



12745 N. Thornton Road
Lodi, CA 95242

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

LEC PPC Agenda

Subject: May 6, 2024 Lodi Energy Center Project Participant Committee Meeting

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

Time: 10:00 am Pacific Standard Time

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

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NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 2150 Webster Street, 1 st 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 1002 Cooper Ave Glenwood Springs, CO 81601
CALIFORNIA DEPARTMENT OF WATER RESOURCES 1425 River Park Dr. Suite 300. Sacramento, CA 95815	SILICON VALLEY POWER/CITY OF SANTA CLARA 881 Martin Avenue Santa Clara, CA 95050	CITY OF UKIAH 411 W. Clay St. Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702		

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

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

- 1. Review Safety Procedures**
- 2. Call Meeting to Order and Roll Call**

PUBLIC FORUM

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

- 3. Meeting Minutes – Approval of April 8, 2024 Regular Meeting Minutes**

MONTHLY REPORTS

- 4. Operational Report for April 2024**
- 5. Market Data Report for April 2024**
- 6. Monthly Asset Report for March 2024**
- 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 March 2024 – Accept by all Participants**
- 9. Financial Report for March 2024 – 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. Mechanical Analysis Repair, Inc. dba Martech MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Mechanical Analysis Repair, Inc. dba Martech for machining and motor maintenance services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 12. Environex, Inc. MTPSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Professional Services Agreement with Environex, Inc. for catalyst testing 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, SCPPA, and SCPPA Members.
- 13. KSB, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with KSB, Inc. for pump maintenance 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, SCPPA, and SCPPA Members.
- 14. Kobelco Compressors America, Inc. MTEMS** – Staff is seeking a recommendation for approval of a five-year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Kobelco Compressors America, Inc. for fuel gas compressor related materials, with a not to exceed amount of \$750,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 15. Kimberly Fields dba K. Weatherman Logging MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging for vegetation management 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, SCPPA, and SCPPA Members.

Consent Items pulled for discussion: _____

INFORMATIONAL ITEMS

- 16. Lodi Energy Center Hydrogen Upgrade Project** – Staff will provide an upgrade regarding the potential hydrogen upgrade project at the Lodi Energy Center.
- 17. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: June 10, 2024 at 10:00 am 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.

LEC PPC Meeting Minutes

Date: Monday, April 8, 2024

Time: 10:00 am 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 10:02 am by Vice Chairman Basil Wong. Brock Costalupes arrived and proceeded with the remainder of the meeting. He asked that roll be called for the Project Participants as listed below. Biggs and Gridley arrived late but were able to participate in the consent calendar and budget votes.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Schmidt	Absent	6.6000%
Biggs - Sorensen	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Sanchez	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Wilkie	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 - Sauers	Absent	1.7857%
Summary		
Present	7	86.9536%
Absent	6	13.0464%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	April 8, 2024	

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 March 11, 2024 regular meeting. The LEC PPC considered the following motion:

Date: 4/8/2024

Motion: The PPC approves the minutes from the March 11, 2024 regular meeting.

Moved by: SVP
Seconded by: Lodi

Discussion: There was no further discussion

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	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%
Vote Summary		
Total Ayes	7	86.9536%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.0464%
Result: Motion Passed		

MONTHLY REPORTS

4. Operational Report for March 2024

Ryan Johnson presented the Operational Report for March. There were one OSHA recordable where an employee rolled their ankle in a small hole in an uneven gravel surface. The employee was administered first aid on site and transported to a local medical center for evaluation. The employee was placed on light duty, but has subsequently returned to full duty. There was one non-recordable “near miss” incident where an employee was working to perform Lockout-Tagout-Try (LOTOT), in accordance with NCPA procedures, to deenergize equipment in preparation for the April 1, 2024 LEC outage. While performing the “Try” step after the lockout was placed, they discovered the circuit was still electrically energized. No employees or equipment was damaged in the incident. LEC management disseminated the incident report to all plant staff as a reminder of the purpose and importance of following LOTOT procedures. There were no NERC/WECC or permit violations. There was one outage to conduct cleaning of the injection well. 2024 planned outage for April 1-30 for annual maintenance and steam turbine excitation upgrade was in progress during the meeting.

The operational report reflected monthly production of 11,541 MWH, 45 service hours, and equivalent operating availability of 83.8%. The report set for the Capacity Factor @ 302MW Pmax of 5.1%. There was one cold start, no warm starts and no hot starts during the month.

Gordon Loyd provided some clarification on some of the calculations shown on the report.

5. Market Data Report for February 2024

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 2 out of 26 available days. There was one start during the month. There were twenty-four days where LEC was uneconomic. LEC had one day of 24-hour operations.

Ken Goeke provided some clarification regarding the market price of gas over the past three months.

6. Monthly Asset Report

Rafael Santana presented the monthly asset report for February 2024, showing that net costs are over budget. Rafael reviewed the monthly historical comparisons as well as the 12-month history, showing February was a record month when compared to historical results.

7. Bidding Strategies Report

Jesse Shields presented the Bidding Strategies Report for March 2024. Jesse reviewed bidding and calculated net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee.

Consent Calendar (Items # 8 – # 14)

The consent calendar was considered. Chairman Costalupes 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: 4/8/2024

Motion: The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for February 2024; **9.** Financial Report for February 2024; **10.** GHG Reports (excerpted from the Monthly ARB); **11. Allied Power Group, LLC 5-year MTGSA-EMS** for inspection and maintenance related services, not to exceed \$2,000,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **12. Cornerstone Land Service, LLC First Amendment to MTGSA** for snow and debris removal, logging, and vegetation management related services, increasing the not to exceed amount from \$200,000 to \$1,000,000, with no change to the contract term, for continued use at all facilities owned and/or operated by NCPA, Members/SCPPA; **13. Mountaineering Engineering Corp 5-year MTPSA** for on-site maintenance contractor oversight and engineering inspection related services, not to exceed \$500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **14. NCPA Cyber Liability Insurance Renewal** - Approval to renew the Agency's Cyber Liability Insurance program from May 2024 to May 2025.

Moved by: SVP
Seconded by: Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	8	87.1501%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	5	12.8499%
Result:	Motion Passed	

BUSINESS ACTION ITEMS / INFORMATIONAL ITEMS

15. Lodi Energy Center FY2025 Annual Budget – Sondra Ainsworth presented the revised budget for fiscal year 2025 per comments and adjustments from the last meeting. The LEC PPC considered the following motion:

Date: 4/8/2024

Motion: LEC PPC approves and adopts the Lodi Energy Center FY2025 Annual Gross Budget in the amount of \$160,165,229, and approves modifications to the PMOA Schedule 1.00, Exhibit 2.

Moved by: SVP
Seconded by: Gridley

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	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%
Vote Summary		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passed	

16. Lodi Energy Center Hydrogen Upgrade Project – Mike DeBortoli reported that there have not been any changes in the project status.

Additional Operational Updates

17. Additional Operational Updates – Rafael Santana discussed that Siemens will be completing work on the HP Turbine during the outage. Most or all of the work may be covered under warranty. He also informed the committee that we are still waiting for a response from the CEC regarding the FX

upgrade grant. A formal quote was requested from Siemens, the study should be completed by the end of April and will prepare to present everything at the May meeting.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, May 6, 2024.

The meeting was adjourned at 11:14 am.

Submitted by: Julie Kenkel

DRAFT

Lodi Energy Center Project Participant Committee

Operational Report

Agenda Item No.: 4

Date: 05/06/2024
To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable/Reportable: 0 incidents
- Non-Recordable/Reportable: 2 “near-miss” incidents
 1. Sulfuric Acid – An operator discovered that a sulfuric acid feed line had a fitting incompatible for acid service installed to allow purging of the system for LOTOT and repair work. The incompatible material was left installed on the system after the LOTOT was removed. If the system was returned to service with this material installed, this material could have eventually lead to corrosion and leaks. Plant management briefed staff on the hazards associated with incompatible materials, and instructed staff to formalize temporary changes such as this in the LOTOT system for proper removal when the LOTOT is lifted. No injuries or equipment damage came from this incident.
 2. Drugs – A contractor’s employee used an NCPA restroom while performing work on site. An NCPA employee noticed a strong smell of marijuana after the employee left the bathroom. Plant management and the contractor’s supervisor were notified. The employee admitted to smoking marijuana while on his lunch break, and was instructed to stop work immediately and leave site. NCPA includes our zero-tolerance drug policy in our site safety training, and the contractor informed NCPA management they have a similar policy. The contractor submitted their employees to drug testing and did not allow the offending employee back on site. No injuries or equipment damage came from this incident.

Notice of Violations

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

Outage Summaries:

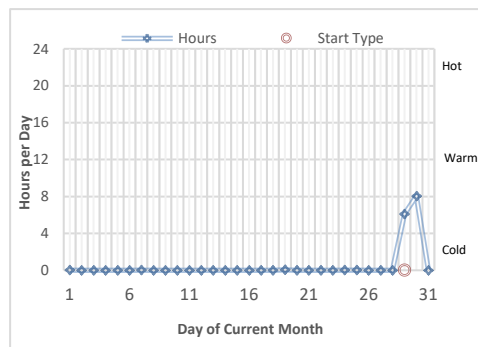
- 4/01 @ 00:00 - 4/30 @ 23:59; Annual Outage & Steam Turbine Excitation Upgrade, OMS 14559028

Planned Outage Summaries:

- April 1-30, 2025; Annual maintenance outage.

LEC Generating Unit Statistics:
Date: 4/1/2024

1. Monthly Production 1,608 MWh
2. Productivity Factor
 - a. Service Hours 14 Hours
 - b. Service Factor 2.0 %
 - c. Capacity Factor @ 302MW Pmax 0.7 %
3. Equivalent Operating Availability (EOA) 0.0 %
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	0	0.00%	0	\$0
Seg. 3 275 - 284	6971	0	0.00%	0	\$0
Seg. 4 250 - 275	7081	0	0.00%	0	\$0
Seg. 5 225 - 250	7130	0	0.00%	0	\$0
Seg. 6 200 - 225	7200	0	0.00%	0	\$0
Seg. 7 175 - 225	7450	7,551	1.36%	233	\$94
Seg. 8 165 - 175	7760	8,080	4.12%	3	\$4
	7,164	7,558	5.50%	236	\$98

6. AGC Control Deviation

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

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	0	1	1
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	0	18	20
Start Time Deviation (%)	0%	-10%	0%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	0	174	246
Fuel Deviation (%)	0%	-30%	-1%
Costs of Fuel Deviations (\$)	\$0	-\$304	-\$14

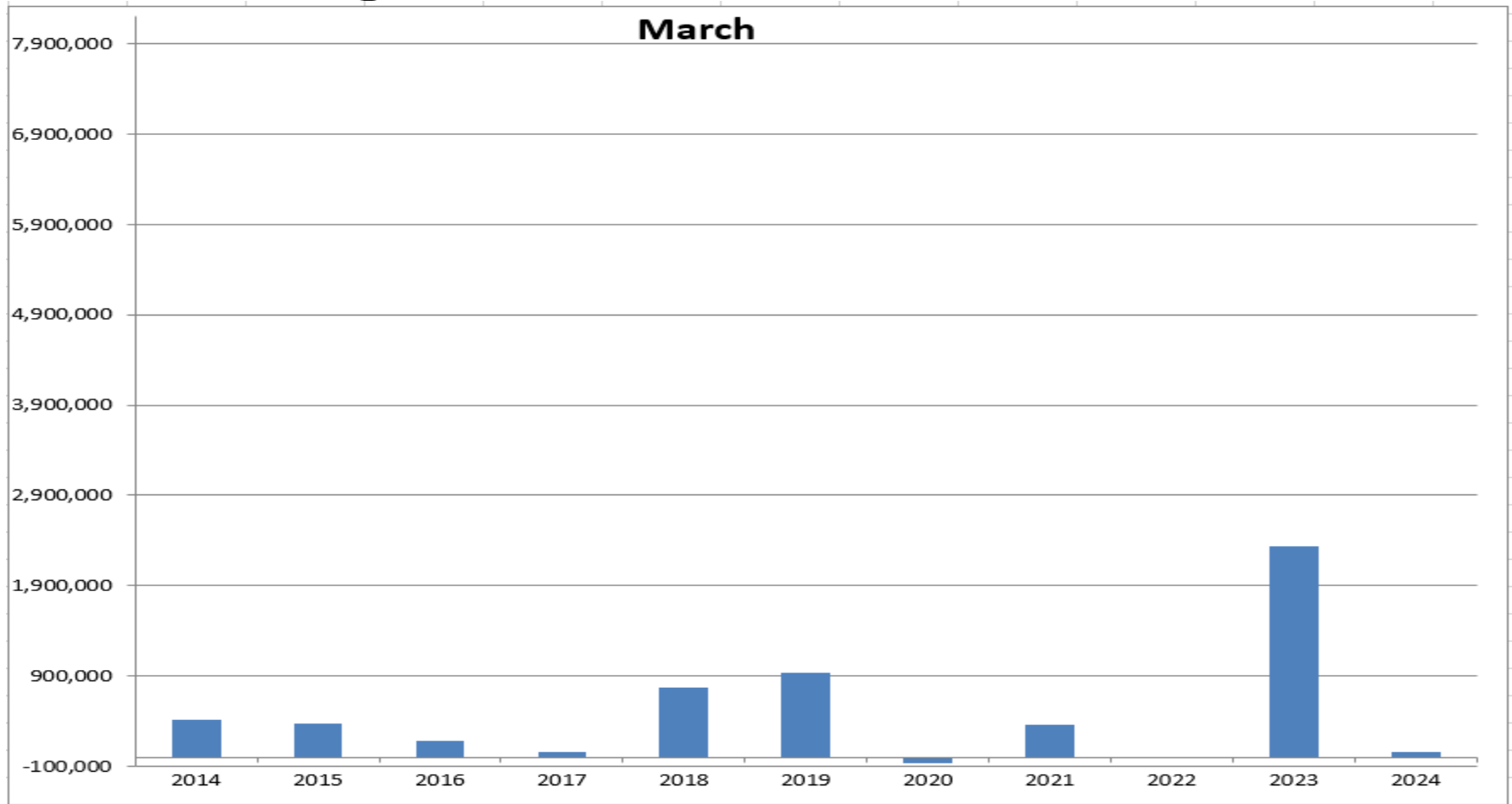
Definitions:

1. Monthly Production = Plant Net MWh's
2. Capacity Factor
 - a. Service Hours (SH) = In-Production or In-Service State, i.e. "Plant On"
 - b. Service Factor = $SH / HIM \times 100\%$; (HIM = hours in month, aka possible hours)
 - c. Capacity Factor = $Production / 302MW \times HIM$
3. Equivalent Operating Availability (EOA) = $(HIM - FOH - POH) / HIM \times 100\%$; (FOH = Forced Outage Hours, POH = Planned Outage Hours)
4. Forced Outage Rate (FOR) = $FOH / (FOH + SH) \times 100\%$
5. Heat Rate Deviation (HRD)
 - a. Fuel Cost = Standard Cost of Fuel in \$/mmBTU
 - b. Average Heat Rate (HR) = Average heat rate for the given Segment; weighted total average at bottom
 - c. Heat Rate Deviation = $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
 - d. Production = Sum of production for the given Segment
 - e. Costs of Heat Rate Deviations = $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
 - a. MWh's = AGC Set Point Generation - LEC Actual Generation
 - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
 - a. Number of Starts = Start Count for Hot, Warm, and Cold
 - i. Hot = Time between plant shutdown and startup < 6 hours
 - ii. Warm = Time between plant shutdown and startup 6 - 20 hours
 - iii. Cold = Time between plant shutdown and startup > 20 hours
 - b. Start Time = Average Time from 0 Fuel Flow to Pmin (Pmin = 100 MW)
 - c. Start Fuel = Average Fuel Consumption to Pmin
 - d. Cost of Fuel Deviation = $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$

March Asset Report

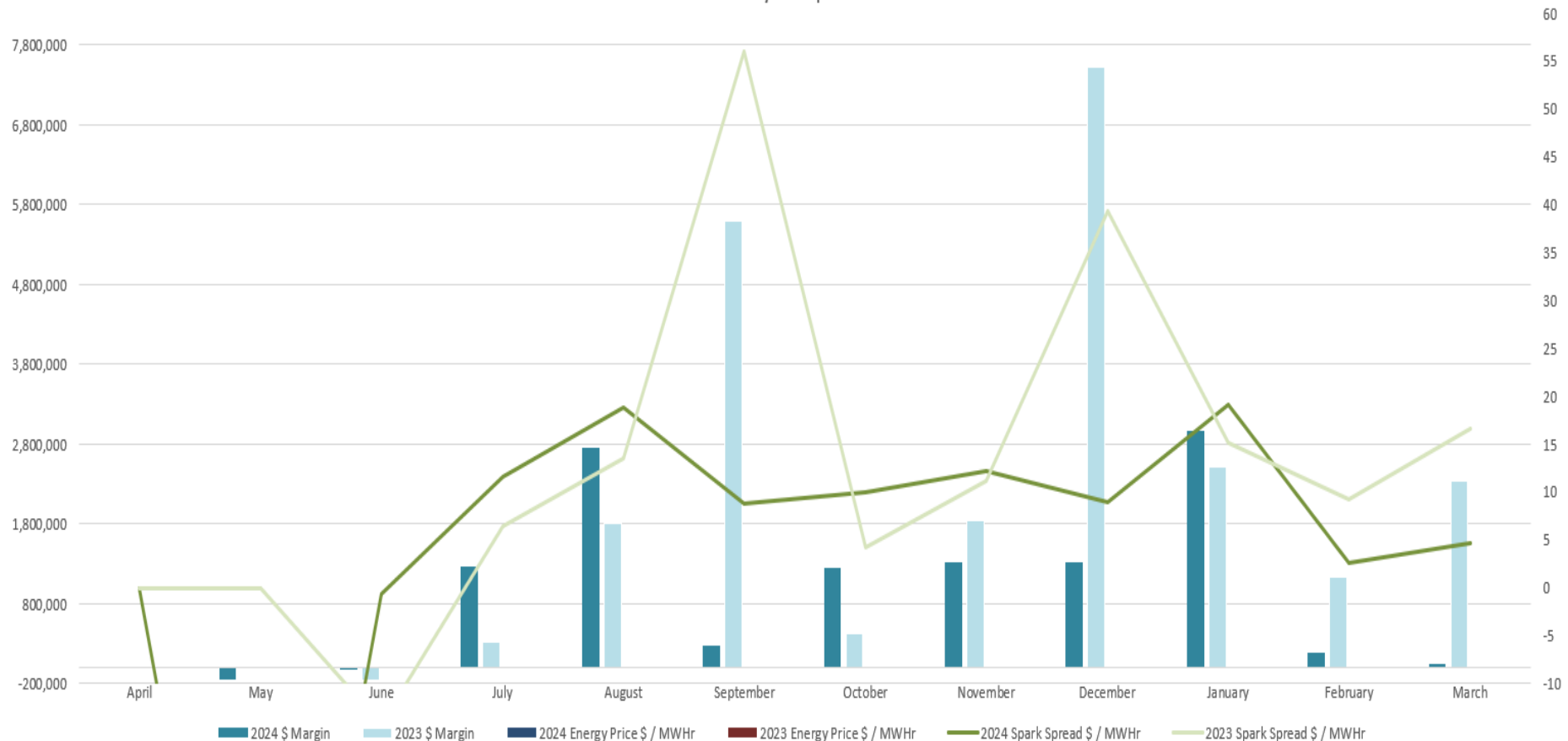
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	725,328	6,537,994	10,445,570	(5,812,666)	-89%	CAISO Energy Sales Revenue lower by 91% vs Forecast, Power Produced lower by 86% vs Forecast
VOM	590,380	5,698,546	8,316,585	(5,108,166)	-90%	CF lower by 86% vs Forecast, Avg. Fuel Cost lower by 45% vs Forecast
Fixed	1,127,396	1,120,800	1,002,612	6,597	1%	
Projects	515,932	248,255	203,255	267,677	108%	PO's for outage mobilization & parts arriving for projects
A&G	223,194	223,280	223,280	(86)	0%	
Debt	2,166,020	2,166,350	2,166,019	(330)	-0.02%	
Net Cost	(3,897,594)	(2,919,237)	(1,466,180)	(978,358)	34%	
Net Annual Cost		(34,533,245)	(12,122,418)	(\$22,410,827)		
				Above budget by 184.87%		

Historical Margins

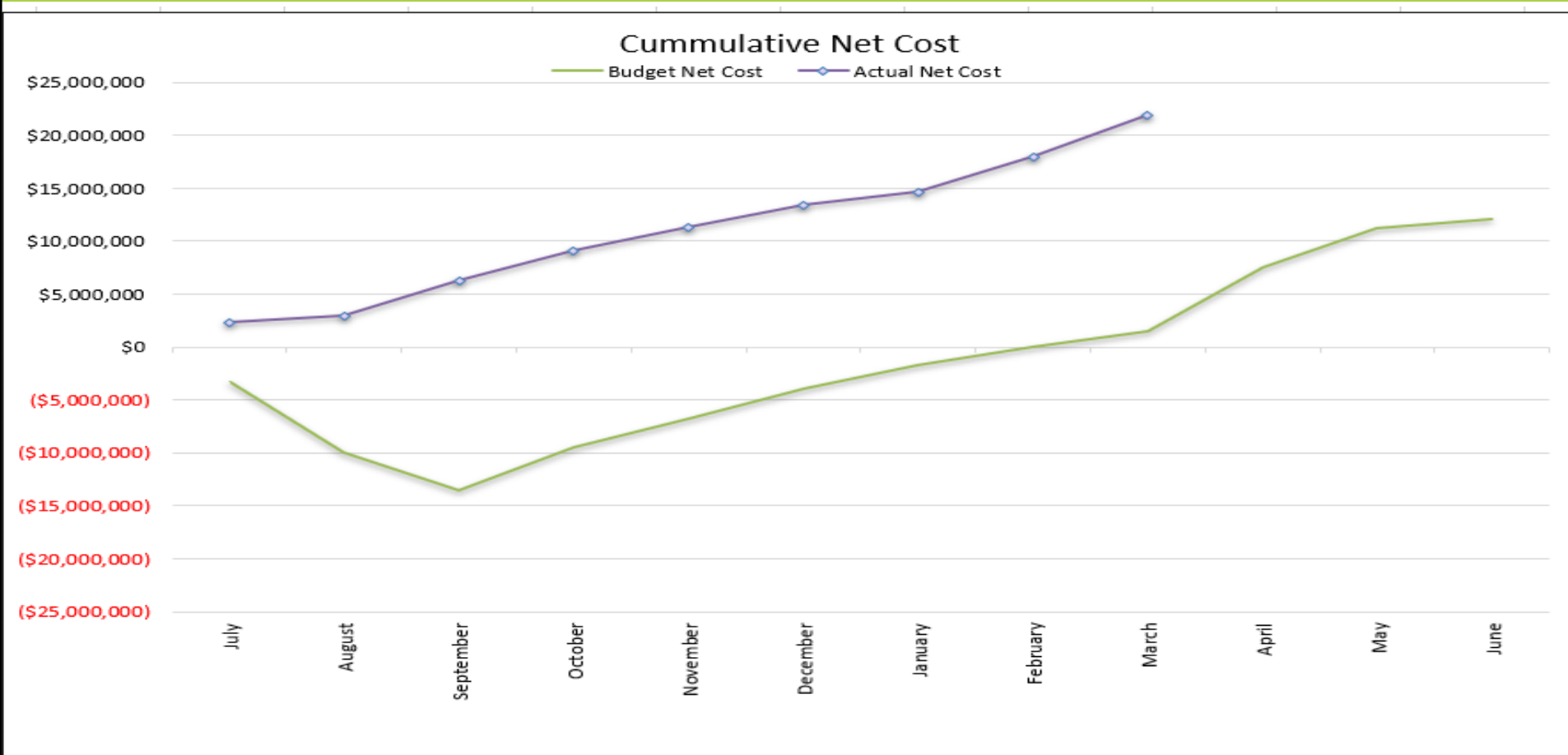


- March 2024 Margins are lower due to a soft market @ \$54,319

Historical Monthly Comparison



- * Spark Spread lower from March 2023 @ \$16.61 \$/MWhr vs. March 2024 @ \$4.70 \$/MWhr
- * Spark Spread delta lower from March 2023 vs March 2024 @ \$11.91 \$/MWhr
- * Margin comparison from March 2023 (\$2,329,393) vs March 2024 (\$54,319)



****** On the cumulative chart, March was a soft month when compared to historical margin results. Actual Net Cost \$21,888,189 vs Budget Net Cost \$1,480,884.

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2024 Budget	Percent Used	Comments
VOM	6,230,796	8,130,435	1,644,190	8,884,688	6,635,255	7,099,531	12,353,150	3,380,655	590,380	0	254,812	4,082,653	59,286,546	91,703,714	64.7%	
Capacity Factor	49%	65%	15%	56%	50%	65%	69%	35%	5%	0%	2%	21%	36%	36%	100.0%	CF lower by 86% vs. Forecast
Fuel Consumed (mmBTU, estimated)	778,036	1,034,230	228,909	881,581	764,290	1,015,613	1,075,545	519,988	82,684	0	38,318	385,894	6,805,088	9,058,849	75.1%	
Avg Fuel Cost (\$/mmBTU)	5.41	5.39	4.33	6.38	6.08	4.52	7.51	3.63	3.56	0.00	0.00	0.00	5.28	7.87	67.0%	
Power Produced (MWhr, estimated)	110,534	148,957	31,972	125,082	109,227	146,112	155,019	73,757	11,544	0	3,997	46,589	962,790	1,303,566	73.9%	PowerProduced lower by 86% vs. Forecast
Avg Power Price (\$/MWhr)	70.51	77.17	60.02	78.22	74.97	60.42	94.74	50.18	53.62	0.00	0.00	0.00	69.60	95.06	73.2%	Power Prices lower by 32% vs. Forecast
Operations / Variable / LTSA	147,690	169,459	141,392	878,497	148,982	81,213	1,172,451	101,694	65,967	0	26,158	562,841	3,496,344	4,837,398	72.3%	
Fuel (estimated)	4,211,170	5,569,646	991,544	5,627,298	4,649,538	4,594,126	8,078,944	1,889,865	294,103	0	138,631	2,601,635	38,646,501	71,517,913	54.0%	
AB32 GHG Offset (estimated)	1,462,153	2,030,979	462,367	1,749,465	1,592,739	2,148,977	2,493,608	1,212,320	189,114	0	82,729	833,152	14,257,603	13,984,733	102.0%	
CA ISO Charges (estimated)	409,783	360,351	48,887	629,428	243,996	275,215	608,147	176,776	41,196	0	7,294	85,025	2,886,098	1,363,670	211.6%	
Routine O&M (Fixed)	1,364,229	1,520,704	1,104,923	1,292,039	1,265,418	1,214,385	1,068,137	1,017,035	1,127,396	1,354,887	1,318,930	1,214,093	14,862,175	14,013,817	106.1%	
Maintenance / Fixed	370,865	330,257	338,399	533,479	371,163	297,764	298,959	268,835	336,606	396,582	268,500	268,500	4,079,909	3,350,082	121.8%	Fixed Cost higher by 25% vs. Forecast (Well cleaning & outage prep)
Administration	2,526	15,273	2,212	12,348	22,003	18,000	3,271	7,470	7,290	15,681	15,681	15,681	137,436	188,173	73.0%	
Mandatory Costs	44,199	405,606	18,181	19,785	14,490	-3,691	24,067	19,541	5,270	43,800	40,525	33,386	665,159	374,870	177.4%	
Inventory Stock	0	0	0	18,118	132,665	9,129	109,059	0	23,650	0	144,000	0	436,621	500,000	0.0%	
Labor	675,240	484,316	459,297	436,142	453,204	618,284	360,196	445,516	482,706	612,703	564,103	610,403	6,202,110	6,167,244	100.6%	Labor cost higher by 16% vs. Forecast
Insurance	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	1,751,712	1,751,712	100.0%	
Power Management & Settlements	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,424	1,505,076	1,505,071	100.0%	
Other Costs	0	13,853	15,435	768	494	3,500	1,186	4,274	475	14,722	14,722	14,723	84,152	176,665	47.6%	
Projects	218,640	180,755	243,735	222,078	258,846	284,268	271,786	354,707	515,932	1,328,823	180,755	248,255	4,308,581	3,912,591	110.1%	
Maintenance Reserve	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	2,169,061	2,169,063	100.0%	
Operations & Maintenance Projects	37,885	0	62,980	41,323	78,091	103,513	91,031	173,952	335,177	1,148,068	0	22,500	2,094,520	1,698,528	123.3%	Projects Cost high by 397% vs. Forecast (PO's for outage, mobilization & parts)
Capital Projects	0	0	0	0	0	0	0	0	0	0	0	45,000	45,000	45,000	100.0%	
A&G	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,280	223,280	223,280	2,678,585	2,679,358	100.0%	
Administrative & General (Allocated)	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,498	190,498	190,498	2,285,615	2,285,971	100.0%	
Generation Services Shared	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,782	32,782	32,782	392,971	393,387	99.9%	
Total O&M Cost	8,036,859	10,055,088	3,216,042	10,621,999	8,382,713	8,821,378	13,916,267	4,975,591	2,456,902	2,906,990	1,977,777	5,768,280	81,135,887	112,309,480	72.2%	
Debt Service	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,350	2,166,350	2,166,350	25,993,231	25,992,239	100.0%	
Revenues	7,885,997	11,628,566	2,044,088	9,914,012	8,322,394	8,942,838	14,818,020	3,824,413	725,328	0	257,110	4,233,107	72,595,873	126,179,301	57.5%	
ISO Energy Sales (estimated)	7,793,651	11,494,752	1,919,044	9,783,322	8,188,300	8,828,351	14,686,478	3,700,889	618,969	0	257,110	4,233,107	71,503,973	123,918,636	57.7%	Energy Sales lower by 70% vs. Forecast
Other Income	92,346	133,814	125,044	130,690	134,094	114,487	131,542	123,524	106,359	0	0	0	1,091,900	2,260,665		
Net	(\$2,316,882)	(\$592,542)	(\$3,337,974)	(\$2,874,007)	(\$2,226,339)	(\$2,044,560)	(\$1,264,267)	(\$3,317,198)	(\$3,897,594)	(\$5,073,340)	(\$3,887,017)	(\$3,701,523)	(\$34,533,245)	(\$12,122,418)	Above budget by 184.87%	



651 Commerce Drive
Roseville, CA 95678

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

LEC Treasurer's Report

AGENDA ITEM NO.: 8

Date: May 6, 2024
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended March 31, 2024

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 \$373.

Investments - The carrying value of the LEC's investment portfolio totaled \$44,056,299 at month end. The current market value of the portfolio totaled \$43,011,250.

The overall portfolio had a combined weighted average interest rate of 3.769% with a bond equivalent yield (yield to maturity) of 3.811%. Investments with a maturity greater than one year totaled \$17,734,000. During the month \$2,069,480 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 1 basis point from 5.45% to 5.46% and rates on one year T-Bills increased 2 basis points from 4.99% to 5.01%.

To the best of my knowledge and belief, all securities held by LEC as of March 31, 2024 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

March 31, 2024

TABLE OF CONTENTS

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

**Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
March 31, 2024**

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
MANDATORY FUNDS					
Debt Service Account	\$ 373	\$ 16,239,979	\$ 16,240,352	36.86%	\$ 16,234,535
Debt Service Reserve	-	11,543,642	11,543,642	26.20%	11,172,959
O & M Reserve	-	16,099,736	16,099,736	36.54%	15,430,814
	373	43,883,357	43,883,730	99.60%	42,838,308
ADDITIONAL PROJECT FUNDS					
GHG Cash Account	-	172,942	172,942	0.40%	172,942
Participant Deposit Account	-	-	-	-	-
	\$ 373	\$ 44,056,299	\$ 44,056,672	100.00%	\$ 43,011,250

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
March 31, 2024

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS							
Debt Service Account	\$ -	\$ -	\$ 532	\$ -	\$ (1,901,939)	\$ 1,901,631	\$ 224
Debt Service Reserve	-	19,093	741	-	(19,834)	-	-
O & M Reserve	-	80,376	-	-	(146,908)	66,532	-
	-	99,469	1,273	-	(2,068,681)	1,968,163	224
ADDITIONAL PROJECT FUNDS							
GHG Cash Account	-	799	-	-	(799)	-	-
Participant Deposit Account	-	-	-	-	-	-	-
TOTAL	\$ -	\$ 100,268	\$ 1,273	\$ -	\$ (2,069,480)	\$ 1,968,163	\$ 224

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
March 31, 2024

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR MATURED	DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS						
Debt Service Account	\$ 1,901,939	\$ (532)	\$ 64,981	\$ -	\$ -	\$ 1,966,388
Debt Service Reserve	19,834	(741)	12,961	-	-	32,054
O & M Reserve	146,908	-	(453)	-	-	146,455
	<u>2,068,681</u>	<u>(1,273)</u>	<u>77,489</u>	<u>-</u>	<u>-</u>	<u>2,144,897</u>
ADDITIONAL PROJECT FUNDS						
GHG Cash Account	799	-	-	-	-	799
Participant Deposit Acct.	-	-	-	-	-	-
TOTAL	<u>\$ 2,069,480</u>	<u>\$ (1,273)</u>	<u>\$ 77,489</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,145,696</u>

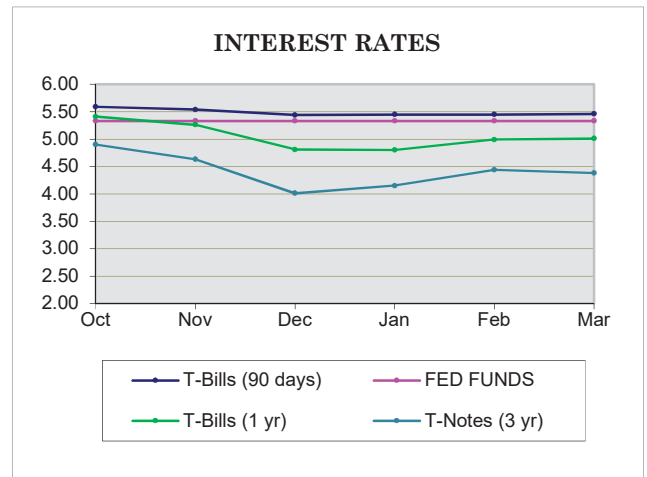
Less Non- Cash Activity	
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(77,489)
Net Change in Investment –Before Non-Cash Activity	<u>\$ 2,068,207</u>

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Interest Rate/Yield Analysis
March 31, 2024

	WEIGHTED AVERAGE INTEREST RATE	BOND EQUIVALENT YIELD
OVERALL COMBINED	3.769%	3.811%
Debt Service Account	5.120%	5.298%
Debt Service Reserve	3.143%	3.099%
O & M Reserve	2.838%	2.802%
GHG Cash Account	5.500%	5.500%

KEY INTEREST RATES		
	CURRENT	PRIOR YEAR
Fed Funds (Overnight)	5.33%	4.83%
T-Bills (90da.)	5.46%	4.87%
Agency Disc (90da.)	5.25%	4.75%
T-Bills (1yr.)	5.01%	4.58%
Agency Disc (1yr.)	4.83%	4.55%
T-Notes (3yr.)	4.38%	3.84%

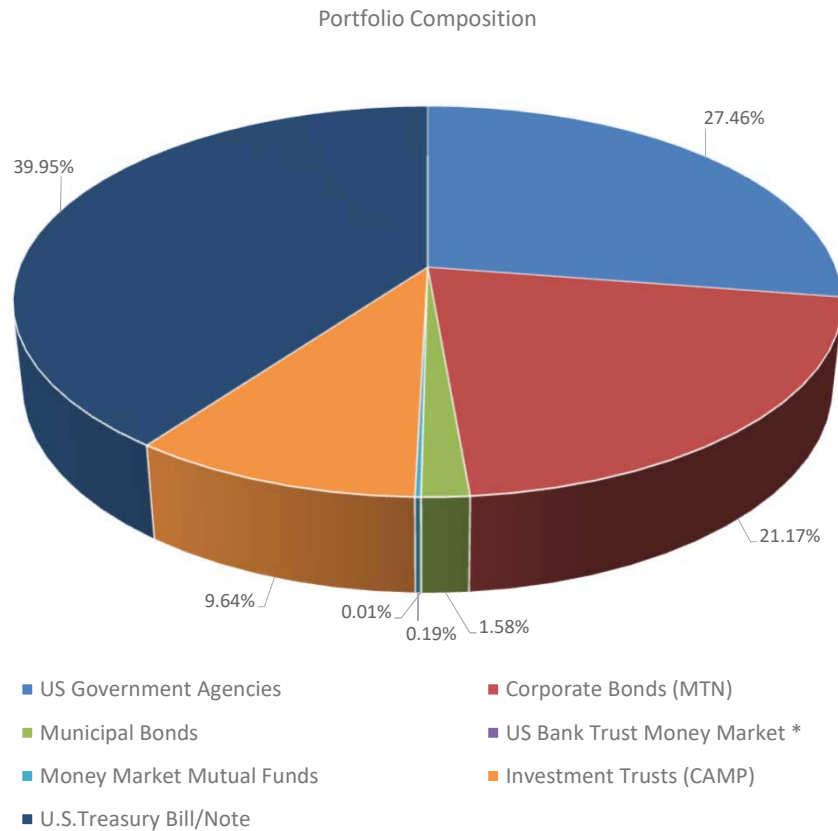


Northern California Power Agency/Lodi Energy Center
Total Portfolio
Liquidity and Investment Maturities Analysis
March 31, 2024

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	\$ -	\$ 1,929	\$ 2,070	\$ -	\$ -	\$ 8,141	\$ -	\$ 12,140	27.46%
Corporate Bonds (MTN)	-	-	-	-	465	8,893	-	9,358	21.17%
Municipal Bonds	-	-	-	-	-	700	-	700	1.58%
US Bank Trust Money Market *	3	-	-	-	-	-	-	3	0.01%
Money Market Mutual Funds	86	-	-	-	-	-	-	86	0.19%
Investment Trusts (CAMP)	4,260	-	-	-	-	-	-	4,260	9.64%
U.S.Treasury Bill/Note	-	17,660	-	-	-	-	-	17,660	39.95%
Total Dollars	\$ 4,349	\$ 19,589	\$ 2,070	\$ -	\$ 465	\$17,734	\$ -	\$ 44,207	100.00%
Total Percents	9.84%	44.31%	4.68%	0.00%	1.05%	40.12%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

* Uninvested debt service balances at U.S. Bank Global Trust and Custody are swept into U.S. Bank unrated money market demand deposit investment products.



NORTHERN CALIFORNIA POWER AGENCY

Detail Report Of Investments

APPENDIX

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



Northern California Power Agency
Treasurer's Report
03/31/2024

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	971	0.010		971		1	0.010	971	SYS79004	79004	971
U.S. Treasury	USBT	1,323,000	5.050	01/03/2024	1,296,832	05/23/2024	52	5.223	1,312,972	912797HR1	27699	1,313,349
U.S. Treasury	USBT	51,000	5.140	12/05/2023	49,711	05/30/2024	59	5.346	50,560	912797HS9	27679	50,570
U.S. Treasury	USBT	685,000	5.010	12/29/2023	670,415	05/30/2024	59	5.190	679,095	912797HS9	27690	679,376
U.S. Treasury	USBT	473,000	5.110	01/29/2024	464,809	05/30/2024	59	5.272	468,923	912797HS9	27713	469,039
Federal Home Loan Ba	USBT	466,000	5.210	03/27/2024	461,616	05/31/2024	60	5.332	461,676	313384XN4	27751	461,954
Federal Home Loan Ba	USBGC	468,000	5.195	02/26/2024	461,382	06/03/2024	63	5.342	463,503	313384XR5	27739	463,745
Fund Total and Average		\$ 3,466,971	5.091		\$ 3,405,736		57	5.255	\$ 3,437,700			\$ 3,439,004

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	523	0.010		523		1	0.010	523	SYS79012	79012	523
U.S. Treasury	USBT	3,262,000	5.140	12/05/2023	3,179,564	05/30/2024	59	5.346	3,233,882	912797HS9	27680	3,234,521
U.S. Treasury	USBT	683,000	5.010	12/29/2023	668,457	05/30/2024	59	5.190	677,113	912797HS9	27691	677,392
U.S. Treasury	USBT	778,000	5.110	01/29/2024	764,527	05/30/2024	59	5.272	771,294	912797HS9	27714	771,484
Federal Home Loan Ba	USBT	771,000	5.209	03/27/2024	763,747	05/31/2024	60	5.332	763,845	313384XN4	27752	764,305
Federal Home Loan Ba	USBGC	774,000	5.194	02/26/2024	763,054	06/03/2024	63	5.342	766,562	313384XR5	27740	766,963
Fund Total and Average		\$ 6,268,523	5.137		\$ 6,139,872		60	5.318	\$ 6,213,219			\$ 6,215,188

LEC Issue#1 2017A DS Fund

U.S. Treasury	USBT	3,892,000	5.110	12/06/2023	3,794,769	05/30/2024	59	5.313	3,858,451	912797HS9	27683	3,859,406
U.S. Treasury	USBT	691,000	5.010	12/29/2023	676,287	05/30/2024	59	5.190	685,044	912797HS9	27692	685,326
U.S. Treasury	USBT	689,000	5.110	01/29/2024	677,068	05/30/2024	59	5.272	683,061	912797HS9	27715	683,230
Federal Home Loan Ba	USBT	683,000	5.209	03/27/2024	676,575	05/31/2024	60	5.332	676,662	313384XN4	27753	677,069
Federal Home Loan Ba	USBGC	687,000	5.195	02/26/2024	677,284	06/03/2024	63	5.342	680,398	313384XR5	27741	680,754
Fund Total and Average		\$ 6,642,000	5.119		\$ 6,501,983		60	5.301	\$ 6,583,616			\$ 6,585,785
GRAND TOTALS:		\$ 16,377,494	5.120		\$ 16,047,591		59	5.298	\$ 16,234,535.			\$ 16,239,977

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2024



Northern California Power Agency

Treasurer's Report

03/31/2024

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	672	0.010		672		1	0.010	672	SYS79005	79005	672
U.S. Treasury	USBT	20,000	4.666	03/27/2024	19,834	05/30/2024	59	4.770	19,828	912797HS9	27754	19,847
Federal Home Loan Ba	USBT	20,000	4.875	04/25/2023	20,107	09/13/2024	165	4.468	19,959	3130ATVD6	27586	20,035
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	700	0.840	4,105,946	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	802	0.799	139,808	3130AN4T4	27270	150,242
U.S. Treasury	USBT	3,589,000	4.375	01/03/2024	3,618,020	12/15/2026	988	4.080	3,580,171	91282CJP7	27700	3,615,622
Federal Home Loan Ba	USBT	120,000	4.000	07/28/2023	118,496	06/30/2028	1,551	4.285	119,092	3130AWN63	27624	118,703
U.S. Treasury	USBT	21,000	4.375	09/28/2023	20,785	08/31/2028	1,613	4.608	21,086	91282CHX2	27647	20,808
Fund Total and Average		\$ 8,350,672	2.439		\$ 8,378,442		838	2.314	\$ 8,006,562			\$ 8,375,929

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	436	0.010		436		1	0.010	436	SYS79006	79006	436
U.S. Treasury	USBT	132,000	5.140	12/05/2023	128,664	05/30/2024	59	5.346	130,862	912797HS9	27681	130,888
U.S. Treasury	USBT	2,168,000	5.000	01/16/2024	2,127,350	05/30/2024	59	5.166	2,149,312	912797HS9	27702	2,150,234
Fund Total and Average		\$ 2,300,436	5.007		\$ 2,256,450		59	5.176	\$ 2,280,610			\$ 2,281,558

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	485	0.010		485		1	0.010	485	SYS79013	79013	485
U.S. Treasury	USBT	51,000	5.140	12/05/2023	49,711	05/30/2024	59	5.346	50,560	912797HS9	27682	50,570
U.S. Treasury	USBT	842,000	5.000	01/16/2024	826,213	05/30/2024	59	5.166	834,742	912797HS9	27703	835,100
Fund Total and Average		\$ 893,485	5.005		\$ 876,409		59	5.174	\$ 885,787			\$ 886,155
GRAND TOTALS:		\$ 11,544,593	3.143		\$ 11,511,301		624	3.099	\$ 11,172,959.			\$ 11,543,642

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2024

Callable Dates:

Inv #

27199 FFCB Anytime



Northern California Power Agency
Treasurer's Report
03/31/2024

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
First American Govt.	USBGC	85,673	5.190		85,673		1	5.190	85,673	SYS70041	70041	85,673
California Asset Mgm	CMP	4,087,255	5.500	09/09/2022	4,087,255		1	5.500	4,087,255	SYS70075	70075	4,087,255
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70047	70047	0
Federal Farm Credit	USBGC	2,050,000	5.375	09/15/2023	2,053,075	09/13/2024	165	5.217	2,048,873	3133EPVU6	27640	2,051,391
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	244	1.776	458,639	14912L6G1	26952	469,359
Nashville Met Gov	USBGC	350,000	0.610	09/18/2023	350,000	07/01/2025	456	0.609	331,300	592112XC5	27645	350,000
Nashville Met Gov	USBGC	150,000	0.610	09/18/2023	150,000	07/01/2025	456	0.609	141,896	592112XA9	27646	150,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	484	0.579	943,830	3136G4D75	27047	1,000,266
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	504	0.600	942,730	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	546	0.530	702,690	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	546	0.530	628,360	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	678	0.699	463,870	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	759	1.200	457,640	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	836	1.050	915,510	57629WDE7	27250	1,003,339
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	877	1.250	89,047	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	896	1.227	457,905	14913R2Q9	27290	499,085
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	937	1.567	783,182	872898AA9	27335	853,809
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	952	1.490	472,662	74460DAG4	27310	515,127
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	952	1.475	976,529	74460DAG4	27341	1,064,654
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,156	3.654	179,140	088006KB6	27424	186,622
Mercedes-Benz Fin. N	USBGC	275,000	3.750	06/26/2023	260,832	02/22/2028	1,422	5.003	264,083	233851DF8	27609	263,157
Fund Total and Average		\$ 16,111,928	2.838		\$ 16,126,701		462	2.802	\$ 15,430,814			\$ 16,099,737
GRAND TOTALS:		\$ 16,111,928	2.838		\$ 16,126,701		462	2.802	\$ 15,430,814.			\$ 16,099,737

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2024

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
27259	BAC	Semi-annually



Northern California Power Agency
Treasurer's Report
03/31/2024

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
California Asset Mgm	CMP	172,942	5.500	09/13/2022	172,942		1	5.500	172,942	SYS70077	70077	172,942
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70046	70046	0
Fund Total and Average		\$ 172,942	5.500		\$ 172,942		1	5.500	\$ 172,942			\$ 172,942
GRAND TOTALS:		\$ 172,942	5.500		\$ 172,942		1	5.500	\$ 172,942.			\$ 172,942

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 03/31/2024



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 9

Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

Subject: March 31, 2024 Financial Reports (Unaudited)

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

	March	
	2024	2023
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 172,942	\$ 163,829
Interest receivable	31,275	28,021
Inventory and supplies - at average cost	2,643,800	2,635,210
Prepaid insurance	958,563	1,060,852
Due from (to) Agency, net	18,018,716	52,401,710
TOTAL CURRENT ASSETS	21,825,296	56,289,622
RESTRICTED ASSETS		
Cash and cash equivalents	6,099,563	4,946,319
Investments	37,784,167	35,548,018
Interest receivable	50,971	64,854
TOTAL RESTRICTED ASSETS	43,934,701	40,559,191
ELECTRIC PLANT		
Electric plant in service	447,664,290	447,458,697
Less: accumulated depreciation	(149,601,601)	(134,848,371)
TOTAL ELECTRIC PLANT	298,062,689	312,610,326
OTHER ASSETS		
Regulatory assets	28,426,408	29,289,388
TOTAL OTHER ASSETS	28,426,408	29,289,388
TOTAL ASSETS	392,249,094	438,748,527
DEFERRED OUTFLOWS OF RESOURCES		
Unamortized excess cost on advance refunding of debt, net	260,380	603,058
Asset retirement obligations	202,882	196,054
TOTAL DEFERRED OUTFLOWS OF RESOURCES	463,262	799,112
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 392,712,356	\$ 439,547,639

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

	March	
	2024	2023
LIABILITIES & NET POSITION		
CURRENT LIABILITIES		
Accounts and retentions payable	\$ 299,034	\$ 8,362,155
Operating reserves	20,189,945	13,988,564
Current portion of long-term debt	14,239,000	13,842,676
Accrued interest payable	4,138,330	4,240,098
TOTAL CURRENT LIABILITIES	38,866,309	40,433,493
NON-CURRENT LIABILITIES		
Operating reserves and other deposits	165,932	711,668
Asset retirement obligations	202,882	196,054
Long-term debt, net	301,709,764	315,948,765
TOTAL NON-CURRENT LIABILITIES	302,078,578	316,856,487
TOTAL LIABILITIES	340,944,887	357,289,980
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	37,407,535	38,492,398
NET POSITION		
Invested in capital assets, net of related debt	(4,394,903)	(3,775,466)
Restricted	11,582,274	11,826,348
Unrestricted	7,172,563	35,714,379
TOTAL NET POSITION	14,359,934	43,765,261
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 392,712,356	\$ 439,547,639

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

		Nine Months Ended March	
		2024	2023
SALES FOR RESALE			
Participants	\$	29,308,514	\$ 39,067,625
Other		66,396,787	165,939,782
TOTAL SALES FOR RESALE		95,705,301	205,007,407
OPERATING EXPENSES			
Operations		58,887,147	140,047,380
Depreciation & amortization		10,617,470	10,614,096
Purchased power		2,372,998	7,845,513
Maintenance		4,606,944	4,337,860
Administrative and general		4,847,141	4,187,491
Transmission		492,230	878,206
Intercompany (sales) purchases		294,627	254,877
TOTAL OPERATING EXPENSES		82,118,557	168,165,423
NET OPERATING REVENUES		13,586,744	36,841,984
OTHER REVENUES (EXPENSES)			
Interest expense		(9,505,121)	(9,792,045)
Interest income		2,985,513	2,230,468
Other		4,306,393	7,889,347
TOTAL OTHER REVENUES (EXPENSES)		(2,213,215)	327,770
FUTURE RECOVERABLE AMOUNTS		(711,284)	(427,715)
REFUNDS TO PARTICIPANTS		(916,772)	80,601
INCREASE IN NET POSITION		9,745,473	36,822,640
NET POSITION			
Beginning of year		4,614,461	6,942,621
End of period	\$	14,359,934	\$ 43,765,261

**Lodi Energy Center
FY 2024 Operating Costs
As of March 31, 2024**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
Variable Costs					
Variable	\$ 4,837,398	\$ 2,896,421	\$ 1,940,977	40%	
Fuel & LDC Costs	71,517,913	37,831,116	33,686,797	47%	A
GHG Allowance Costs	13,984,733	12,867,298	1,117,435	8%	
CA ISO Charges	675,245	492,230	183,015	27%	B
CA ISO Energy Purchases	688,425	2,372,998	(1,684,573)	0%	
Total Variable Costs	91,703,714	56,460,063	35,243,651	38%	
Routine O&M Costs					
Fixed O&M	3,350,082	3,141,355	208,727	6%	C
Administration	188,173	93,083	95,090	51%	
Mandatory Costs	374,870	549,678	(174,808)	0%	D
Routine O&M Costs without Labor	4,413,125	4,076,737	336,388	8%	
Labor	6,167,244	4,414,901	1,752,343	28%	
Total Routine O&M Cost	10,580,369	8,491,638	2,088,731	20%	
Other Plant Costs					
Debt Service	25,992,239	19,494,178	6,498,061	25%	
Insurance	1,751,712	1,313,784	437,928	25%	
Other Costs	176,665	39,984	136,681	77%	
Generation Services Shared	393,387	294,627	98,760	25%	
Administrative & General (Allocated)	2,285,971	1,714,122	571,849	25%	
Power Management Allocated Costs	1,505,071	1,128,803	376,268	25%	
Total Other Plant Costs	32,105,045	23,985,498	8,119,547	25%	
Total O&M Costs	134,389,128	88,937,199	45,451,929	34%	
Projects					
Operations & Maintenance	1,698,529	923,952	774,577	46%	
Capital	45,000	-	45,000	100%	
Maintenance Reserve	2,169,063	1,626,797	542,266	25%	
Total Projects	3,912,592	2,550,749	1,361,843	35%	
Annual Cost	138,301,720	91,487,948	46,813,772	34%	
Less: Third Party Revenue					
Interest Income	250,000	1,044,654	(794,654)	0%	
ISO Energy Sales	123,918,636	65,574,437	58,344,199	47%	
Ancillary Services Sales	2,010,665	822,351	1,188,314	59%	
Other Income	-	947	(947)	0%	
	126,179,301	67,442,389	58,736,912	47%	
Net Annual Cost to Participants (without GHG Transfer Credits)	12,122,419	24,045,559	(11,923,140)		
GHG Allowance Credits	13,611,634	12,867,298	744,336	5%	
Net Annual Cost to Participants (with GHG Transfer Credits)	\$ (1,489,215)	\$ 11,178,261	\$ (12,667,476)	851%	
Total Variable Costs	91,703,714	56,460,063	35,243,651		
Total Fixed Costs	46,598,006	35,027,885	11,570,121		
	\$ 138,301,720	\$ 91,487,948	\$ 46,813,772		
Net Cumulative Generation (MWh)	1,626,895	912,204			
Total O&M Cost Per MWh	\$ 82.60	\$ 97.50			
Net Annual Cost Per MWh	\$ (0.92)	\$ 12.25			
Net Annual Cost Per KW Month	\$ (0.41)	\$ 3.08			

Footnotes:

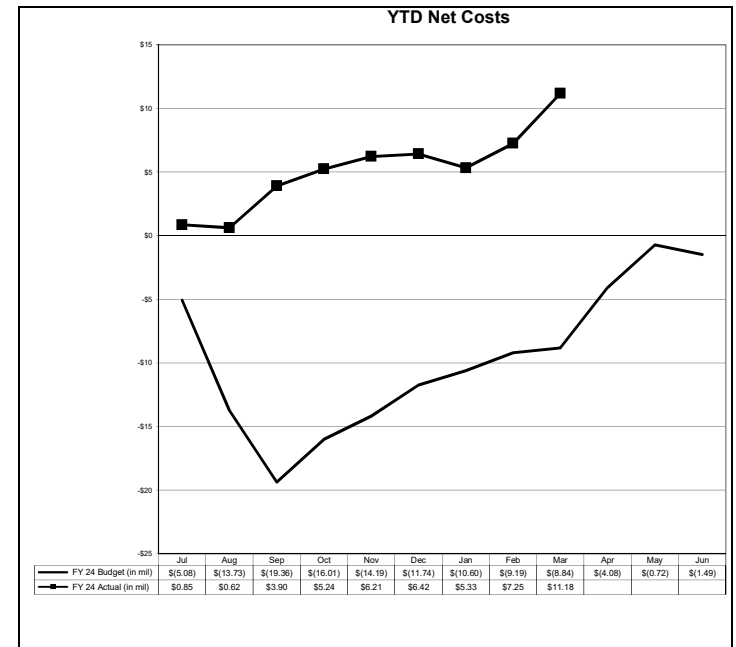
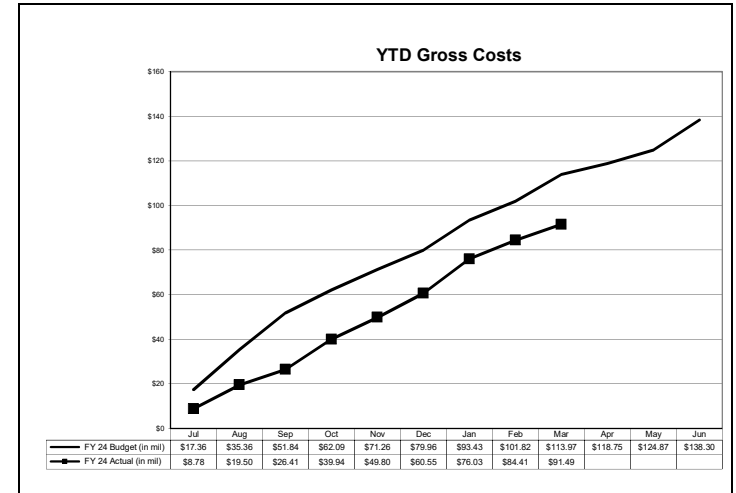
General - The plant ran 2 out of 31 days (5 days in outage) during the month due to economics.

A - Higher GHG obligation costs due to increasing obligation costs per metric ton.

B - Higher CAISO costs due to higher prices for settlement charges during the year.

C - Costs for materials and supplies for annual outage were higher than expected due to supply chain issues.

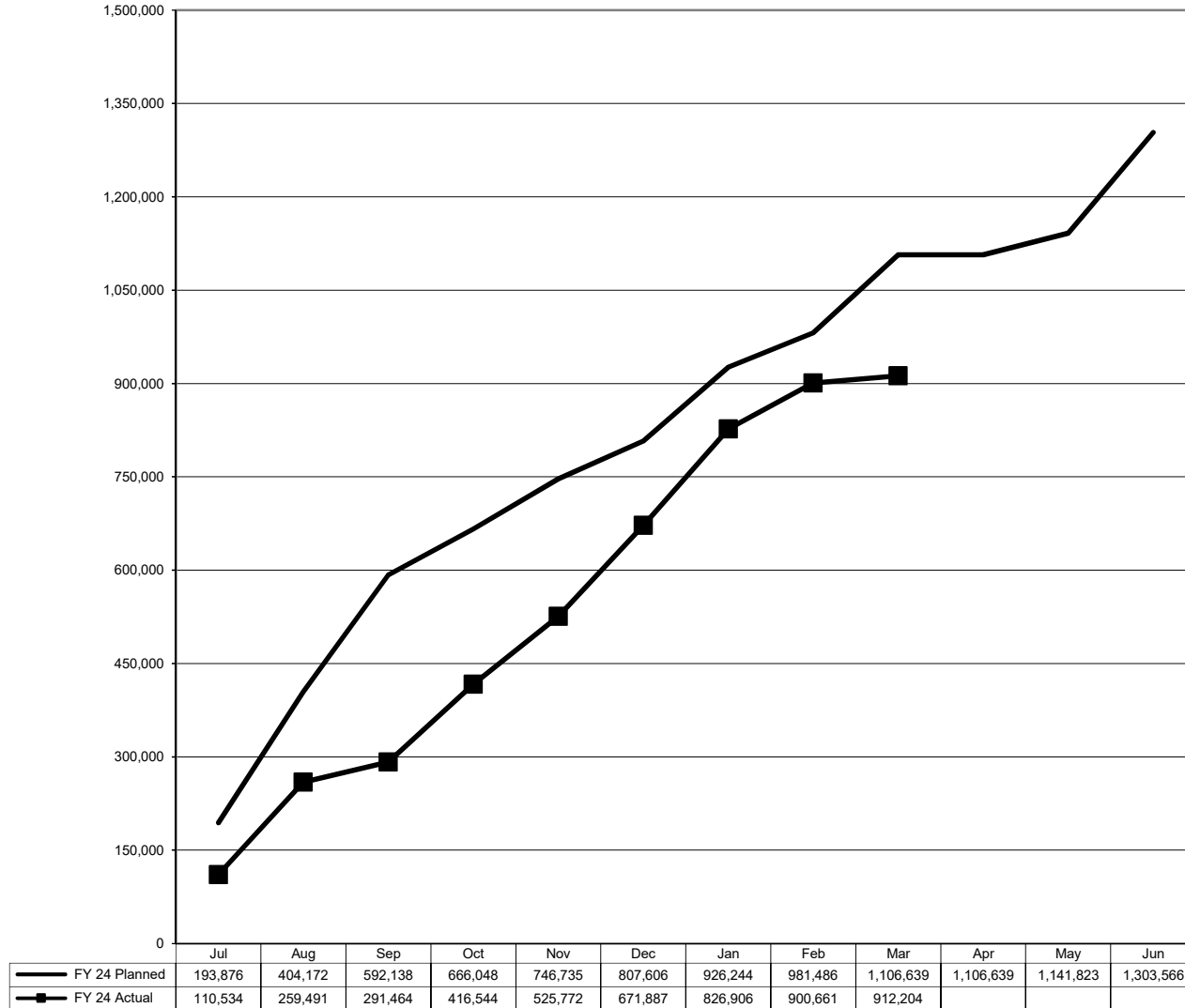
D - Expenditure for annual permit fees, including higher than expected fees to Air Resources Board.



Annual Budget LEC Generation Analysis Planned vs. Actual FY 2024

In MWh

Lodi Energy Center





Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 10

Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

[illegible]

	CY 2024 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual			Estimated									CY 2024	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	155,019	73,755	11,543	0	0	3,596	0	0	0	0	0	0	243,913	12,579,710
Gas Schedule (MMBtu)	1,076,706	519,176	82,361	0	0	27,906	0	0	0	0	0	0	1,706,149	90,339,932
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)	58,104	28,017	4,445	0	0	1,506	0	0	0	0	0	0	92,072	4,883,246
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)	1,326,057	1,354,074	1,358,519	1,358,519	1,358,519	1,360,025	1,360,025	1,360,025	1,360,025	1,360,025	1,360,025	1,360,025	1,360,025	1,360,025
Compliance Instrument Participant Transfers														
Carryover Allowances	10,000	0	0	0	0	0	0	0	0	0	0	0	10,000	109,263
Auction Allowances	939	294	0	0	0	0	0	0	0	0	0	0	1,233	5,103,753
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)	10,939	294	0	0	0	0	0	0	0	0	0	0	11,233	5,213,016
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	3,517,755
Total Monthly Activity (MT)	10,939	294	0	0	0	0	0	0	0	0	0	0	11,233	5,259,338
Cumulative MT Account Balance (MTA)	1,741,967	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261
MTA Shortfall (MT)	(415,910)	(388,187)	(383,742)	(383,742)	(383,742)	(382,236)	(382,236)	(382,236)	(382,236)	(382,236)	(382,236)	(382,236)	(382,236)	(382,236)
Current Month CCA Balance (\$)	0	0	0	0	170,596	0	0	0	0	0	0	0	0	170,596
Monthly GHG Price	41.40	40.44	43.51	38.56	38.77	44.19	39.19	39.38	44.87	39.77	40.00	45.54		



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.:11

Meeting Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

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

Proposal

Approve the Multi-Task General Services Agreement with Mechanical Analysis Repair, Inc. dba Martech for machining and motor maintenance 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 machining and motor maintenance 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 with Atlas Copco Compressors (pending), Dahl-Beck Electric, Industrial Electrical Co., Industrial Service Solutions (pending), Caltrol, Inc. and Custom Valve Solutions for similar services.

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 Mechanical Analysis Repair, Inc. dba Martech



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
MECHANICAL ANALYSIS REPAIR, INC. DBA MARTECH**

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 Mechanical Analysis Repair, Inc. dba Martech, a California corporation, with its office located at 142 N. Cluff Avenue, Lodi, CA 95240 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2024 ("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

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 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:

Mechanical Analysis Repair, Inc. dba Martech
Attention: Richard Leddy
142 N. Cluff Avenue
Lodi, CA 95240

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, SCLPPA or SCLPPA 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

MECHANICAL ANALYSIS REPAIR, INC.
DBA MARTECH

Date_____

Date_____

RANDY S. HOWARD,
General Manager

ANDY DELEMOS,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Mechanical Analysis/Repair, Inc. dba Martech ("Contractor") shall provide machining 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:

- Machining
- Balancing
- Hydroelectric Services
- AC/DC Motor Rewind and Rebuild
- Rebuild or Re-Manufacturing of Equipment
- Maintenance

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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



General Rate Sheet 2024

General Shop Labor

- Straight Time \$115.00
- Overtime \$172.50

Shop Services Machining and Balancing

- Straight Time \$125.00
- Overtime \$187.50

Field Superintendent/Foreman

- Straight Time \$115.00
- Overtime \$172.50

Field Balancing and Laser Alignment

- Straight Time \$125.00
- Overtime \$187.50
- Minimum of 4 hours will be billed

Health & Safety Coordinator

- Straight Time \$100.00
- Overtime \$150.00

Rescue Team Member

- Straight Time \$125.00
- Overtime \$187.50

Millwright

- Straight Time \$115.00
- Overtime \$172.50
- Minimum of 4 hours will be billed

Certified Welder / Technical Administration

- Straight Time \$115.00
- Overtime \$172.50
- Minimum of 4 hours will be billed

Field Engineering Services, Analytical Services

- Straight Time \$135.00
- Overtime \$202.50

Administrative Support

- Straight Time \$ 75.00
- Overtime \$ 112.50

Field Service Vehicle

- Daily Charge \$100.00

Notes:

- **Mobilization and demobilization rates apply**
- **Prevailing Wage rates are as per county**
- **All field service billed at half and full day rates only**
- **Double time rates apply after 12 hours, On all call out after hours, Saturdays after 8hrs, all Sundays and Holidays**
- **Mileage and fuel surcharges apply and are site/location specific**
- **Environmental and Hazardous Waste disposal charges apply**
- **Subsistence and lodging charges apply for all overnight stays**

Upon 30 days' advance notice and no more than once each calendar year, Mechanical Analysis Repair, Inc. dba Martech may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

Mechanical Analysis Repair, Inc. dba Martech

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 12

Meeting Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

Subject: Environex, 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

Proposal

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

Background

Various catalyst testing 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 with Fossil Energy Research Corp (FerCo) and Groome Industrial Service Corp. for similar services.

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 Environex, Inc.



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND ENVIRONEX, 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 Environex, Inc., a corporation, with its office located at 425 Technology Drive, Malvern, PA 19355 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2024 ("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

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:

Environex, Inc.
Attention: Joe Otto
425 Technology Drive
Malvern, PA 19355

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

ENVIRONEX, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

DANIEL W. OTT
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Environex, Inc. ("Consultant") shall provide catalyst testing related 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:

- SCR & CO Catalyst Testing
- System Inspection & Sampling
- Reporting
- Engineering
- Training

These testing services are not maintenance and thus, are not subject to prevailing wage per Labor Code section 1773.5 and Title 8 CCR 16001 (a).

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:

- Engineering \$110.00/hour
- Administrative \$75.00/hour
- Field Work/Time On-site \$1,700.00 per person per day plus travel*

*Travel expenses are not included and will be billed at cost.

Upon 30 days advance notice and no more than once each calendar year, Consultant may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

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

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I, _____

(Name of person signing affidavit)(Title)

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

Environex, 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.: 13

Meeting Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

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

Proposal

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

Background

Various pump maintenance 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 with Allied Power Group and Sulzer Turbo Services Houston for similar services.

Selection Process

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

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli
Assistant General Manager
Generation Services

Attachments: (1)

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



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KSB, 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 KSB, Inc., a New York corporation, with its office located at 19234 Flightpath Way, Bakersfield, CA 93308 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2024 ("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 (7) business days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses to perform the Requested Work. If Contractor agrees to perform the Requested Work, it shall acknowledge its agreement in writing 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

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 for its personnel, 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 on a per Purchase Order basis, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$2,000,000 per each occurrence, 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's Certificate of Insurance indicates higher limits than the limits specified herein, the Agency shall be entitled to coverage for the higher limits as indicated on the Certificate of Insurance provided to Agency by the Contractor.

4.5.4 Additional Certificates and Endorsements. If Contractor performs Work for Agency members, SCLPA and/or SCLPA 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, SCLPA and/or SCLPA 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 the term of this Agreement. Contractor shall also ensure that all its 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 due to personal injury or property damage arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees in performance of the Work, 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 performing Work 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.

If applicable, 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 as required by applicable law for its employees, agents, or subcontractors related to their performance of Work under this Agreement.

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 Work 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.
- 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 by its employees 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, after written notice from Agency and a reasonable opportunity to commence to cure, Contractor breaches a material term 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 a Purchase Order issued under this Agreement;
- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor pursuant to a Purchase Order; and/or
- 8.4.4** Charge Contractor the difference between the direct, out of pocket 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 (the "Records"), that Contractor prepares as part of or obtains for Work pursuant to this Agreement and that are prepared or directly 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. Notwithstanding anything herein to the contrary, Contractor retains all rights and title to any of its intellectual property in the Records.
- 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.

11.1.1 Subject to its limitation of liability, Contractor warrants that all goods supplied by Contractor as part of the Work ("Goods") shall be free from defects in design (except to the extent that any design is specified by Agency), materials and workmanship, as specified hereunder; and

11.1.2 Subject to its limitation of liability, Contractor warrants that all service performed as part Work shall be performed in a good and workmanlike manner as specified hereunder; and

11.1.3 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.

11.2.1. Subject to Contractor's limitation of liability, if, for a period of twelve (12) months from the date of placing Goods in operation or eighteen (18) months from the date of initial shipment, whichever shall occur first, any equipment, supplies or other materials used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship, Contractor shall, upon any reasonable written notice from Agency, but within the 12 or 18 month period, replace or repair the same at Contractor's option. The warranty period for repaired or replaced Goods shall extend for 12-months from the date of completion of such repair or replacement, or until the end of the original warranty period, whichever occurs later.

11.2.2 Subject to Contractor's limitation of liability, if, for a period of thirty (30) days from the date services performed as part of Work, such services performed by Contractor under this Agreement fails to be performed in a good and workmanlike manner, Contractor shall, upon any reasonable written notice from Agency but within the thirty (30) day period, reperform such non-conforming service. The warranty period for reperformed services shall extend for thirty (30) days from the date of completion of such reperformance, or until the end of the original warranty period for such services, whichever is greater.

11.2.3 Contractor shall have no liability for reperformance, repairs or replacements to Work performed by Agency or any third party hired by Agency, without Contractor's prior approval. In cases of emergency or threats to bodily injury, Agency may perform such remedial work without Contractor's prior approval, and agrees to follow Contractor's technical instructions. Contractor shall be responsible for any direct, out of pocket costs incurred by Agency, including time spent by Agency personnel to affect such repairs, replacements or adjustments to the Work where Contractor cannot or refuses to perform such repairs, replacements or adjustments.

11.2.4 Contractor shall not be responsible for any in and out costs, beyond Contractor's original scope of supply, and Agency shall be responsible for free and clear access during the term of this Agreement until the end of applicable warranty periods cited above.

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 Contractor's warranties specifically exclude the effects of corrosion, erosion and normal wear and tear. Contractor makes no performance warranty unless specifically stated within its proposal.

11.5 THE WARRANTIES MADE HEREIN BY CONTRACTOR ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS, STATUTORY OR IMPLIED BY AGENCY OR ANY ENTITY ISSUING A PURCHASE ORDER UNDER THIS

AGREEMENT. CONTRACTOR DISCLAIMS ANY AND ALL WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

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:

KSB, Inc.
Attention: Eric Jenkins, KSB SupremeServ Sales Director, KSB USA
4415 Sarellen Road
Henrico, VA 23231

With a copy to:

Audrey Schumacher Turner, Regional Legal Counsel –KSB North America
4415 Sarellen Road
Henrico, VA 23231

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

13.16 Limitation of Liability.

13.16.1 IN NO EVENT SHALL CONTRACTOR BE LIABLE-WHETHER OR AS A RESULT OF BREACH OF CONTRACT OR WARRANTY OR BY WAY OF INDEMNITY OR OTHERWISE- FOR ANY LOSS OF AGENCY ABILITY TO GENERATE AND THE RESULTING EFFECTS, OR ANY FURTHER SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGE.

13.16.2 Notwithstanding anything herein to the contrary, Contractor's liability is limited to the insurance levels specified in Section 4 for insurable claims and 1.5x PO value for any claim not covered by insurance.

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

NORTHERN CALIFORNIA POWER AGENCY

KSB, INC.

Date_____

Date_____

RANDY S. HOWARD,
General Manager

ERIC JENKINS,
KSB SupremeServ Sales Director, KSB
USA

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

KSB, Inc. ("Contractor") shall provide pump maintenance related services related to project support and plant operations as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Pump Maintenance
- Mechanical Seal Maintenance
- Metal Fabrication
- Rotating Equipment Balancing
- Equipment Cleaning

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

2024 KSB, Inc. Bakersfield Shop & Field Service Rates

		Industry Standard Rate	Engineered Product Rate
H O U R L Y R A T E S	A. Shop, Machine Shop, and Field Technician Labor Rate 1. Monday through Friday, up to eight (8) consecutive hours 2. Normal operating hours are 7:00 am – 3:30 pm , Monday – Friday 3. Pump Shop requires two staff members after hours *A minimum of 4 hours per technician per job will be invoiced	\$110.00	\$160.00
	B. Overtime Service Rate 1. Monday through Friday, excess of eight (8) hours, up to twelve (12) consecutive hours 2. Saturday, up to twelve (12) consecutive hours	\$165.00	\$240.00
	C. Premium Service Rate 1. Monday through Saturday, excess of twelve (12) consecutive hours 2. Sundays, Public/Company Holidays, entire day	\$220.00	\$320.00
E X P E N S E S	D. Travel Time Rate (including portal to portal) and Standby Time will include the applicable rates shown above	See (A, B, C)	See (A, B, C)
	E. Holdover Time Rate Charged for time spent, at customer's request, at location in lieu of returning to point of origin.	\$880.00 / day	\$1,280.00 / day
	F. Per Diem Covers meals and incidental expenses associated with being at the job site. Not including are lodging and travel expenses.	\$103.00 / per day	\$103.00 / per day
	G. Public Transportation and Lodging At receipted cost plus 18% admin. Expense. Includes, but not limited to, airfare, rental vehicle, gasoline, tolls, parking, baggage fees, hotel	Cost + 18% admin. Expense	Cost + 18% admin. expense
	H. Mileage Company and personal vehicles	Current IRS mileage rate	Current IRS mileage rate
	I. Miscellaneous Includes, but not limited to, freight, postage, printing costs, consumables required to perform tasks	Cost + 18% admin. expense	Cost + 18% admin. expense
F E E S	J. Transportation Charge For Pick-up/Delivery (2 hour Minimum)	\$3.60 Per mile + 18% admin. Expense	\$3.60 Per mile + 18% admin. Expense
	K. Laser Alignment	\$350.00 / day	\$350.00 / day

Rates effective till 12-31-24.

Contractor may revise the hourly rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

KSB, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 14

Meeting Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

Subject: Kobelco Compressors America, Inc. – Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

Proposal

Approve the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Kobelco Compressors America, Inc. for fuel gas compressor related materials, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years for use at any facilities owned and/or operated by NCPA.

Background

Various fuel gas compressor related materials are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA has utilized this vendor in the past, and has a good working relationship with 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.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time materials 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 materials needed at the time the material is required.

Kobelco is the OEM for the fuel gas compressors at NCPA's Lodi Energy Center. Use of another vendor could damage and/or compromise the performance reliability of the machine. As such, there are certain components used in this machinery that must be procured by the Lodi Energy Center via sole-source.

Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$750,000 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 Agreement for Purchase of Equipment, Materials and Supplies with Kobelco Compressors America, Inc.



**MULTI-TASK
AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KOBELCO COMPRESSORS AMERICA, INC.**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Kobelco Compressors America, Inc., ("Supplier"), whose principal office is located at 1450 W. Rincon Street, Corona, CA 92878 (together sometimes referred to as the "Parties") as of _____, 2024 (the "Effective Date").

Section 1. SCOPE. In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to the designated Project Site, DDP, when requested by the Agency. Supplier shall be responsible at its sole expense for delivering the Goods to the designated Project Site and title shall not pass until the Agency accepts delivery at this Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

Section 2. PROJECT SITE. Goods provided under this Agreement by Supplier include Goods delivered directly to the Agency. The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP, at a facility owned and/or operated by Agency.

Section 3. TERM OF AGREEMENT. This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A.

Section 4. REQUEST FOR GOODS. At such time that Agency determines to have Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"), may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods shall be delivered. Supplier shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Supplier chooses not to provide the Requested Goods. If Supplier agrees to provide the Requested Goods, begins to provide the Requested Goods, or does not respond within the seven day period specified, then Supplier will have agreed to provide the Requested Goods on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 5. COMPENSATION. Agency hereby agrees to pay Supplier for the Goods an amount not to exceed SEVEN HUNDRED FIFTY THOUSAND dollars (\$750,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a

guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

- 5.1 Invoices.** Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the Goods for which Supplier is seeking payment. In the event Supplier fails to invoice Agency for all amounts due within such ninety (90) day period, Supplier waives its right to collect payment from Agency for such amounts. All invoices shall be submitted to:

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

- 5.2 Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.
- 5.3 Timing for Submittal of Final Invoice.** Supplier shall have ninety (90) days after delivery of the Requested Goods to submit its final invoice for the Requested Goods. In the event Supplier fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Supplier is deemed to have waived its right to collect its final payment for the Requested Goods from Agency.

Section 6. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Supplier, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 6.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 6.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of

the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

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

6.5 All Policies Requirements.

6.5.1 Verification of Coverage. Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

6.5.2 Notice of Reduction in or Cancellation of Coverage. Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.

6.5.3 Waiver of Subrogation. Supplier agrees to waive subrogation which any insurer of Supplier may acquire from Supplier by virtue of the payment of any loss. Supplier agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

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

6.5.5 Additional Certificates and Endorsements. Not Applicable.

6.6 Pollution Insurance. If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

“Hazardous Materials” means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed, or controlled pursuant to any national, state, or local law, statute, ordinance, directive, regulation, or other legal requirement of the United States.

Section 7. WARRANTY. In addition to any and all warranties provided or implied by law or public policy, or any other warranties provided by Supplier, Supplier warrants that all Goods are free from defects in design and workmanship; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and free from defects; are suitably safe and sufficient for the purpose for which they are normally used; and are not subject to any liens or encumbrances. Supplier shall provide all Goods in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all with the degree of high quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof, unless Supplier’s warranty is for greater than one (1) year, in which case Supplier’s warranty shall be applied), the Goods provided by Supplier under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Supplier shall, upon any reasonable written notice from Agency, replace or repair the same to Agency’s satisfaction.

Section 8. INDEMNIFICATION AND SUPPLIER’S RESPONSIBILITIES.

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

Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications. Should Supplier be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

Section 9. MISCELLANEOUS PROVISIONS.

- 9.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 9.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 9.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 9.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this

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

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

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

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

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

9.13 Contract Administrator. This Agreement shall be administered by 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.

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

Kobelco Compressors America, Inc.
Attention: Daisuke Morita
1450 W. Rincon Street
Corona, CA 92878

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

- 9.15 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Supplier agree to resolve the dispute in accordance with the following:
- 9.15.1** Each party shall designate a senior management or executive level representative to negotiate any dispute.
 - 9.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 9.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 9.15.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 9.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 9.15.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 9.16 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 9.17 Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 9.18 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

KOBELCO COMPRESSORS AMERICA,
INC.

Date: _____

Date: _____

RANDY S. HOWARD,
General Manager

PETER VENIZELOS,
Head of Aftermarket Sales & Engineering

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

PURCHASE LIST

Kobelco Compressors America, Inc. ("Supplier") shall provide the following list of Goods as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency. Supplier agrees to deliver all materials and supplies to the location(s) FOB Destination.

Goods to be supplied, but not limited to the following:

- Oil
- Filters
- Miscellaneous parts as needed

NOT APPLICABLE

EXHIBIT B

CERTIFICATION

Affidavit of Compliance for Suppliers

I, _____

(Name of person signing affidavit)(Title)

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

(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 C

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 15

Meeting Date: May 6, 2024

To: Lodi Energy Center Project Participant Committee

Subject: Kimberly Fields dba K. Weatherman Logging – Five-Year Multi-Task General Services Agreement; Applicable to the following: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA) and SCPPA Members.

Proposal

Approve the Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging for vegetation management related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, Southern California Public Power Authority (SCPPA) and SCPPA Members.

Background

Vegetation management 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 services. NCPA has agreements in place for similar services with Cornerstone Land Services LLC, High Sierra Timber Management, LLC and Nate's Tree Service.

Selection Process

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

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Kimberly Fields dba K. Weatherman Logging



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
KIMBERLY FIELDS DBA K.WEATHERMAN LOGGING**

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 Kimberly Fields dba K. Weatherman Logging, a sole proprietorship, with its office located at P.O. Box 912, Murphys, CA 95247 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2024 ("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

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 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:

Kimberly Fields, Owner
Kimberly Fields dba K. Weatherman Logging
P.O. Box 912
Murphys, CA 95247

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

KIMBERLY FIELDS DBA
K. WEATHERMAN LOGGING

Date_____

Date_____

RANDY S. HOWARD,
General Manager

KIMBERLY FIELDS
Owner

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A
SCOPE OF WORK

Kimberly Fields dba K. Weatherman Logging ("Contractor") shall provide logging and vegetation management related services as requested by 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:

- Falling trees;
- Climbing;
- Chipping;
- Hauling;
- Brush removal; and
- Weed abatement.

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

	2024
1 VEHICLE. 2 PEOPLE AND TOOLS (HOURLY)	\$383.25
CHIPPER (DAILY)	\$472.50
DUMP TRUCK for brush removal (DAILY)	\$472.50
TREE CLIMBER (HOURLY)	\$157.50
EXTRA LABOR/EQUIPT. OPERATOR (HOURLY)	\$131.25

Upon 30 days advance notice and no more than once each calendar year, Kimberly Fields dba K. Weatherman Logging may increase rates for new Purchase Orders. If NCPA does not accept the increased rates, NCPA may terminate this Agreement.

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

NOTE: As a public agency, NCPA shall not reimburse 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

Kimberly Fields dba K. Weatherman Logging

(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)