. COMPLETE ANY REQUIRED MAINTENANCE CHECK LISTS ITEM IN MANUFACTURE IOM
21. REPORT FINDINGS TO CUSTOMER

#### **ABSORPTION CHILLER OPERATIONAL MAINTENANCE**

1. CHECK IN WITH PROPER SITE PERSONNEL
2. CHECK ABSORPTION CHILLER OPERATIONS
3. CHECK SYSTEM OPERATING PRESSURES AND TEMPERATURES
4. CHECK REFRIGERANT CHARGE
5. CHECK REFRIGERANT AND SOLUTION PUMP OPERATIONS
6. CHECK PURGE SOLENOID VALVE OPERATION
7. CHECK PURGE OPERATIONS
8. CHANGE PURGE PUMP OIL IF NEEDED
9. CHECK AND VERIFY COOLER AND CONDENSER APPROACH
10. LOG ENTERING AND LEAVING FLUID TEMPERATURES
11. CHECK STEAM TEMPERATURE AND PRESSURE
12. CHECK FOR UNUSUAL NOISE AND VIBRATION
13. CHECK OVERALL CONDITION
14. CLEAN AREA AROUND WORK SPACE
15. REPORT FINDINGS TO CUSTOMER

#### **ABSORPTION CHILLER LITHIUM BROMIDE ANALYSIS**

1. CHECK IN WITH CUSTOMER
2. REMOVE SAMPLE PER GUIDELINES
3. DROP OFF FOR ANALYSIS
4. LABEL AND COMPLETE PAPERWORK INDICATING PRESENT OPERATING CONDITIONS
5. PROVIDE LITHIUM BROMIDE SAMPLE RESULTS TO CUSTOMER

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### CT Facilities Fees:

Year 1 - \$5,417.00/Year (billed quarterly)  
Year 2 - \$5,633.00/Year (billed quarterly)  
Year 3 - \$5,859.00/Year (billed quarterly)  
Year 4 - \$6,093.00/Year (billed quarterly)  
Year 5 - \$6,337.00/Year (billed quarterly)

#### Standard Service Call Rates:

Labor Classification	Straight Rate	Overtime Rate	Weekend/Holiday Rate
Unitary (Regular HVAC)	\$130.00	\$195.00	\$260.00
Applied (Chillers)	\$145.00	\$217.50	\$290.00
Controls (BMS)	\$145.00	\$217.50	\$290.00
Parts & Supplies	Cost Plus 35%		
Truck Charge	\$85.00		

Pricing for services to be performed at other NCPA facilities, 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, LEON RUA / BRANCH MANAGER

(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

Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy

(Company name)

for contract work at:

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

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this NOVEMBER day of 26, 20 19.

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

**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: 11/5/19

Name of Employer

MESA ENERGY SYSTEMS  
LEON RUIZ - BRANCH MANAGER  
(Authorized Officer & Title)  
3906 KRISTI COURT  
SACRAMENTO, CA 95827  
(Address)



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND MESA ENERGY SYSTEMS, INC. DBA  
EMCOR SERVICES MESA ENERGY**

This First Amendment (“Amendment”) to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Mesa Energy Systems, Inc. dba Emcor Services Mesa Energy (“Contractor”) (collectively referred to as “the Parties”) as of \_\_\_\_\_, 2023.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective December 9, 2019, (the “Agreement”) for Contractor to provide chiller and HVAC maintenance services at any facilities owned or operated by NCPA, NCPA Members, SCPPA and SCPPA Members; and

WHEREAS, the Agency now desires to amend the Description of Work set forth in Exhibit A to the Agreement to add boiler and burner maintenance to the Scope of Work; and

WHEREAS, the Agency now desires to amend the Compensation Schedule and Hourly Fees set forth in Exhibit B to the Agreement as of the effective date of the Amendment; and

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

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

NOW, THEREFORE, the Parties agree as follows:

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

SIGNATURES ON FOLLOWING PAGE



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

NORTHERN CALIFORNIA POWER AGENCY

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

Attest:

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

Approved as to Form:

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

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

MESA ENERGY SYSTEMS, INC. DBA  
EMCOR SERVICES MESA ENERGY

\_\_\_\_\_  
**LEON RUA, Branch Manager**

## EXHIBIT A

### SCOPE OF WORK

Mesa Energy Systems, Inc. dba EMCOR Services Mesa Energy ("Contractor") shall provide chiller, HVAC, and boiler and burner 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:

- Chiller Maintenance
- HVAC Maintenance
- Boiler and Burner Maintenance

CT Facilities Specific Chiller Services to Include:

Service	Frequency Per Year (But Not Required)
Operational Inspections	2
Annual PM	1
Megohm Ref. and Solution Pump (Part of Annual Service)	1
Lithium Bromide Analysis (Part of Annual Service)	1

No project under this Agreement shall include Work that would qualify as a Public Works Project under the California Public Contract Code.

### **ABSORPTION CHILLER ANNUAL MAINTENANCE**

1. CHECK IN WITH PROPER SITE PERSONNEL
2. CHECK ABSORPTION CHILLER OPERATIONS
3. CHECK SYSTEM SAFETIES
4. CHECK SYSTEM OPERATING PRESSURES AND TEMPERATURES
5. CHECK REFRIGERANT CHARGE
6. CHECK REFRIGERANT AND SOLUTION PUMP OPERATIONS
7. CHECK REFRIGERANT AND SOLUTION PUMP AMPERAGE PER MOTOR NAMEPLATE
8. MEGOHM TEST REFRIGERANT AND SOLUTION PUMP WINDINGS
9. CALIBRATE THERMISTORS AND SENSORS AS NEEDED
10. CHECK PURGE SOLENOID VALVE
11. CHECK PURGE OPERATIONS
12. CHANGE PURGE PUMP OIL IF NEEDED
13. CHECK AND VERIFY COOLER AND CONDENSER APPROACH
14. CHECK TUBE CLEANLINESS (customer to remove end bells and reinstall)
15. LOG ENTERING AND LEAVING FLUID TEMPERATURES
16. CHECK STEAM TEMPERATURE AND PRESSURE
17. CHECK FOR UNUSUAL NOISE AND VIBRATION
18. CHECK OVERALL ABSORPTION CHILLER CONDITION
19. CLEAN AREA AROUND WORK SPACE
20. COMPLETE ANY REQUIRED MAINTENANCE CHECK LISTS ITEM IN MANUFACTURE IOM
21. REPORT FINDINGS TO CUSTOMER

### **ABSORPTION CHILLER OPERATIONAL MAINTENANCE**

1. CHECK IN WITH PROPER SITE PERSONNEL
2. CHECK ABSORPTION CHILLER OPERATIONS
3. CHECK SYSTEM OPERATING PRESSURES AND TEMPERATURES
4. CHECK REFRIGERANT CHARGE
5. CHECK REFRIGERANT AND SOLUTION PUMP OPERATIONS
6. CHECK PURGE SOLENOID VALVE OPERATION
7. CHECK PURGE OPERATIONS
8. CHANGE PURGE PUMP OIL IF NEEDED
9. CHECK AND VERIFY COOLER AND CONDENSER APPROACH
10. LOG ENTERING AND LEAVING FLUID TEMPERATURES
11. CHECK STEAM TEMPERATURE AND PRESSURE
12. CHECK FOR UNUSUAL NOISE AND VIBRATION
13. CHECK OVERALL CONDITION
14. CLEAN AREA AROUND WORK SPACE
15. REPORT FINDINGS TO CUSTOMER

### **ABSORPTION CHILLER LITHIUM BROMIDE ANALYSIS**

1. CHECK IN WITH CUSTOMER
2. REMOVE SAMPLE PER GUIDELINES
3. DROP OFF FOR ANALYSIS
4. LABEL AND COMPLETE PAPERWORK INDICATING PRESENT OPERATING CONDITIONS
5. PROVIDE LITHIUM BROMIDE SAMPLE RESULTS TO CUSTOMER

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### CT Facilities Fees\*:

<u>Estimated Quantity</u>	<u>Item Description</u> (Assumes Straight Time Rate)	<u>Unit Price (Price per service to be billed only when services rendered)</u>
1	Annual In-Depth PM: - Megohm Ref. and Solution Pump (part of annual service) - Lithium Bromide Analysis (part of annual service)	\$ 3,677.00*
2	Operational/Quarterly Service	\$ 870.00*

\*Prices are subject to change, up to 5% each year

#### Standard Service Call Rates\*\*:

Labor Classification	Straight Rate	Overtime Rate	Weekend/Holiday Rate
Unitary (Regular HVAC)	\$150.00	\$225.00	\$300.00
Applied (Chillers)	\$165.00	\$247.50	\$330.00
Controls (BMS)	\$165.00	\$247.50	\$330.00
Parts & Supplies	Cost Plus 35%		
Truck Charge	\$100.00		

\*\*Base rates go up \$5.00 every July.

Pricing for additional services to be performed at other NCPA facilities, 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.



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

AGENDA ITEM NO.: 13

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**Meeting Date:** April 10, 2023

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

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

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### Proposal

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

### Background

Various inspection services related to HRSG, power piping, steam plant assessments, root cause failures and consulting engineering services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with Groome Industrial, HRST, Inc., Nooter Eriksen and N&T Consulting Service Inc. (pending).

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Professional Services Agreement with Tetra Engineering Group, Inc.



## **MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND TETRA ENGINEERING GROUP, INC.**

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 Tetra Engineering Group, Inc., a Connecticut corporation with its office located at 110 Hopmeadow Street, Suite 800, Weatogue, CT 06089 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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



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

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

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

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

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

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

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

**4.4 All Policies Requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

Tetra Engineering Group, Inc.  
Attention: Peter S. Jackson, President  
P.O. Box 55  
Weatogue, CT 06089

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

- 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 10.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 10.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.
- 10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 10.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 10.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide services to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this Section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

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

NORTHERN CALIFORNIA POWER AGENCY

TETRA ENGINEERING GROUP, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**PETER S. JACKSON**  
President

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

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

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

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

Contractor may provide services at all Project Site Locations.

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

<b>Labor Category</b>	<b>Rate (USD/hr)</b>
Senior Project Manager	\$ 343.75
Assistant Project Manager	\$ 312.50
Senior Consulting Engineer	\$ 281.25
Consulting Engineer / TFA	\$ 218.75
Senior Engineer	\$ 187.50
Engineer II	\$ 156.25
Drafter/Senior Designer	\$ 156.25
Drafter/Junior Designer	\$ 118.75
Technical Support	\$ 110.00

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 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

Tetra Engineering Group, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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



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

AGENDA ITEM NO.: 14

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**Date:** April 3, 2023

**Meeting Date:** April 10, 2023

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

**Subject:** Approval of Northern California Power Agency's Cyber Insurance Liability Program Renewal for April 2023 to April 2024

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### Proposal

LEC PPC delegates authority to the General Manager or his designee to negotiate and bind the Cyber Liability Insurance program for the term starting April 27, 2023, and ending April 27, 2024, at a not-to-exceed premium of \$258,000 for the Northern California Power Agency and Lodi Energy Center.

### Background

Alliant Insurance Services has aggressively marketed the Cyber Security Insurance Program to ensure best-in-class pricing, terms, and conditions. Earlier in the year, the Insurance Markets indicated that insurers were seeing twenty to thirty percent year-over-year increases; these increases were later confirmed during market solicitation meetings with Alliant in December of 2022. The IS team and Plant personnel were instrumental in assisting with completing the insurer's lengthy application. The insurer requested no follow-up questions or clarifications. This effort led to the pricing improving substantially; Alliant estimates that the 2023 renewal premium will increase by approximately 10%. Staff recommends a not-to-exceed of \$258,000 to provide sufficient headroom for the General Manager to bind coverage.

### **Coverage Details**

Below are the provided coverages deemed as critical coverage areas to limit the Agency's risk exposure:

Business Interruption and Extra Expense –responds to a loss of income and operating expenses when business operations are interrupted or suspended due to a network security failure.

Data Recovery –responds to a loss of digital information assets, including customer databases resulting from a network security failure.

Cyber Extortion –reimburses for payments made to settle network security-related extortion demands (e.g., threats to shut down websites, release confidential customer information, or vandalization of computer networks).

Privacy and Security –responds to and covers claims arising from disclosing personally identifiable or confidential corporate information from various sources (e.g., phishing). Coverage extends to data in all forms (electronic and hard copy).

Breach Event and Crisis Management Coverage –responds to the costs to retain vendors/services to assist in managing and mitigating a covered privacy or network security incident.

#### Fiscal Impact

The total cost of the policy year 2023 Cyber Liability Insurance program is estimated not-to-exceed \$258,000. This amount is already included in the Risk Management budget; no budget augmentation is required. The cost is split 90% to Integrated Systems Support which is included in the Nexant allocation model, and 10% to the A&G allocation methodology.

#### 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:

Randall Kramer  
Energy Risk Analyst





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

AGENDA ITEM NO.: 15

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**Meeting Date:** April 10, 2023

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

**Subject:** Siemens Energy, Inc. – Five Year Multi-Task General Services Agreement;  
Applicable to the following projects: Northern California Power Agency (NCPA)  
Lodi Energy Center and Geothermal Facility Locations, City of Redding and City of  
Roseville

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### Proposal

Approve the Multi-Task General Services Agreement with Industrial Siemens Energy, Inc. for T3000 maintenance and support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$6,000,000 over five years for use at NCPA Lodi Energy Center (LEC) and Geothermal (GEO) facilities as well as the City of Redding and the City of Roseville.

### Background

In February 2016, a Power Plant Working Group was created which includes members from NCPA, City of Redding, City of Roseville and Silicon Valley Power. The group meets quarterly to discuss safety, environmental and plant technical issues. During these discussions, it was discovered that the LEC, GEO, City of Redding and City of Roseville facilities utilize the Siemens T3000 Control System. T3000 maintenance and support services are required from time to time related to project support at NCPA LEC and GEO facilities as well as the City of Redding and the City of Roseville. By collectively establishing one agreement with Siemens for these services, all of the facilities will benefit from discounted pricing on services as well as parts purchases. The cities of Redding and Roseville will utilize this agreement through NCPA's Shared Services Program.

### Selection Process

Siemens is the original equipment manufacturer (OEM) for the control systems. They provide all of the upgrades and patch management for the control systems. This support is only available from the OEM. Options to executing this agreement would be to do nothing, buy a new control system from a different manufacturer, or execute an agreement with the OEM.

Doing nothing is not acceptable because it leaves the system vulnerable to cyber-attacks and other flaws. Purchasing a new control system is also not feasible, as it would cost millions of dollars and extensive down time of the unit for installation.

By combining efforts with Roseville and Redding, NCPA is able to negotiate a discount applicable to all participants. If the City of Redding and/or the City of Roseville opt to not use

this agreement, NCPA will not be able to apply the discounted pricing. With the discount, the annual cost for LEC is approved at \$246,171.80 per year. The annual cost for the Geysers will be \$230,931.40 per year.

Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$6,000,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Siemens Energy, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
SIEMENS ENERGY, 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 Siemens Energy, Inc., a Delaware corporation with its office located at 100 Technology Parkway, Alpharetta, GA 30005 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter, unless extended in writing by mutual agreement of the Parties to complete a specific outstanding Purchase Order or terminated earlier in accordance with Section 8 ("Termination") below.
- 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. Contractor shall ensure all personnel assigned to perform the Work meet and follow the requirements specified below for unescorted physical or electronic access:
  - Complete a Personnel Risk Assessment, provided by the Contractor, comprised of the following: 1) verification of identification, (2) criminal history reference check for the previous seven (7) years, and 3) written confirmation that the results of the criminal history reference check are within the acceptance criteria defined by Agency and included in Exhibit C, and
  - Complete an initial security training and annual training thereafter, both of which will be provided by Agency.

Contractor shall notify Agency within 24 hours of voluntary separation or termination of one of its personnel who has been granted unescorted physical or

electronic access to Agency facilities or systems. And, Contractor shall notify the Agency within 24 hours of any lost or stolen Agency issued badges or electronic access authenticators. Failure to timely notify Agency of voluntary termination or separation, or loss of access badge or authenticator may be considered by Agency as Contractor breach of this Agreement allowing Agency to immediately terminate this Agreement without liability to Agency pursuant to the provisions set forth in Section 8.

- 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.
- 1.6 Changes in Name, Ownership, or Control.** Contractor shall notify the Agency in writing of any change in name, ownership or control of Contractor's corporation. Changes in the name will require an amendment to this Agreement.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** SIX MILLION dollars (\$6,000,000.00) 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. The dollar amount set forth and authorized in a Purchase Order does not include any state or local sales or use taxes. Such sales or use taxes are for the account of Agency and Agency agrees to pay any sales or use tax to reimburse Contractor consistent with the payment terms set forth herein. Should Agency be exempted from any such tax, it shall provide Contractor certification thereof no later than the effective date of the Purchase Order. Contractor shall split labor vs. material costs on any invoice submitted so it is clear what items are taxable and shall identify any taxable items. All other taxes at any level of government are for the account of Contractor.
- 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 sole cost and expense, shall procure and maintain the types and

amounts of insurance listed below with insurance companies having an A.M. Best rating of A/VIII or better, or otherwise acceptable to Agency. Contractor shall maintain the types and amount of insurance listed below for the period covered by this Agreement, unless otherwise specified below.

- 4.1 Workers' Compensation & Employer's Liability Insurance.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance in compliance with all applicable federal, state and local laws, regulations and statutes, for any and all persons employed directly or indirectly by Contractor. Contractor shall maintain Employer's Liability insurance with limits of not less than one million dollars (\$1,000,000.00) for bodily injury by per accident, \$1,000,000 for bodily injury by disease (each employee), \$1,000,000 for bodily injury by disease (policy limit).
- 4.2 Commercial General Liability Insurance.** Contractor shall maintain commercial general liability insurance with limits of \$2,000,000 per occurrence, \$2,000,000 in the aggregate. Coverage shall be at least as broad as ISO Form CG 00 01 04 13, or other equivalent form acceptable to Agency. Products-completed operations coverage shall apply through the expiration of all applicable statutes of limitation and statutes of repose. Such coverage shall include, with no sublimit: broad form third party bodily injury, including death; broad form property damage, including loss of use thereof; premises & operations; contractual liability, including tort liability of another assumed in a written agreement; liability for work within 50 feet of a railroad or railroad right of way; independent contractors; sudden & accidental pollution liability; fire, explosion and underground damage (XCU coverage); and include defense coverage outside the limits.
- 4.3. Business Automobile Liability.** Contractor shall maintain automobile liability insurance for all owned, non-owned, hired and leased vehicles, including loading and unloading, with limits no less than \$1,000,000 combined single limit for bodily injury and property damage. Coverage shall be at least as broad as form CA 0001 (current edition). If the work includes transportation of hazardous materials, coverage shall include pollution coverage on ISO Form CA 99 48, or its equivalent. If the work includes transportation hazardous waste, a compliant MCS-90 shall be endorsed. for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$2,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.
- 4.4 Umbrella/Excess Liability Insurance.** Contractor shall maintain umbrella/excess liability insurance on a follow-form basis, including drop down coverage, with limits of \$5,000,000 per occurrence/aggregate. Such coverage shall be on an occurrence form and shall provide coverage in excess of the Employer's Liability, Commercial General Liability, and Automobile Liability insurance. Such coverage

shall not contain any endorsements that restrict the underlying policies or exclude cross liability. The coverage amounts set forth above in Sections 4.2 and 4.3 may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

**4.5 Not Applicable (Professional Liability).**

**4.6 Not Applicable (Pollution Insurance).**

**4.7 Not Applicable (Aircraft Liability).**

**4.8 Cyber Risk Liability.** If Contractor has access to Agency's IT systems or critical cyber assets, Contractor shall, at its own expense, procure and maintain in full force at all times during the term of each Purchase Order, Cyber Liability and Information Technology Errors and Omissions Insurance (IT E&O), including coverage for loss/violation of data, media liability, privacy liability, and network security breach. Contractor's Cyber Liability insurance shall include coverage for Contractor's legal liability for financial losses caused by an information security breach, including loss of data, data deletion or data manipulation, as well as interruptions to Contractor's operations related to network security breaches, with a limit of \$5,000,000 each occurrence and in the aggregate. Such coverage shall include Contractor's legal liability for losses in connection to the transfer of malware to Agency's systems or the publication of sensitive data (e.g. personal data or business secrets). Contractor's IT E&O insurance shall include coverage for Contractor's legal liability for financial loss of the Agency caused by the Contractor's Software products and IT-related services, with a limit of \$5,000,000 each claim and \$10,000,000 in the annual aggregate. Contractor shall have the right to maintain these coverages outside of the U.S. through a corporate affiliate.

**4.9 All Policies Requirements.**

**4.9.1 Additional Insured.** Agency shall be included as additional insureds on each of the Contractor's policies except for Workers' Compensation and Professional Liability. The additional insured protection for the commercial general liability and umbrella/excess liability shall include both ongoing and completed operations coverage. Additional insured coverage shall not be limited to the minimum amounts of insurance required by written agreement and shall extend through the expiration of all applicable statutes of limitation and statutes of repose.

**4.9.2 Primary/Non-Contributory.** Contractor's insurance coverage shall be primary and any insurance or self-insurance of Agency shall be excess and non-contributory to Contractor's coverage.

**4.9.3 Severability of Interests.** All Contractor policies shall provide, or be endorsed to include, a severability of interests provision. There shall be no exclusion for cross liability.

**4.9.4 Deductibles.** Contractor is responsible for payment of all deductibles and self-insured retentions.

**4.9.5 Verification of coverage.** Prior to beginning any work under this Agreement, 5 business days prior to insurance coverage renewals, and upon Agency's written request, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) waiver of subrogation, additional insured and primary/non-contributory policy endorsements. Agency's review of coverage does not relieve Contractor of the requirements of Section 4. Furthermore, Contractor agrees that if it does not keep the insurance coverages required by this Agreement in full force and effect, Agency may either (i) immediately terminate this Agreement pursuant to Section 8, or (ii) upon reasonable prior notice allowing Contractor an opportunity to cure, take out the necessary insurance and pay the premium(s) thereon at Contractor's expense, provided such premiums shall not exceed what Contractor would have otherwise paid for such coverage. Agency reserves the right to obtain a full certified copy of any insurance policy endorsement. Failure to exercise this right shall not constitute a waiver of the right to exercise later

**4.9.6 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.

**4.9.7 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein pursuant to revised insurance provisions set forth and agreed in a particular Purchase Order, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.

**4.9.8 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

**4.9.8 Waiver of Subrogation.** Contractor agrees to waive, and shall cause all of its insurers and subcontractors to waive, all rights of subrogation and set-off against Agency. All insurance policies shall be endorsed to provide such waivers of subrogation.

**4.10 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized by Contractor 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, injuries, taxes, costs (including without limitation costs and fees of litigation), judgments and causes of action from and against claims for personal injury (including disease, sickness, and death) and for physical damage to or loss of property to the extent caused by the acts or omissions or willful misconduct of Contractor, its officials, officers, employees, or agents. 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. Contractor acknowledges that Agency would not enter into this Agreement in the absence of Contractor's commitment to indemnify and protect Agency as set forth herein.

In no event shall Contractor's obligations under this indemnity provision apply to any claim by a customer of Agency for voltage or frequency fluctuation or service interruption of any kind, or to any claim by any third party for failure of Agency to provide power or capacity under any contract, and provided further that in no event shall the term "third party" as used in this paragraph apply to any affiliate or lender of Agency or any transferee of some or all of the Work.

The Party seeking the indemnification shall promptly give written notice to the other Party of any third party action for which indemnification is being sought and provide the other Party with the opportunity to participate in all settlement negotiations respecting such claim.

**5.3 Not Used.**

**5.4 Offset Compensation.** Agency shall have the right to offset against any compensation due Contractor under this Agreement any amount due Agency from Contractor as a result of Contractor's failure to pay Agency promptly any indemnification arising under this Section 5 of this Agreement and any amount due Agency from Contractor arising from Contractor's failure either to (i) pay

taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

## **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 debt, obligation or

liability whatsoever. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner agents or employees of Agency.

**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. Contractor shall be liable and accountable for all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. Agency shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

**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. In the event of changes in law after the effective date of an issued Purchaser Order require changes in the Work to be performed under such

Purchase Order, such changes shall be addressed pursuant to a written change order to such Purchase Order.

- 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 be in their name 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 and Division of Labor Standards Enforcement (Labor Commissioner's Office).
- 7.5 Not Used.**
- 7.6 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.
- 7.7 Prevailing Wage Law.** This Agreement is subject to the requirements of the prevailing wage laws, including, but not limited to, Labor Code Section 1720 et seq., and Labor Code Section 1770 et seq., as well as Code of Regulations, Title 8, Section 16000 et seq., which require payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Contractor shall defend, indemnify, and hold harmless Agency, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of failure or alleged failure of Contractor to comply with such prevailing wage laws.

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

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

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

**7.7.1 Payment of Prevailing Wages.** Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, the Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification.

**7.7.2 Forfeiture.** Contractor shall forfeit as a penalty to Agency Two Hundred Dollars (\$200.00), or any greater penalty provided in the Labor Code, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under this Agreement employed in the performance of the Scope of Services by Contractor or by any subcontractor of Contractor in violation of the provisions of the Labor Code. In addition, 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 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). Contractor will also be entitled to any additional expense incurred by reason of termination or cancellation of written agreements between Contractor and its suppliers. Contractor will make every reasonable effort to minimize such costs upon termination. Payments made by Agency and received by Contractor prior to the date of termination will be credited against the amount due. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement.

**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 and pertaining to the handling and non-disclosure of confidential information shall survive the termination of this Agreement unless specifically provided otherwise in 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, and provided Contractor has not substantially commenced cure of such default within ten (10) days after receipt of written notice of default, 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. Agency shall use its best efforts to mitigate the cost for completion of such Work.

## **Section 9. RECORDS, CONFIDENTIALITY, SECURITY AND NOTIFICATION.**

### **9.1 Keeping and Status of Records.**

- 9.1.1 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 ("Agency Records") 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. Furthermore, Contractor shall not use Agency Records for any purpose other than to facilitate this Agreement.
- 9.1.2 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.

**9.1.3 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.

## **9.2 Confidential Information and Disclosure.**

**9.2.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, dam safety, Critical Energy/Electrical Infrastructure Information (CEII)<sup>1</sup>, proprietary, 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.

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<sup>1</sup> CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

*Critical energy/electric infrastructure* means a system or asset of the bulk-power system, (physical or virtual) the incapacity or destruction of which would negatively affect:

- national security,
- economic security,
- public health or safety, or
- any combination of such matters.

([Critical Energy/Electric Infrastructure Information \(CEII\) | Federal Energy Regulatory Commission \(ferc.gov\)](https://www.ferc.gov/critical-energy-electric-infrastructure-information)),

- 9.2.2 Restricted Use of Confidential Information.** A party shall not use Confidential Information for any purpose other than to facilitate this Agreement
- 9.2.3 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 with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care; (b) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement,; and (c) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.
- 9.2.4 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 9.2.4.2 or 9.2.4.3. 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:
- 9.2.4.1** Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.
- 9.2.4.2** Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and
- 9.2.4.3** Disclosure by Agency in response to a request pursuant to the California Public Records Act.
- 9.2.5 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). Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement in files of Receiving Party's representatives where such copies are necessary to comply with applicable law.



## **9.2.6 Unauthorized Disclosure.**

**9.2.6.1 Security Breach.** Security Breach means (a) any actual or reasonably suspected unauthorized use of, loss of, access to or disclosure of Agency Records or Agency Confidential Information or (b) security breach (or substantially similar term) as defined with applicable law.

**9.2.6.2 Action Upon Unauthorized Disclosure.** If either party believes there has been a Security Breach, such party must notify the other party upon the earlier of forty-eight (48) hours after discovery or any timeframe required by applicable law unless legally prohibited from doing so. Each party will reasonably assist the other party in mitigating or remediating any potential damage where appropriate. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it or if such part is the recipient of the Security Breach. As soon as reasonably practicable after any such Security Breach, Agency and Contractor will consult in good faith regarding the root cause analysis and any remediation efforts.

**9.3 Cyber Security.** Contractor agrees to abide by Agency's CIP-013<sup>2</sup> policies, processes, and procedures as outlined below for completing the Work. In addition, Contractor takes all responsibility and liability to ensure all Work is free from malicious code when delivered to Agency. Malicious code means viruses, worms, timebombs, trojan horses and other malicious code, files, scripts, agents or programs. In addition, Contractor shall take all of the following actions.

**9.3.1 Notification.** Contractor shall notify Agency of Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency through the Siemens Energy CERT.

Contractor is required to notify Agency of identified, or successful breaches or vulnerabilities of Contractor's products, software, systems, components, or services through the Siemens Energy CERT. Contractor's notification on the Siemens Energy CERT will also provide Agency with mitigations, controls, patches, components Agency can implement to prevent and/or correct the identified breach, issue, or incident.

Contractor shall provide all notifications to:

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<sup>2</sup>See North American Transmission Forum, NATF CIP 013 Implementation Guidance; Supply Chain Risk Management Plans (available at [natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf](https://www.natf.org/wp-content/uploads/2018/04/natf-cip-013-implementation-guidance-supply-chain-risk-management-plans.pdf)) .

NCPA Security  
Email: security@ncpa.com  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

With a copy to:

Contract Administrator  
Assistant General Manager, Generation Services  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

**9.3.2 Coordination.** Contractor shall coordinate responses to Contractor-identified incidents related to the Work provided to Agency that pose cyber security risk to Agency.

As stated in Section 9.3.1, Contractor is required to notify Agency of any breaches or vulnerabilities related to Contractor's products or services. In the event Contractor's products or services pose a cyber security risk to Agency or otherwise cause a cyber security incident for Agency through the Siemens Energy CERT, Contractor is required to provide on the Siemens Energy CERT potential actions for Agency to mitigate and correct the cyber security risk, breach or vulnerability.

As applicable, Contractor shall provide Agency with:

- List of Contractor's specific products or services at risk
- Precautions, mitigations, or controls to minimize risks
- Action plan to correct the risk
- Status reports (if risk is ongoing)
- Final resolution of issue

**9.3.3 Remote or Onsite Access.** Contractor shall notify Agency when remote or onsite access should no longer be granted to Contractor representatives.

Contractor will notify Agency within 24 hours:

- Contractor's employees, or Contractor's authorized subcontractors no longer require access.

- Contractor's employees, or Contractor's authorized subcontractors are no longer qualified to maintain access.
- Contractor's employees', or Contractor's authorized subcontractors' employment has ended or been terminated.

**9.3.4. Disclosure of Vulnerabilities.** Contractor shall promptly disclose known vulnerabilities related to the Work provided to Agency.

Contractor will provide Agency with summary documentation describing security breaches in Contractor's products or Contractor's supply chain impacting Agency's BES Cyber System. Contractor will also provide Agency with summary documentation describing any uncorrected security vulnerabilities.

Contractor's disclosure should be made to Agency within 48 hours of identifying the breach or vulnerability. The disclosure should include:

- Summary description of the breach or vulnerability
- Potential impact of the breach or vulnerability
- Root cause
- Corrective actions, compensating controls, mitigations, or other steps Agency should take as a result of the breach or vulnerability

**9.3.5 Integrity and Authenticity.** Contractor shall verify the integrity and authenticity of all software and patches provided by Contractor for use by Agency.

Provided Agency has an active subscription to the US Security Bundle (included in 2023 5yr CSA), Contractor agrees to provide Agency with all software and firmware updates to remediate vulnerabilities or weaknesses. Upon execution of this Contract, provided Agency has an active subscription to the US Security Bundle (included in 2023 5yr CSA), Contractor will provide Agency with Contractor's patch management and update process and software delivery documentation. The documentation should include a description of how Agency will verify the authenticity of software and validate the integrity of all patches provided by Contractor.

Provided Agency has an active subscription to the US Security Bundle (included in 2023 5yr CSA), Contractor will also provide Agency with Contractor's tentative schedule for releasing software and patch updates. Contractor will provide Agency with instructions for applying, validating, and testing the updates and patches as part of the US Security Bundle subscription (included in 2023 5yr CSA).

- 9.3.6 Access Controls.** Contractor shall coordinate controls with Agency for (a) Contractor-initiated interactive remote access, and (b) system to system remote access.

If Contractor uses remote access, Contractor will provide Agency with the IP addresses, ports, and minimum privileges required to perform remote access services. Contractor agrees to use individual user accounts to limit access and permissions. Contractor also agrees to maintain Contractor's IT assets connecting to Agency's network with current updates to remediate vulnerabilities or weaknesses. Contractor and Contractor's employees agree to not disclose or share account credentials, passwords, or established connections.

## **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 reasonable 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.
- 11.4 Exclusivity of Warranties and Remedies.** Exclusivity of Warranties and Remedies. The only warranties and guarantees made by Contractor are those expressly enumerated in this Section 11. Any other statements of fact or descriptions whether expressed in the Purchase Order, or any attachments or Appendices thereto, or in any quotations, proposals, specifications, drawings or manuals, or other documentation concerning the Scope of Work, whether in electronic form or hardcopy, shall not be deemed to constitute a warranty or guarantee of the Work or any part thereof. THE WARRANTIES AND GUARANTEES PROVIDED IN THIS SECTION 11 ARE EXCLUSIVE AND NO OTHER WARRANTIES OR GUARANTEES OR CONDITIONS OF ANY KIND APPLY, WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), SHALL APPLY. Correction of defects in accordance with this Section 11 or a refund in accordance with this Section 11 in the manner and during the period provided herein shall constitute complete fulfillment of Agency's exclusive remedy for all the liabilities or responsibilities of Contractor and its

subcontractors to Agency for defective or nonconforming Equipment, Software, or Work, whether the claims of Agency are based in contract, in tort (including negligence and strict liability), or otherwise. Notwithstanding the above, the responsibility and liability for patent violations or violations of Subsections 1.3 and 9.3 (all parts) regarding cyber or physical security are not limited by this Subsection 11.4.

**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.*

Contractor represents that it has advised Agency in writing prior to the date of signing this Agreement of any known relationships with third parties, Agency members, or employees of Agency which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090 *et seq.*, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Contractor from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

**13.7 Contract Administrator.** This Agreement shall be administered by the Assistant General Manager, Generation Services, or his/her designee, ("Contract Administrator") who shall act as the Agency's representative. All correspondence shall be directed to or through the representative. Agency reserves the right to change this designation upon written notice to Contractor.

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

Siemens Energy, Inc.  
Attention: Jeff Miller, General Manager/VP  
100 Technology Parkway  
Alpharetta, GA 30005

Any written notice to Agency shall be sent to:

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

With a copy to:

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

**13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page



of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

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

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

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

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

- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.
- 13.16 Nondiscrimination.** In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.
- 13.17 Force Majeure.** Except with respect to payment delays exceeding five business days, neither party shall incur any liability to the other party by reason of failure to fulfill, or any delay in fulfilling, any of its obligations under this Agreement due to the occurrence of Force Majeure. "Force Majeure" means any foreseeable or unforeseeable event beyond the reasonable control of a party, including, but not limited to, weather conditions, fire, third party strikes or cessation or slowdown or stoppage of labor, acts or omissions of a third party (except as otherwise provided in this Agreement), sabotage, cyber-attack, shipwreck, embargo, riot, war (declared or undeclared), terrorist act, enemy action, flood, epidemic, pandemic (including the current COVID-19/SARS-CoV-2 pandemic), so long as delays occur after product is in transit, delays due to transportation or logistics or laws, regulations, orders, rulings or acts of any governmental authority, body or agency. If any delay (other than a payment delay wherein five days are provided to resolve the Force Majeure event) arises by reason of Force Majeure, the time for performance shall be extended by a period of time equal to the time lost due to and reasonably necessary to overcome such delay. Both parties shall take reasonable action to remove such cause and resume performance as soon as possible. The party affected by an event of Force Majeure shall give the other party written notice within a reasonable time after becoming aware of the commencement of the delay. If a delay caused by Force Majeure exceeds 180 days, either party may terminate this Agreement pursuant to Section 8.1 by providing written notice to the other party.
- 13.18 Electronic Signatures.** Not Applicable.

**13.19 Limitation of Liability.** The aggregate liability of Contractor arising out of the performance or nonperformance of obligations in connection with a Purchase Order or the performance or nonperformance of Work under a Purchase Order, under any theory of recovery, whether based in contract, tort (including negligence and strict liability), or otherwise, shall not exceed an amount equal to one hundred percent (100%) of the amount of the Purchase Order or the amount of the applicable insurance specified in Section 4, whichever is greater.

In no event, whether based in contract, tort (including negligence and strict liability), or otherwise, shall either party be liable for damages for loss of profits or revenue or the loss of use of either; damage to the Work after risk of loss has transferred to Agency; loss by reason of Plant shutdown or inability to operate at capacity; damage to or loss of Agency's property or equipment (except as otherwise provided for and subject to the limitations stated in Section 13.21); costs of replacement power or capital; claims of Agency's customers; inventory or use charges; or incidental, indirect, special or consequential damages of any other kind or nature, whatsoever. The waivers and disclaimers of liability, releases from liability, and limitations on liability expressed in this Section 13.21 shall extend to Agency, Contractor and its subcontractors, affiliates, successors and assigns, and their respective partners, principals, shareholders, directors, officers, employees, and agents.

**13.20 Delivery or Title and Risk of Loss.** Delivery of each item of Equipment shall occur for all shipments, arrival at the Site entrance, ready to be unloaded (hereinafter referred to as "Delivery" or "Delivery Point"). Provided that all payments are current in accordance with the Exhibit B, legal and equitable title and risk of loss for the Equipment, except for Software, shall pass to Agency on a "Delivered Duty Paid" ("DDP") basis, as that term is defined by the International Commercial Terms 2010.

Title to and right of possession of any Software licensed hereunder shall remain with Contractor, or its licensor, except that Agency, City of Redding and City of Roseville shall have the right of possession and use of the Software provided hereunder at no cost for the term of the corresponding license provided herein, so long as no breach of the Agreement has been made by and singularly applicable to Agency, City of Redding, and City of Roseville and all payments due Contractor have been paid. Nothing in the Agreement shall be construed as giving Agency, City of Redding and City of Roseville any right to sell, assign, lease or in any other manner transfer or encumber Contractor's, or its licensor's ownership of the Software, or as limiting Contractor, or its licensors, from using and licensing the Software to any third party.

**13.21 Contractor's Responsibility for Damage to Agency's Property.**

- 13.21.1** Subject to the provisions stated in this Section 13.21 below, if sudden and accidental damage to Agency property is caused by (1) the failure of any Equipment or Work provided by Contractor pursuant to this Agreement to conform to the corresponding warranties provided in Section 11 , or (2) a negligent act or omission of Contractor during performance of the Work, then for each such event Contractor shall credit the Agency for the actual direct costs incurred by the Agency to the extent that such property damage was caused by such warranty non-conformance or negligence.
- 13.21.2** Seller's obligations under this Section 13.21 shall be limited on a per event basis and in the aggregate to the lesser of:
- (a) the actual direct cost incurred by the Agency to repair the property damage, including uncovering, gaining access to, removal and replacement costs, to be substantiated to the reasonable satisfaction of Contractor, or
  - (b) an amount of two million Dollars (U.S. \$2,000,000).
- 13.21.3** Except as specifically set forth in this Section 13.21, in no event shall Contractor have any responsibility or liability, under any theory of recovery, whether based in contract, tort (including negligence and strict liability), or otherwise, for any loss or damage to Agency's property as a result of (1) the failure of any Equipment or Work provided by Contractor pursuant to this Agreement to conform to the corresponding warranties provided in Section 11, or (2) a negligent act or omission of Contractor during performance of the Work.

// SIGNATURES ON NEXT PAGE //

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

NORTHERN CALIFORNIA POWER AGENCY

SIEMENS ENERGY, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JEFF S. MILLER,**  
General Manager / Vice President

Attest:

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

Approved as to Form:

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

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

Siemens Energy, Inc. ("Contractor") shall provide T3000 maintenance and support services as requested by the Northern California Power Agency ("Agency") at the Lodi Energy Center and Geothermal facilities as well as the City of Redding and the City of Roseville facilities.

## **Lodi Energy Center Customer Service Agreement Five (5) - Year Program**

### **Base Services**

- I&C Customer Portal, SPPA-View Access
- Annual Lifecycle Report
- Annual Usage and Summary Reporting
- Assigned Service Manager
  
- **I&C Monitors and Advisors Services via Customer Portal**
- I&C Condition (Monitor Conditions) (Replaces remote systems check)
  
- **Parts Exchange**
- 25% discount on parts purchased
  
- **Remote Expert Center (REC) hours**
- 40 Hours (20% discount off list price for additional hours)
  
- **On-Site Field Service/Technical Support**
- 40 Hours (20% discount off list price for additional hours)
- 1 Trips to Site
  
- **Cyber Security Services**
- Malware and Patch Management, annual subscription (US Security Bundle)
- One Cyber Vulnerability & Regulatory Assessment (Quantity per CSA term)
- Whitelisting Installation and Annual Subscription
  
- **Onsite T3000 Training Sessions**
- Annual NCPA 3 days onsite T3000 training up to 10 people max per training (Optional Scope)
- Annual operator simulator training onsite (2 people) (Optional Scope)
- 10% discount off catalog pricing for additional classes

\*Onsite Training does not include travel and living expenses. Travel time invoiced at PL1810 with 20% discount and travel and living expenses billed at cost plus 15%

**Version Upgrade – The detailed scope of work for the version upgrade is detailed in the Siemens Energy proposal submitted to NCPA – Lodi Energy Center entitled Firm - Omnivise T3000 Version Upgrade, dated March 9, 2023.**

It includes:

- a. Upgrade includes 7 Thin Clients
- b. Upgrade includes 11 Scalances
- c. Upgrades includes 4 redundant 410 AP's
- d. Upgrade to include all required engineering, HW/SW, onsite labor, commissioning, travel for install and support

## Geysers Plant 1 and 2 Customer Service Agreement Five (5) - Year Program

### Base Services

- I&C Customer Portal, SPPA-View Access
- Annual Lifecycle Report
- Usage and Summary Reporting
- Assigned Service Manager
  
- **I&C Monitors and Advisors Services via Customer Portal**
- I&C Condition (Monitor Conditions) (Replaces remote systems check)
  
- **Parts Exchange**
- 25% discount on parts purchased
  
- **Remote Expert Center (REC) hours**
- 40 Hours (20% discount off list price for additional hours)
  
- **On-Site Field Service/Technical Support**
- 40 Hours (20% discount off list price for additional hours)
- 1 Trips to Site
  
- **Cyber Security Services**
- Malware and Patch Management, annual subscription (US Security Bundle)
- One Cyber Vulnerability & Regulatory Assessment (Quantity per CSA term)
  
- **Onsite T3000 Training Sessions**
- Annual NCPA 3 days onsite T3000 training up to 10 people max per training (Optional scope)
- 10% discount off catalog pricing for additional classes

\*Onsite Training does not include travel and living expenses. Travel time invoiced at PL1810 with 20% discount and travel and living expenses billed at cost plus 15%

**Version Upgrade – The detailed scope of work for the version upgrade is detailed in the Siemens Energy proposal submitted to NCPA – Geysers entitled Firm - Omnivise T3000 Version Upgrade, dated March 9, 2023.**

It includes:

- a. Upgrades includes 3 redundant 410 AP's
- b. Upgrade includes 8 Thin Clients
- c. Upgrade for Scalances (qty 14)
- d. Upgrade to include all required engineering, HW/SW, onsite labor, commissioning, travel for install and support



## Redding Power Plant Customer Service Agreement Five (5) - Year Program

### Base Services

- I&C Customer Portal, SPPA-View Access
- Annual Lifecycle Report
- Usage and Summary Reporting
- Assigned Service Manager
  
- **I&C Monitors and Advisors Services via Customer Portal**
- I&C Condition (Monitor Conditions) (Replaces remote systems check)
  
- **Parts Exchange**
- 25% discount on parts purchased
  
- **Remote Expert Center (REC) hours**
- 40 Hours (20% discount off list price for additional hours)
  
- **On-Site Field Service/Technical Support**
- 10% discount on hours purchased
  
- **Cyber Security Services**
- Malware and Patch Management, annual subscription (US Security Bundle)
- Whitelisting Annual Subscription (Optional Scope)
- One Cyber Vulnerability & Regulatory Assessment (Quantity per CSA term) (Optional Scope)
  
- **Onsite T3000 Training Sessions**
- Annual NCPA 3 days onsite T3000 training up to 10 people max per training (Optional scope)
- 10% discount off catalog pricing for additional classes

\*Onsite Training does not include travel and living expenses. Travel time invoiced at PL1810 with 20% discount and travel and living expenses billed at cost plus 15%

**Version Upgrade – The detailed scope of work for the version upgrade is detailed in the Siemens Energy proposal submitted to NCPA – City of Redding entitled Firm - Omnivise T3000 Version Upgrade, dated March 9, 2023.**

It includes:

- a. Upgrades includes 4 redundant 410 AP's
- b. Upgrade includes 7 Thin Clients to replace the tower thin clients
- c. Upgrades to include all required engineering, HW/SW, onsite labor, commissioning, travel for install and support.

## Roseville Power Plant Customer Service Agreement Five (5) - Year Program

### Base Services

- I&C Customer Portal, SPPA-View Access
- Annual Lifecycle Report
- Usage and Summary Reporting
- Assigned Service Manager
  
- **I&C Monitors and Advisors Services via Customer Portal**
- I&C Condition (Monitor Conditions) (Replaces remote systems check)
  
- **Parts Exchange**
- 25% discount on parts purchased
  
- **Remote Expert Center (REC) hours**
- 40 Hours (20% discount off list price for additional hours)
  
- **On-Site Field Service/Technical Support**
- 40 Hours (20% discount off list price for additional hours)
- 1 Trips to Site
  
- **Cyber Security Services**
- Malware and Patch Management, annual subscription (US Security Bundle)
- Whitelisting Annual Subscription
- One Cyber Vulnerability & Regulatory Assessment (Quantity per CSA term)
  
- **Onsite T3000 Training Sessions**
- Annual NCPA 3 days onsite T3000 training up people max per training (Optional scope)
- Annual 3-day onsite operator training for T3000 up to 10 people (Optional scope)
- 10% discount off catalog pricing for additional classes

\*Onsite Training does not include travel and living expenses. Travel time invoiced at PL1810 with 20% discount and travel and living expenses billed at cost plus 15%

**Version Upgrade – The detailed scope of work for the version upgrade is detailed in the Siemens Energy proposal submitted to NCPA – Roseville entitled Firm - Omnivise T3000 Version Upgrade, dated March 9, 2023.**

It includes:

- a. Upgrades includes Terminal server,
- b. Upgrades includes Printer to replace M750
- c. Upgrade includes 5 Thin Clients
- d. Upgrade for scalances (qty 13)
- e. Upgrades includes 4 redundant 410 AP's
- f. Upgrades includes 1 CS3000
- g. Upgrades to include all required engineering, HW/SW, onsite labor, commissioning, travel for install and support.

## 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:

Invoicing for each site will be annually at start of the CSA year.

Lodi	Pricing	Annual Invoice Amount start of CSA year
5 Year CSA	\$ 551,705.00	\$ 110,341.00
Whitelisting	\$ 93,200.00	\$ 18,640.00
Version upgrade in 2026	\$ 456,919.00	\$ 91,383.80
Optional Annual NCPA Training (3 days onsite)	\$ 23,771.00	\$ 4,754.20
Optional Annual Operator Simulator Training (Onsite)	\$ 105,264.00	\$ 21,052.80
Total Price	\$ 1,230,859.00	\$ 246,171.80

Geysers	Pricing	Annual Invoice Amount start of CSA year
5 Year CSA	\$ 653,335.00	\$ 130,667.00
Version upgrade in 2027/ 2028	\$ 477,551.00	\$ 95,510.20
Optional Annual NCPA Training (3 days onsite)	\$ 23,771.00	\$ 4,754.20
Total Price	\$ 1,154,657.00	\$ 230,931.40

Redding	Pricing	Annual Invoice Amount start of CSA year
5 Year CSA	\$ 380,505.00	\$ 76,101.00
Version upgrade in 2028	\$ 525,612	\$ 105,122.40
Optional Whitelisting Annual Subscription	\$ 78,885.00	\$ 15,777.00
Optional Annual NCPA Training (3 days onsite)	\$ 23,771.00	\$ 4,754.20
Optional CVRA	\$ 50,280.00	\$ 10,056.00
Total Price	\$ 1,059,053.23	\$ 211,810.65

Rosville	Pricing	Annual Invoice Amount start of CSA year
5 Year CSA	\$ 551,710.00	\$ 110,342.00
Whitelisting	\$ 57,080.00	\$ 11,416.00
Version upgrade in Fall 2024	\$ 466,374	\$ 93,274.80
Optional Annual NCPA Training (3 days onsite)	\$ 23,771.00	\$ 4,754.20
Optional Annual Operator Training for T3000 (3 days onsite)	\$ 95,085.00	\$ 19,017.00
Total Price	\$ 1,194,020.12	\$ 238,804.02

Pricing for services not specified above 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. In addition, NCPA policies prohibit reimbursement for alcohol.

**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

Siemens Energy, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

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

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

**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 16

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**Meeting Date:** April 10, 2023

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

**Subject:** Approval of Lodi Energy Center FY 2024 Annual Budget

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### Proposal

Staff recommends that the Lodi Energy Center Project Participant Committee approve and adopt the Lodi Energy Center (LEC) FY 2024 Annual Budget in the amount of \$138,301,720 and approve modifications to the PMOA Schedule 1, Exhibit 2.

### Background

In November 2022, the Commission approved budget guidance for the NCPA FY 2024 Annual Budget and staff began preparation of the proposed budget during the following months. Presentations on the budget were made to the Lodi Energy Center Project Participants Committee on February 6, 2023 and March 6, 2023.

All changes resulting from the budget review meetings have been incorporated into the proposed Lodi Energy Center FY 2024 Annual Budget.

Section 21.3 of the Lodi Energy Center Power Sales Agreement dated May 24, 2010 requires that an Operating Reserve Fund be established for the LEC project and that a minimum of 60 days of Operation and Maintenance Expenses for the LEC project be maintained in this fund. The proposed FY 2024 budget includes an additional Operating Reserve collection of \$4,062,253.

### Assumptions

The LEC budget is heavily driven by variable costs. Each year a market model is prepared and through analysis, the projected operation of LEC is determined. These factors feed into the budget process, which then get calculated into an estimated cost to be used in the budget. The assumption results are summarized in the table below.

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

In addition, because of the rate changes and budget changes that occur each year, the variable costs should be updated to reflect the approved budget. The Variable Costs are used in the bidding of the unit to CAISO and are approved in the PMOA. The table below represents the changes required to the PMOA with the approved budget.

PMOA Schedule 1 Exhibit 2			
VOM Impact	Approved 2023 VOM	Proposed 2024 VOM	% Change
Variable Cost	(\$/MWHr)	(\$/MWHr)	
Operations	\$0.96	\$1.00	4.2%
LTSA-\$/MWHr	\$2.22	\$2.44	9.9%
Maintenance Reserve Variable	\$0.22	\$0.22	0.0%
Total	\$3.40	\$3.66	7.6%
LTSA-\$/Start		\$15,146	
Forecasted Starts		73	
Forecasted Generation	1,626,895	1,303,566	-19.9%

### Fiscal Impact

The Lodi Energy Center Annual Budget cost for FY 2024 is approximately \$138.3 million, which represents a decrease of approximately \$0.9 million from the prior year's budget. Third Party Revenue and Greenhouse Gas (GHG) credits are forecasted to total approximately \$139.8 million for FY 2024, which is about \$4.1 million less than in FY 2023.

The forecast Net Annual Budget Cost to Participants is a positive revenue of approximately \$1.5 million which is about \$3.2 million lower than the prior year's budget. Funding allocations for each member are attached to this staff report and shown on page H-1 of the budget.



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

Prepared by:

Michael DeBortoli  
Assistant General Manager/Generation Services

Attachments: (3)

- Allocation of LEC Project Budget
- LEC Budget
- PMOA Schedule 1.00, Exhibit 2

LODI ENERGY CENTER  
Allocation of Project Budget  
FY 2024

ALLOCATION PERCENTAGES:

Allocation	Allocated by	Total	Azusa	BART	Biggs	CDWR	Gridley	Healdsburg	Lodi	Lompoc	MID	Plumas-Sierra	PWRPA	SVP	Ukiah
Generation Entitlement Share <sup>(1)</sup>	GES	100.0000%	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%
Indenture Cost Share A	ICS A	100.0000%	4.9936%	11.8310%	0.4802%	0.0000%	3.5212%	2.9448%	17.0295%	3.6491%	0.0000%	1.4084%	4.7824%	46.1588%	3.2010%
Indenture Cost Share B	ICS B	100.0000%	0.000%	0.000%	0.000%	100.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%

PROJECTED MWH		1,303,566	36,313	86,035	3,492	436,695	25,606	21,415	123,839	26,537	139,668	10,242	34,778	335,668	23,278
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PROJECT COSTS:

Fuel Cost	GES	\$	71,517,913	\$	1,992,275	\$	4,720,182	\$	191,596	\$	23,958,501	\$	1,404,826	\$	1,174,897	\$	6,794,202	\$	1,455,890	\$	7,662,644	\$	561,916	\$	1,908,026	\$	18,415,862	\$	1,277,095
GHG Allowance Costs	GES	\$	13,984,733	\$	389,573	\$	922,992	\$	37,465	\$	4,684,886	\$	274,702	\$	229,741	\$	1,328,550	\$	284,687	\$	1,498,366	\$	109,878	\$	373,099	\$	3,601,069	\$	249,725
Labor	GES	\$	6,167,244	\$	171,801	\$	407,038	\$	16,522	\$	2,066,027	\$	121,143	\$	101,315	\$	585,888	\$	125,547	\$	660,777	\$	48,456	\$	164,536	\$	1,588,065	\$	110,128
Variable O&M	GES	\$	4,837,398	\$	134,755	\$	319,268	\$	12,959	\$	1,620,528	\$	95,021	\$	79,469	\$	459,553	\$	98,475	\$	518,293	\$	38,007	\$	129,057	\$	1,245,630	\$	86,381
Fixed O&M	GES	\$	3,350,082	\$	93,323	\$	221,105	\$	8,975	\$	1,122,277	\$	65,806	\$	55,035	\$	318,258	\$	68,198	\$	358,938	\$	26,322	\$	89,377	\$	862,646	\$	59,822
O&M Administration	GES	\$	188,173	\$	5,242	\$	12,419	\$	504	\$	63,038	\$	3,696	\$	3,091	\$	17,876	\$	3,831	\$	20,161	\$	1,478	\$	5,020	\$	48,455	\$	3,360
Mandatory Costs	GES	\$	374,870	\$	10,443	\$	24,741	\$	1,004	\$	125,581	\$	7,364	\$	6,158	\$	35,613	\$	7,631	\$	40,165	\$	2,945	\$	10,001	\$	96,529	\$	6,694
Inventory Stock	GES	\$	500,000	\$	13,929	\$	33,000	\$	1,340	\$	167,500	\$	9,822	\$	8,214	\$	47,500	\$	10,179	\$	53,572	\$	3,929	\$	13,340	\$	128,750	\$	8,929
O&M and Capital Projects Costs	GES	\$	1,743,529	\$	48,569	\$	115,073	\$	4,671	\$	584,082	\$	34,248	\$	28,643	\$	165,635	\$	35,493	\$	186,807	\$	13,699	\$	46,516	\$	448,959	\$	31,134
Maintenance Reserve	GES	\$	2,169,063	\$	60,424	\$	143,158	\$	5,811	\$	726,636	\$	42,607	\$	35,633	\$	206,061	\$	44,156	\$	232,400	\$	17,042	\$	57,868	\$	558,534	\$	38,733
Insurance	GES	\$	1,751,712	\$	48,797	\$	115,613	\$	4,693	\$	586,824	\$	34,409	\$	28,777	\$	166,413	\$	35,660	\$	187,684	\$	13,763	\$	46,734	\$	451,066	\$	31,280
Other Costs	GES	\$	105,000	\$	2,925	\$	6,930	\$	281	\$	35,175	\$	2,063	\$	1,725	\$	9,975	\$	2,137	\$	11,250	\$	825	\$	2,801	\$	27,038	\$	1,875
Generation Services Shared	GES	\$	393,387	\$	10,959	\$	25,964	\$	1,054	\$	131,785	\$	7,727	\$	6,463	\$	37,372	\$	8,008	\$	42,149	\$	3,091	\$	10,495	\$	101,297	\$	7,025
Transmission (CAISO)		\$	675,245	\$	18,810	\$	44,566	\$	1,809	\$	226,207	\$	13,264	\$	11,093	\$	64,148	\$	13,746	\$	72,348	\$	5,305	\$	18,015	\$	173,876	\$	12,058
Energy Purchases (CAISO)		\$	688,425	\$	19,177	\$	45,436	\$	1,844	\$	230,622	\$	13,523	\$	11,309	\$	65,400	\$	14,014	\$	73,760	\$	5,409	\$	18,366	\$	177,269	\$	12,293
Debt Service Cost:																													
Indenture Group A Cost	ICS A	\$	20,909,761	\$	1,044,150	\$	2,473,834	\$	100,409	\$	-	\$	736,275	\$	615,751	\$	3,560,828	\$	763,018	\$	-	\$	294,493	\$	999,988	\$	9,651,695	\$	669,321
BAB's Subsidy (Group A)	ICS A	\$	(4,261,953)	\$	(212,825)	\$	(504,232)	\$	(20,466)	\$	-	\$	(150,072)	\$	(125,506)	\$	(725,789)	\$	(155,523)	\$	-	\$	(60,025)	\$	(203,824)	\$	(1,967,266)	\$	(136,425)
Debt and Trustee Fees (Group A)	ICS A	\$	47,726	\$	2,383	\$	5,646	\$	229	\$	-	\$	1,681	\$	1,405	\$	8,127	\$	1,742	\$	-	\$	672	\$	2,282	\$	22,030	\$	1,528
Indenture Group B Cost	ICS B	\$	10,990,418	\$	-	\$	-	\$	-	\$	10,990,418	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
BAB's Subsidy (Group B)	ICS B	\$	(1,645,987)	\$	-	\$	-	\$	-	\$	(1,645,987)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
Debt and Trustee Fees (Group B)	ICS B	\$	23,939	\$	-	\$	-	\$	-	\$	23,939	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
Administrative & General	GES	\$	2,285,971	\$	63,680	\$	150,874	\$	6,124	\$	765,800	\$	44,903	\$	37,554	\$	217,167	\$	46,536	\$	244,926	\$	17,961	\$	60,987	\$	588,638	\$	40,821
Power Management Allocated Costs	GES	\$	1,505,071	\$	41,927	\$	99,335	\$	4,032	\$	504,199	\$	29,564	\$	24,725	\$	142,982	\$	30,639	\$	161,258	\$	11,825	\$	40,154	\$	387,556	\$	26,876
Total Project Costs		\$	138,301,720	\$	3,960,317	\$	9,382,944	\$	380,857	\$	46,968,038	\$	2,792,571	\$	2,335,494	\$	13,505,758	\$	2,894,062	\$	12,025,496	\$	1,116,992	\$	3,792,840	\$	36,607,695	\$	2,538,655
Estimated price per MWh		\$	106.09	\$	109.06	\$	109.06	\$	109.06	\$	107.55	\$	109.06	\$	109.06	\$	109.06	\$	109.06	\$	86.10	\$	109.06	\$	109.06	\$	109.06	\$	109.06

Third Party Revenue

ISO Energy Sales	GES	\$	123,918,636	\$	3,452,001	\$	8,178,630	\$	331,978	\$	41,512,743	\$	2,434,134	\$	2,035,735	\$	11,772,270	\$	2,522,612	\$	13,277,014	\$	973,629	\$	3,306,025	\$	31,909,049	\$	2,212,815
Ancillary Services Sales	GES	\$	2,010,665	\$	56,011	\$	132,704	\$	5,387	\$	673,573	\$	39,495	\$	33,031	\$	191,013	\$	40,931	\$	215,429	\$	15,798	\$	53,643	\$	517,746	\$	35,904
GHG Allowance Credits	GES	\$	13,611,634	\$	389,573	\$	922,992	\$	37,465	\$	4,684,886	\$	274,702	\$	229,741	\$	1,328,550	\$	284,687	\$	1,498,366	\$	109,878	\$	-	\$	3,601,069	\$	249,725
Interest & Other Income	GES	\$	134,000	\$	3,733	\$	8,844	\$	359	\$	44,890	\$	2,632	\$	2,201	\$	12,730	\$	2,728	\$	14,357	\$	1,053	\$	3,575	\$	34,505	\$	2,393
Interest Income (Group A)	ICS A	\$	105,000	\$	5,243	\$	12,423	\$	504	\$	-	\$	3,697	\$	3,092	\$	17,881	\$	3,832	\$	-	\$	1,479	\$	5,022	\$	48,467	\$	3,361
Interest Income (Group B)	ICS B	\$	11,000	\$	-	\$	-	\$	-	\$	11,000	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
		<b>\$</b>	<b>139,790,935</b>	<b>\$</b>	<b>3,906,561</b>	<b>\$</b>	<b>9,255,593</b>	<b>\$</b>	<b>375,693</b>	<b>\$</b>	<b>46,927,091</b>	<b>\$</b>	<b>2,754,661</b>	<b>\$</b>	<b>2,303,801</b>	<b>\$</b>	<b>13,322,444</b>	<b>\$</b>	<b>2,854,789</b>	<b>\$</b>	<b>15,005,167</b>	<b>\$</b>	<b>1,101,836</b>	<b>\$</b>	<b>3,368,264</b>	<b>\$</b>	<b>36,110,835</b>	<b>\$</b>	<b>2,504,199</b>

<b>Annual Project Costs, net</b>		<b>\$</b>	<b>(1,489,215)</b>	<b>\$</b>	<b>53,756</b>	<b>\$</b>	<b>127,352</b>	<b>\$</b>	<b>5,164</b>	<b>\$</b>	<b>40,947</b>	<b>\$</b>	<b>37,910</b>	<b>\$</b>	<b>31,693</b>	<b>\$</b>	<b>183,314</b>	<b>\$</b>	<b>39,273</b>	<b>\$</b>	<b>(2,979,670)</b>	<b>\$</b>	<b>15,156</b>	<b>\$</b>	<b>424,576</b>	<b>\$</b>	<b>496,859</b>	<b>\$</b>	<b>34,456</b>
<b>Estimated price per Mwh, net</b>		<b>\$</b>	<b>(1.14)</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>0.09</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>(21.33)</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>12.21</b>	<b>\$</b>	<b>1.48</b>	<b>\$</b>	<b>1.48</b>

JPA Assessment (per PMOA)		\$	62,604	\$	3,511	\$	-	\$	-	\$	42,225	\$	-	\$	-	\$	-	\$	-	\$	13,505	\$	-	\$	3,363	\$	-	\$	-
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Summary of Variable and Fixed Project Costs:

Variable Costs	\$	91,703,714	\$	2,554,590	\$	6,052,445	\$	245,674	\$	30,720,744	\$	1,801,336	\$	1,506,510	\$	8,711,853	\$	1,866,813	\$	9,825,411	\$	720,516	\$	2,446,563	\$	23,613,705	\$	1,637,553
Fixed Costs	\$	46,598,006	\$	1,405,727	\$	3,330,499	\$	135,183	\$	16,247,294	\$	991,235	\$	828,984	\$	4,793,906	\$	1,027,249	\$	2,200,085	\$	396,476	\$	1,346,277	\$	12,993,989	\$	901,102
	<b>\$</b>	<b>138,301,720</b>	<b>\$</b>	<b>3,960,317</b>	<b>\$</b>	<b>9,382,944</b>	<b>\$</b>	<b>380,857</b>	<b>\$</b>	<b>46,968,038</b>	<b>\$</b>	<b>2,792,571</b>	<b>\$</b>	<b>2,335,494</b>	<b>\$</b>	<b>13,505,758</b>	<b>\$</b>	<b>2,894,062</b>	<b>\$</b>	<b>12,025,496</b>	<b>\$</b>	<b>1,116,992</b>	<b>\$</b>	<b>3,792,840</b>	<b>\$</b>	<b>36,607,695</b>	<b>\$</b>	<b>2,538,655</b>

FY 2023 Approved Budget (For Comparison Purpose):

Net Annual Project Costs	\$	(4,709,224)	\$	(41,013)	\$	(97,177)	\$	(3,950)	\$	(1,090,501)	\$	(28,915)	\$	(24,195)	\$	(139,871)	\$	(29,981)	\$	(3,337,577)	\$	(11,573)	\$	500,965	\$	(379,144)	\$	(26,293)
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Project Costs Increase	\$	3,220,009	\$	94,768	\$	224,529	\$	9,114	\$	1,131,448	\$	66,825	\$	55,887	\$	323,186	\$	69,254	\$	357,907	\$	26,729	\$	(76,389)	\$	876,003	\$	60,749
		-68.38%		-231.07%		-231.05%		-230.75%		-103.75%		-231.11%		-230.99%		-230.06%		-230.99%		-10.72%		-230.96%		-15.25%		-231.05%		-231.05%

Note: 1 Generation Entitlement Share (GES) is synonymous with commonly used terms of Project Entitlement Share, Project Percentage, Project Share, Third Phase share.

O&M Reserve Fund Calculation:		</
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	FY 2022 Budget	FY 2022 Actual	FY 2023 Budget	FY 2023 Actual Through December 31, 2022	Proposed FY 2024 Budget	Budget Increase / (Decrease)
<b>Variable Costs</b>						
Variable O&M	\$3,601,753	\$4,236,874	\$6,088,236	\$2,152,630	<b>\$4,837,398</b>	(\$1,250,838)
Fuel & LDC Costs	31,029,301	54,707,452	64,819,215	81,104,993	<b>71,517,913</b>	6,698,698
GHG Allowance Costs	6,268,971	15,382,070	20,249,959	4,198,362	<b>13,984,733</b>	(6,265,226)
CA ISO Charges (variable)	470,645	530,717	1,080,335	1,862,927	<b>675,245</b>	(405,090)
CA ISO Energy Purchases (variable)	2,666,658	3,539,868	1,889,864	3,855,830	<b>688,425</b>	(1,201,439)
Routine Variable Costs	44,037,328	78,396,981	94,127,609	93,174,742	<b>91,703,714</b>	(2,423,895)
<b>Routine O &amp; M Costs</b>						
Fixed	2,989,071	4,569,768	3,151,902	2,248,896	<b>3,350,082</b>	198,180
Administration	216,277	161,454	195,869	69,637	<b>188,173</b>	(7,696)
Mandatory Costs	312,245	403,433	365,380	149,700	<b>374,870</b>	9,490
Inventory Stock	0	0	0	0	<b>500,000</b>	500,000
Routine O & M Costs without Labor	3,517,593	5,134,655	3,713,151	2,468,233	<b>4,413,125</b>	699,974
Labor	6,040,384	6,169,522	6,112,796	2,989,733	<b>6,167,244</b>	54,448
Total Routine O & M Costs	9,557,977	11,304,177	9,825,947	5,457,966	<b>10,580,369</b>	754,422
<b>Other Plant Costs</b>						
Debt Service	26,008,267	26,008,267	25,996,203	12,998,103	<b>25,992,239</b>	(3,964)
Insurance	1,576,482	1,254,767	1,313,901	656,951	<b>1,751,712</b>	437,811
Other Costs	128,171	90,399	151,208	82,690	<b>176,665</b>	25,457
Generation Services Shared	364,833	304,549	420,233	210,078	<b>393,387</b>	(26,846)
Administrative & General	2,133,321	2,130,294	2,270,375	1,135,181	<b>2,285,971</b>	15,596
Power Management Allocated Costs	1,503,669	1,319,109	1,450,728	725,364	<b>1,505,071</b>	54,343
<b>Total O &amp; M Costs</b>	<b>85,310,048</b>	<b>120,808,543</b>	<b>135,556,204</b>	<b>114,441,075</b>	<b>134,389,128</b>	<b>(1,167,076)</b>
<b>Projects</b>						
Operations & Maintenance	1,375,308	1,714,120	1,342,970	(51,398)	<b>1,698,529</b>	355,559
Capital	1,756,500	831,934	280,000	64,615	<b>45,000</b>	(235,000)
Maintenance Reserve	1,875,102	1,875,102	2,008,392	1,004,196	<b>2,169,063</b>	160,671
Total Projects Budget	5,006,910	4,421,156	3,631,362	1,017,413	<b>3,912,592</b>	281,230
<b>Annual Budget Cost</b>	<b>90,316,958</b>	<b>125,229,699</b>	<b>139,187,566</b>	<b>115,458,488</b>	<b>138,301,720</b>	<b>(885,846)</b>
<b>Less: Third Party Revenue</b>						
ISO Energy Sales	49,394,211	82,843,909	121,619,515	113,996,617	<b>123,918,636</b>	2,299,121
Ancillary Services Sales	1,152,080	3,224,080	2,317,565	228,736	<b>2,010,665</b>	(306,900)
Interest Income - Operations	94,945	105,501	134,000	217,035	<b>134,000</b>	0
Interest Income (NCPA)	242,355	121,871	105,000	149,236	<b>105,000</b>	0
Interest Income (CDWR)	48,545	4,586	11,000	47,806	<b>11,000</b>	0
Other Income	0	1,900	0	8,890	<b>0</b>	0
	50,932,136	86,301,847	124,187,080	114,648,320	<b>126,179,301</b>	1,992,221
<b>Net Annual Budget Cost to Participants (without GHG Transfer Credits)</b>	<b>39,384,822</b>	<b>38,927,852</b>	<b>15,000,486</b>	<b>810,168</b>	<b>12,122,419</b>	<b>(2,878,067)</b>
<b>GHG Allowance Credits</b>	6,101,721	14,960,564	19,709,710	4,198,362	<b>13,611,634</b>	(6,098,076)
<b>Net Annual Budget Cost To Participants (with GHG Transfer Credits)</b>	<b>\$33,283,101</b>	<b>\$23,967,288</b>	<b>(\$4,709,224)</b>	<b>(\$3,388,194)</b>	<b>(\$1,489,215)</b>	<b>\$3,220,009</b>

Northern California Power Agency  
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	FY 2022 Budget	FY 2022 Actual	FY 2023 Budget	FY 2023 Actual Through December 31, 2022	Proposed FY 2024 Budget	Budget Increase / (Decrease)
Total Variable Costs	\$44,037,328	\$78,396,981	\$94,127,609	\$93,174,742	\$91,703,714	(\$2,423,895)
Total Fixed Costs	46,279,630	46,832,718	45,059,957	22,283,746	46,598,006	1,538,049
	<b>\$90,316,958</b>	<b>\$125,229,699</b>	<b>\$139,187,566</b>	<b>\$115,458,488</b>	<b>\$138,301,720</b>	<b>(\$885,846)</b>
Net Annual Generation (MWh)	945,377	1,198,616	1,626,895	739,974	1,303,566	(323,329)
Net Annual Budget Costs per MWh	\$35	\$20	(\$3)	(\$5)	(\$1)	\$2
Variable Costs per MWh	\$47	\$65	\$58	\$126	\$70	\$12
Net Costs per KW Month	\$9	\$7	(\$1)	(\$1)	(\$0)	\$1
<b>Fuel &amp; LDC costs/MWh</b>	<b>\$32.82</b>	<b>\$45.64</b>	<b>\$39.84</b>	<b>\$109.61</b>	<b>\$54.86</b>	<b>\$15.02</b>
<b>GHG Obligation Costs/MWh</b>	<b>\$6.63</b>	<b>\$12.83</b>	<b>\$12.45</b>	<b>\$5.67</b>	<b>\$10.73</b>	<b>(\$1.72)</b>
<b>ISO Revenue/MWh</b>	<b>\$52.25</b>	<b>\$69.12</b>	<b>\$74.76</b>	<b>\$154.05</b>	<b>\$95.06</b>	<b>\$20.31</b>

## EXHIBIT 2

### VOM

The Variable Operation and Maintenance cost (VOM) shall be determined using the applicable budgeted variable cost line items, as listed in the table below, and the annual forecasted Project Energy in the then current Project Annual Budget or Mandatory Budget Amendment. The VOM shall be reviewed and revised annually in coordination with NCPA's Project Annual Budget cycle, or as otherwise determined by the PPC and NCPA.

**VOM (\$/MWH) = (Operation (\$) + Siemens LTSA (\$) + Maintenance Reserve (\$)) / forecasted annual Project Energy (MWH)**

#### FY 2023~~4~~ Project Annual Budget Line Items

Variable Cost	\$	\$/MWH
Routine O&M Costs Operation (Appendix I)	\$1, <del>301561,741</del> <del>819</del>	<del>1.000</del> <del>.96</del>
Routine O&M Costs Maintenance Siemens LTSA	\$3, <del>180611,701</del> <del>707</del>	2. <del>44</del> <del>22</del>
Other Costs Maintenance Reserve (Appendix I)	\$ <del>286357,785</del> <del>917</del>	0.22
<b>Total FY202<del>4</del></b>	<b>\$<del>45,769531,227</del><del>443</del></b>	<b>3.<del>66</del><del>40</del></b>

Forecast annual Project Energy (MWh)	1, <del>626303,566</del> <del>895</del>
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VOM = (\$1,~~301561,741~~~~819~~+\$3,~~180611,701~~~~7~~+\$~~286,785357,917~~) / 1,~~303626,566~~~~895~~

VOM = 3.~~66~~~~40~~ \$/MWh

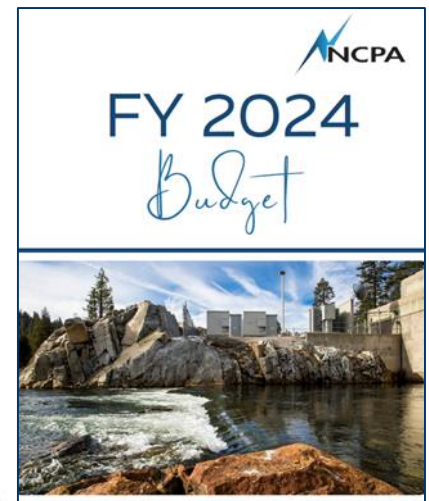


# *NCPA Proposed Budget*

## *Lodi Energy Center*

Fiscal Year 2023-24

Sondra Ainsworth  
April 10, 2023  
LEC PPC



# Changes From March Review

- Decrease
  - Reduction A&G \$64k

# LEC – FY24 Proposed Budget

	Approved FY 2023 Budget	Proposed FY 2024 Budget	Budget Increase/ (Decrease)	% Change
O&M and Other Costs	129,443,408	128,221,884	(1,221,524)	-0.9%
Labor	6,112,796	6,167,244	54,448	0.9%
Projects	3,631,362	3,912,592	281,230	7.7%
<b>Total Annual Budget Cost</b>	<b>139,187,566</b>	<b>138,301,720</b>	<b>(885,846)</b>	<b>-0.6%</b>
Less: Revenues	143,896,790	139,790,935	(4,105,855)	-2.85%
<b>Net Cost to Participants</b>	<b>(4,709,224)</b>	<b>(1,489,215)</b>	<b>3,220,009</b>	<b>-68.38%</b>
<b>Net Annual Generation</b>	<b>1,626,895</b>	<b>1,303,566</b>	<b>(323,329)</b>	<b>-19.9%</b>



# LEC – FY24 O&M Reserve Calculation

Total O&M Costs Subject to Reserve Calculation	\$ 96,155,685
Estimated Requirement	15,806,414
O&M Reserve balance as of January 2023	11,744,161
<b>Additional Reserve Collection</b>	<b>\$ 4,062,253</b>

# FY 2024 – LEC VOM Impact

PMOA Schedule 1 Exhibit 2			
VOM Impact	Approved 2023 VOM	Proposed 2024 VOM	Percent Change
Variable Cost	(\$/MWhr)	(\$/MWhr)	
Operations	0.96	1.00	4.0%
LTSA-\$/MWhr	2.22	2.44	9.9%
Maintenance Reserve Variable	0.22	0.22	0.0%
Total	3.40	3.66	7.6%
LTSA-\$/Start		15,146	
Forecasted Starts		73.00	
Forecasted Generation (MWhr)	1,626,895	1,303,566	-19.9%

## Next Steps– FY24 *Proposed* Budget

- UD final review (4/13)
- Commission Approval (4/27)

FY2024 Proposed Budget  
on *NCPA Connect*

## Recommendation

- Staff recommends that the Lodi Energy Center Project Participant Committee approve and adopt the Lodi Energy Center (LEC) FY 2024 Annual Budget in the amount of \$138,301,720 and approve modifications to the PMOA Schedule 1, Exhibit 2.

# Questions