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## LEC PPC Agenda

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**Date:** May 6, 2020  
**Subject:** May 11, 2020 Lodi Energy Center Project Participant Committee Meeting  
**Location:** 651 Commerce Drive, Roseville, CA 95678 and/or via Teleconference  
**Time:** 10:00 a.m.

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\*\*\* This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, Governor Newsom's Emergency Declaration related to COVID-19, and Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by LEC PPC Members, staff, and the public to participate and conduct the meeting by teleconference.

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In compliance with the Executive Department, State of California, Executive Order N-29-20, and the Brown Act, you may participate in the meeting via teleconference by:  
Dial: 1-866-899-4679  
Access Code: 811-427-773

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

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

**1. Review Safety Procedures**

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

**PUBLIC FORUM**

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

**3. Meeting Minutes – Approval of April 6, 2020 Regular Meeting Minutes**

**MONTHLY REPORTS**

**4. Operational Report for April 2020 – (Rafael Santana)**

**5. Market Data Report for March 2020 – No update due to ongoing outage.**

**6. Monthly Asset Report for March 2020 – (Michael DeBortoli)**

**7. Bidding Strategies Report – No update due to ongoing outage.**

**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 2020 – Accept by all Participants**

**9. Financial Report for March 2020 – 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. Sulzer Turbo Services Houston, Inc. Second Amendment to MTGSA-EMS** – Staff is seeking a recommendation for approval of a Second Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc., extending the contract expiration date to August 12, 2020, with no change to the not to exceed amount, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 12. Securitas Security Services USA, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Securitas Security Services USA, Inc. for security 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. Energy Project Solutions, LLC MTGSA** -- Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Energy Project Solutions, LLC for pipeline operations and maintenance 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: \_\_\_\_\_

#### **BUSINESS ACTION ITEMS**

**None.**

#### **INFORMATIONAL/ DISCUSSION ITEMS**

- 14. LEC Unit Update** – Staff will provide an informational-only update on the status of the LEC unit.
- 15. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

#### **ADJOURNMENT**

Next Regular Meeting: June 8, 2020 at 10:00 a.m.

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



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# LEC PPC Meeting Minutes

**Date:** April 6, 2020

**Time:** 10:00am

**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 10:00am by Chairman Jiayo Chiang. He asked that roll be called for the Project Participants as listed below. Paul Eckert with Gridley arrived just in time to vote on the Consent Calendar.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Robledo	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Alqaser	Present	33.5000%
Gridley - Eckert	Present	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Grandi	Absent	1.7857%
<b>Summary</b>		
Present	8	87.1501%
Absent	5	12.8499%
Quorum by #:	Yes	



Quorum by GES:	Yes	
Meeting Date:	April 6, 2020	

### **Public Forum**

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

### **3. Meeting Minutes**

The draft minutes from the March 9, 2020 were considered. The LEC PPC considered the following motion:

**Date:** 4/6/2020

**Motion:** The PPC approves the minutes from the March 9, 2020 regular LEC PPC meeting.

**Moved by:**

**SVP**

**Seconded by:**

**CDWR**

**Discussion:** There was no further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%

## **MONTHLY REPORTS**

### **4. Operational Reports for March 2020**

Rafael Santana presented the Operational Report for February 2020. There were no OSHA recordable accidents, no NERC/WECC or permit violations, and the forced outage from January 16, 2020 continues. Rafael mentioned the CT Transformer replacement delivery is behind by a week. The forced outage is on track for April and May 2020. The CT major outage is scheduled for 2022/2023.

The operational report reflected monthly production of 0 MWH, 0 service hours, and equivalent operating availability of 0%. The report set for the Capacity Factor @ 302MW Pmax of 0%. There were 0 hot starts, 0 warm starts, and 0 cold starts during the month.

### **5. Market Data Report for January 2020**

Zackary Liske presented the operating and financial settlement results for the month. LEC was committed to CAISO 0 out of 0 available days. There were no startups in the month of March, due to the January 2020 forced outage.

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

Michael DeBortoli presented the monthly asset report for February 2020. Michael mentioned the variable costs were down in the month of February due to the forced outage on January 16, 2020, and the fixed costs remain the same.

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

Ken Geoke mentioned, due to the January 2020 forced outage, there was no update or presentation for the Bidding Strategies Report for March 2020.

### **Consent Calendar (Items 8-17)**

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

**Date:** 4/6/2020

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.:  
**8.** Treasurer's Report for February 2020; **9.** Financial Report for February 2020;

**10.** GHG Reports (excerpted from the Monthly ARB); **11.** Vince Sigal Electric MTGSA for general specialized electrical services, not to exceed \$1,500,000 over five years, for use at all NCPA facilities and Members/SCPPA; **12.** Safety Management Systems, LLC MTGSA for safety consulting and training services, with a not to exceed of \$1,000,000, for use at all NCPA facilities and Members/SCPPA; **13.** Pacific Power Engineers, Inc. First Amendment to MTGSA accepting assignment to Ulteig Engineers, Inc., with no change to the not to exceed, for continued use at all NCPA facilities and Members/SCPPA; **14.** ORR Protection Systems, Inc. MTGSA for fire system maintenance services, not to exceed \$1,500,000 over five years, for use at all NCPA facilities and Members/SCPPA; **15.** Famand, Inc. dba SitelogIQ MTGSA for heating, ventilation, and air-conditioning services, not to exceed \$1,000,000 over five years, for use at all NCPA facilities and Members/SCPPA; **16.** OSIsoft Enterprise Program Agreement for PI software licensing and remote monitoring, not to exceed \$481,000 over five years, for use at all NCPA facilities; **17.** Stephens Mechanical Corporation MTGSA for miscellaneous mechanical services, not to exceed \$1,000,000 over five years, for use at all NCPA facilities and Members/SCPPA.

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

**SVP**  
**CDWR**

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%
<b>Vote Summary</b>		
Total Ayes	8	87.1501%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	5	12.8499%
Result:	Motion Passes	

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## **BUSINESS ACTION ITEMS**

None.

### **18. Lodi Energy Center Unit Outage Update**

Michael DeBortoli provided the Committee with an update on the status of the forced outage for the turbine replacement. NCPA was been working diligently with the San Joaquin Valley Air Pollution Control District, EPA, Trinity Consultants and NCPA's Legal Department and to get the necessary authorizations to construct and replace LEC's turbine.

## **INFORMATIONAL ITEMS**

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

None.

### **Adjournment**

The next regular meeting of the PPC is scheduled for Monday, May 11, 2020 at 10:00am.

The meeting was adjourned at 10:17am.

Submitted by: Melissa Conrad

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 5**

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**Date:** 05/11/2020

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

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### **Safety**

- OSHA Recordable: 0 Accidents.

### **Notice of Violations**

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

### **Outage Summaries:**

- 4/1 – 4/30: LEC CT failure, OMS 8344634.

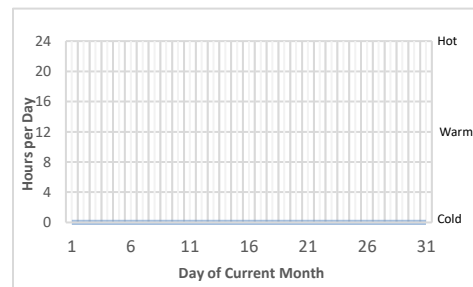
### **Planned Outage Summaries:**

- 2020 MAY – CTG Main Transformer Replacement
- 2022/2023 ST and Gen – Major Inspection (6 weeks outage)

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

4/1/2020

1. Monthly Production 0 MWH
2. Productivity Factor
- a. Service Hours 0 Hours
- b. Service Factor 0.0% %
- c. Capacity Factor @ 302MW Pmax 0.0 %
3. Equivalent Operating Availability (EOA) 0.0 %
4. Forced Outage Rate (FOR) #DIV/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	0	0.00%	0	\$0
Seg. 8 165 - 175	7760	0	0.00%	0	\$0
	7,164	#DIV/0!	0.00%	0	\$0

## 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

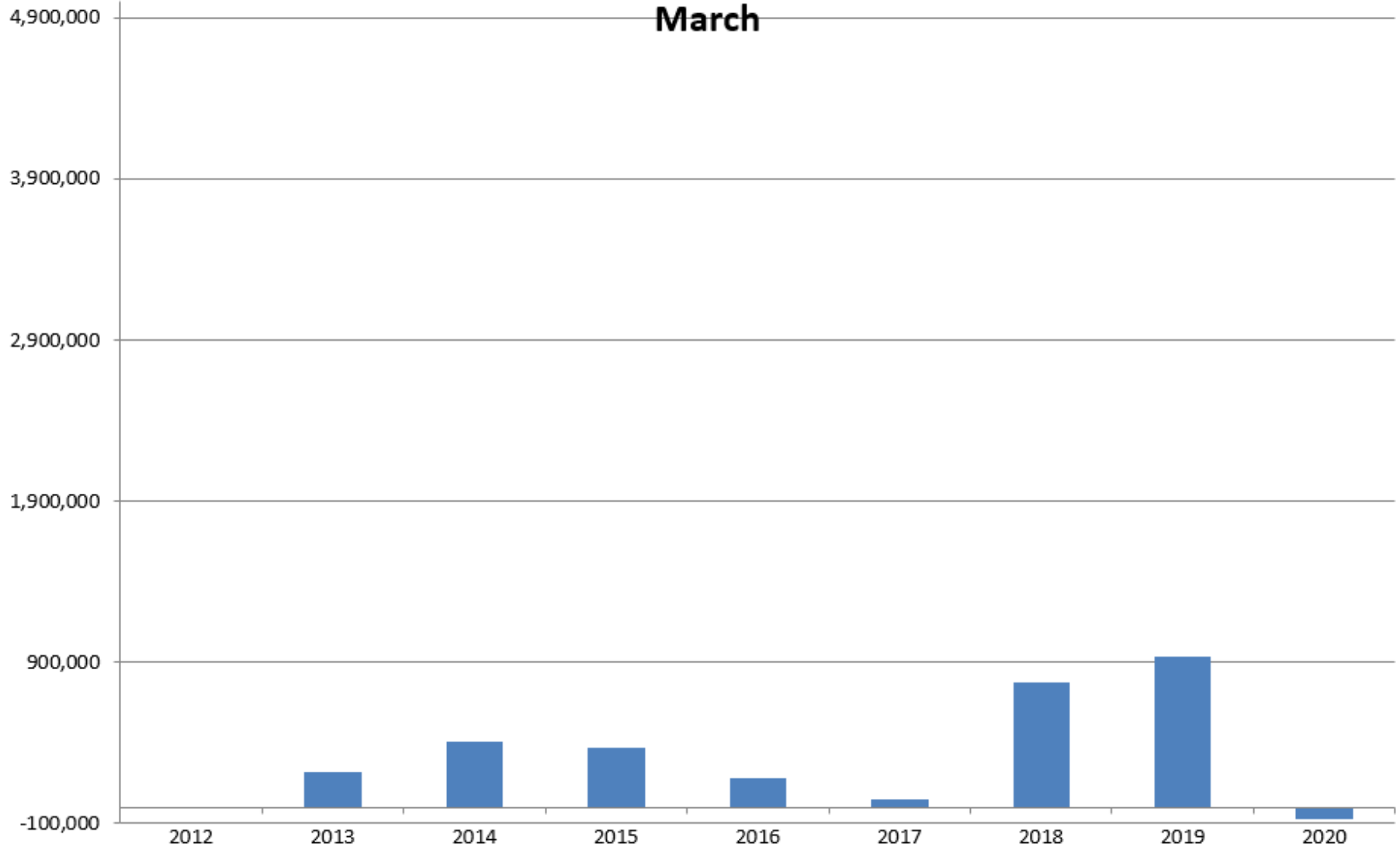
## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	0	0	0
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	0	0	0
Start Time Deviation (%)	0%	0%	0%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,300	0	0
Fuel Deviation (%)	0%	-100%	0%
Costs of Fuel Deviations (\$)	\$0	\$0	\$0

# March Asset Report

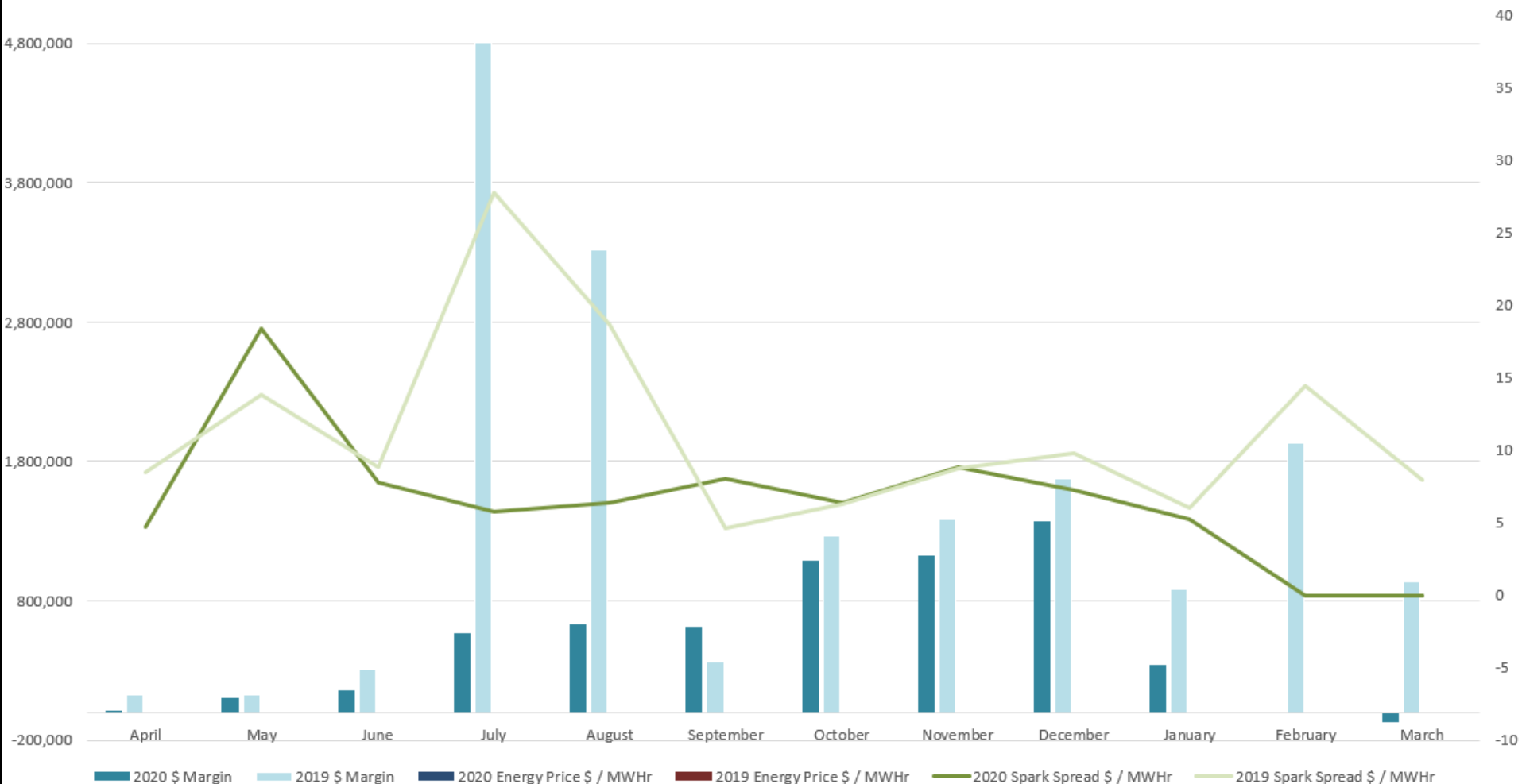
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	3,258	15,911	2,995,458	(12,653)	-80%	
VOM	420,628	460,000	2,527,329	(39,372)	-9%	
Fixed	779,454	737,049	792,972	42,405	6%	
Projects	149,370	124,681	124,681	24,689	20%	
A&G	164,759	203,798	203,798	(39,039)	-19%	
Debt	2,171,202	2,171,202	2,171,202	(0)	0.00%	
Net Cost	(3,682,155)	(3,680,819)	(2,824,525)	(1,336)	0%	
Net Annual Cost		(41,581,566)	(29,095,641)	(\$12,485,925)		
				Above budget by 42.91%		

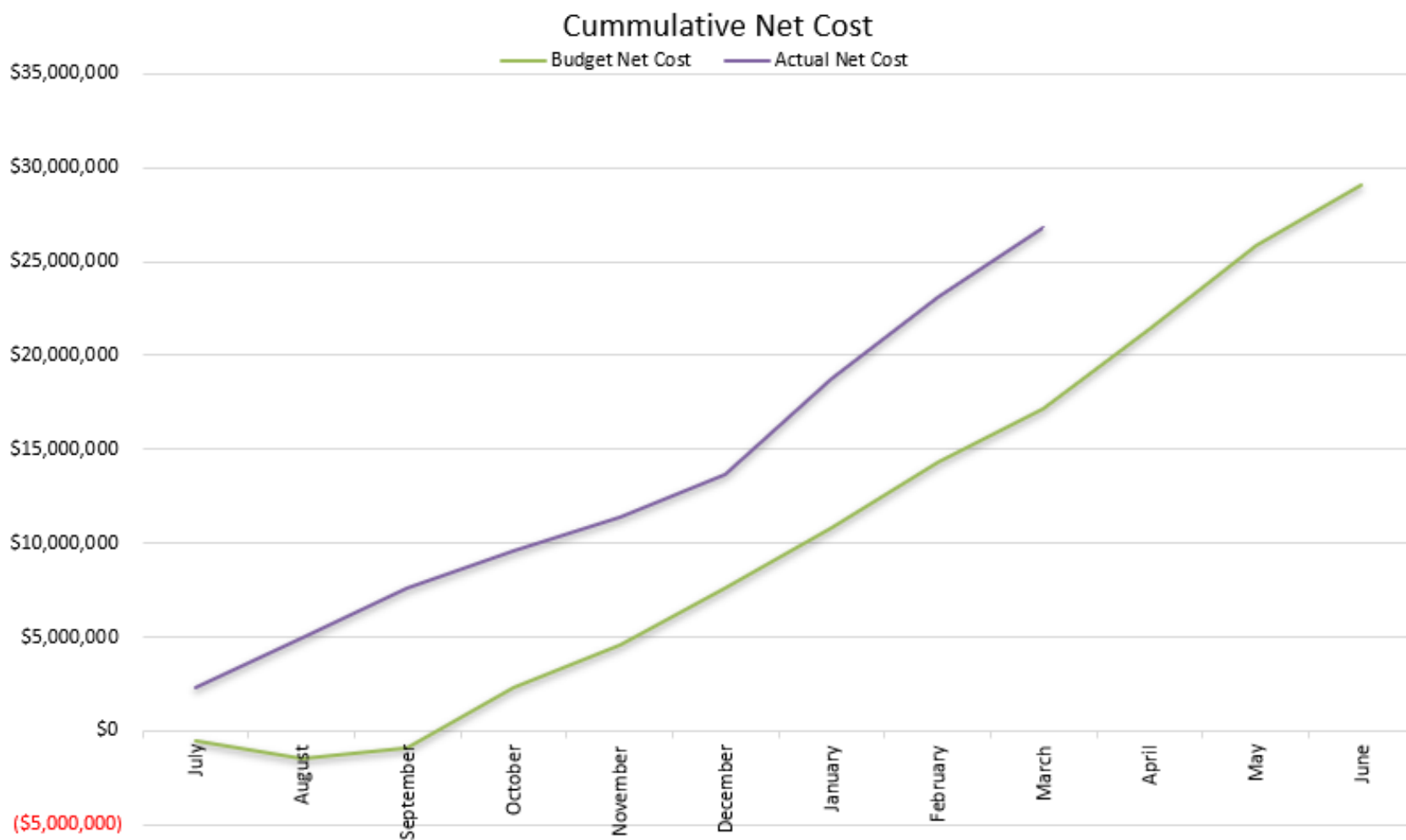
# Historical Margins





### Historical Monthly Comparison





Lodi Energy Center  
Monthly Budget Analysis  
Expenditures  
Report Date: 05/06/2020

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2020 Budget	Percent Used	Comments
VOM	2,772,444	3,225,558	2,624,722	5,699,893	7,637,715	6,583,444	3,605,033	554,518	420,628	160,000	160,000	145,154	33,589,109	58,722,261	57.2%	
Capacity Factor	44%	44%	35%	76%	59%	85%	29%	0%	0%	0%	0%	0%	31%	65%	47.5%	
Fuel Consumed (mmBTU, estimated)	714,247	730,946	553,405	1,235,256	911,501	1,362,202	472,551	0	0	0	0	0	5,980,108	10,956,328	54.6%	
Avg Fuel Cost (\$/mmBTU)	3.13	3.03	3.45	3.41	3.49	3.63	3.30	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	3.60	#DIV/0!	
Power Produced (MWhr, estimated)	98,359	99,594	76,532	171,502	127,638	190,605	64,889	0	0	0	0	0	829,119	1,599,464	51.8%	
Avg Power Price (\$/MWhr)	39.94	40.07	43.72	41.44	46.52	44.10	44.31	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	45.39	#DIV/0!	
Operations / Variable / LTSA	-121,438	147,423	108,211	106,050	3,177,218	71,515	1,243,208	49,053	4,875	10,000	10,000	10,000	4,816,115	5,381,630	89.5%	
Fuel (estimated)	2,236,397	2,215,007	1,909,046	4,214,370	3,177,218	4,944,164	1,559,385	136,564	138,306	150,000	150,000	150,000	20,980,457	39,476,805	53.1%	
AB32 GHG Offset (estimated)	672,330	691,213	517,581	1,145,369	844,092	1,278,046	467,955	35,740	0	0	0	0	5,652,327	9,153,594	61.7%	
CA ISO Charges (estimated)	-14,846	171,915	89,884	234,104	439,187	289,719	334,484	333,161	277,447	0	0	-14,846	2,140,209	4,710,232	45.4%	
Routine O&M (Fixed)	996,862	1,042,833	909,568	848,446	844,268	987,981	1,830,142	990,833	779,454	768,768	1,064,965	1,072,049	12,136,168	10,961,591	110.7%	
Maintenance / Fixed	391,756	237,917	310,680	240,925	210,146	308,799	491,170	248,666	277,048	208,424	208,424	208,424	3,342,380	2,646,090	126.3%	
Administration	4,543	18,198	17,869	21,614	2,740	8,278	8,304	3,555	4,700	17,487	17,487	17,487	142,262	209,845	67.8%	
Mandatory Costs	32,062	89,598	45,292	4,356	11,010	6,845	18,670	8,893	26,200	15,475	15,475	15,475	289,351	304,750	94.9%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	448,571	552,843	415,797	398,827	448,739	458,993	369,555	572,553	350,633	396,719	692,916	700,000	5,806,146	5,558,310	104.5%	
Insurance	0	0	0	51,020	51,020	51,303	770,214	0	0	0	0	0	923,557	674,648	136.9%	
Power Management & Settlements	119,930	119,930	119,930	119,930	119,930	119,930	119,930	119,930	119,930	119,930	119,930	119,930	1,439,159	1,439,156	100.0%	
Other Costs	0	24,347	0	11,774	683	33,833	52,299	37,236	943	10,733	10,733	10,733	193,313	128,792	150.1%	
Projects	124,681	124,681	124,681	150,977	124,681	699,167	228,171	519,289	149,370	124,681	1,136,950	124,681	3,632,010	5,332,715	68.1%	
Maintenance Reserve	124,681	124,681	124,681	124,681	124,681	124,681	124,681	124,681	124,681	124,681	124,681	124,681	1,496,173	1,496,174	100.0%	
Operations & Maintenance Projects	0	0	0	0	0	8,324	103,490	332,050	14,689	0	720,683	0	1,179,236	920,683	128.1%	
Capital Projects	0	0	0	26,296	0	566,162	0	62,558	10,000	0	291,586	0	956,602	2,915,858	32.8%	
A&G	202,865	223,945	172,362	174,248	168,705	164,196	183,762	197,160	164,759	203,798	203,798	203,798	2,263,396	2,445,575	92.6%	
Administrative & General (Allocated)	174,966	186,176	135,492	131,135	145,154	133,683	157,824	173,374	135,875	175,483	175,483	175,483	1,900,127	2,105,792	90.2%	
Generation Services Shared	27,899	37,769	36,870	43,113	23,551	30,513	25,938	23,786	28,884	28,315	28,315	28,315	363,269	339,783	106.9%	
Total O&M Cost	4,096,852	4,617,017	3,831,333	6,873,564	8,775,369	8,434,788	5,847,108	2,261,800	1,514,211	1,257,247	2,565,712	1,545,682	51,620,683	77,462,142	66.6%	
Debt Service	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	2,171,202	26,054,425	26,054,428	100.0%	
Revenues	3,928,611	3,990,879	3,514,451	7,297,753	5,937,160	8,406,378	2,876,514	70,266	3,258	4,331	25,621	38,320	36,093,542	74,420,929	48.5%	
ISO Energy Sales (estimated)	3,928,611	3,990,879	3,346,118	7,106,533	5,937,160	8,406,378	2,875,494	18,189	3,258	0	0	0	35,612,620	72,602,551	49.1%	
Other Income	0	0	168,333	191,221	0	0	1,020	52,077	0	4,331	25,621	38,320	480,922	1,818,378		
Net	(\$2,339,443)	(\$2,797,339)	(\$2,488,084)	(\$1,747,013)	(\$5,009,411)	(\$2,199,613)	(\$5,141,795)	(\$4,362,736)	(\$3,682,155)	(\$3,424,118)	(\$4,711,294)	(\$3,678,565)	(\$41,581,566)	(\$29,095,641)	Above budget by 42.91%	



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# LEC Treasurer's Report

AGENDA ITEM NO.: 8

**Date:** May 11, 2020  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended March 31, 2020

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 \$244,928.

Investments - The carrying value of the LEC's investment portfolio totaled \$38,461,231 at month end. The current market value of the portfolio totaled \$38,641,346.

The overall portfolio had a combined weighted average interest rate of 1.565% with a bond equivalent yield (yield to maturity) of 1.412%. Investments with a maturity greater than one year totaled \$7,935,000. During the month \$6,462,971 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 decreased 145 basis points (from 1.46% to 0.01%) and rates on one year T-Bills decreased 104 basis points (from 1.21% to 0.17%).

To the best of my knowledge and belief, all securities held by LEC as of March 31, 2020 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**MARCH 31, 2020**

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**Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Cash & Investment Balance  
March 31, 2020**

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 202,457	\$ 14,314,674	\$ 14,517,131	37.51%	\$ 14,340,191
Debt Service Reserve	-	12,550,229	12,550,229	32.42%	12,696,014
O & M Reserve	-	11,490,468	11,490,468	29.69%	11,499,281
	<b>202,457</b>	<b>38,355,371</b>	<b>38,557,828</b>	<b>99.62%</b>	<b>38,535,486</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	105,860	105,860	0.27%	105,860
Transmission Upgrade Escrow <sup>1</sup>	42,471	-	42,471	0.11%	-
Participant Deposit Account	-	-	-	0.00%	-
	<b>\$ 244,928</b>	<b>\$ 38,461,231</b>	<b>\$ 38,706,159</b>	<b>100.00%</b>	<b>\$ 38,641,346</b>

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

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**March 31, 2020**

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ 118	\$ 143	\$ 118	\$ (118)	\$ (2,079,874)	\$ 2,180,546	\$ 100,933
Debt Service Reserve	-	22,332	4,360,000	-	(4,382,332)	-	-
O & M Reserve	-	5	-	-	(5)	-	-
	<u>118</u>	<u>22,480</u>	<u>4,360,118</u>	<u>(118)</u>	<u>(6,462,211)</u>	<u>2,180,546</u>	<u>100,933</u>
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	760	-	-	-	(760)	-	-
Transmission Upgrade Escrow <sup>1</sup>	-	4	-	-	-	-	4
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 878</u>	<u>\$ 22,484</u>	<u>\$ 4,360,118</u>	<u>\$ (118)</u>	<u>\$ (6,462,971)</u>	<u>\$ 2,180,546</u>	<u>\$ 100,937</u>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

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

**Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Investment Activity Summary  
March 31, 2020**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR MATURED	DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	\$ 2,079,874	(118)	\$ 13,587	\$ -	\$ -	\$ 2,093,343
Debt Service Reserve	4,382,332	(4,360,000)	(2,586)	-	-	19,746
O & M Reserve	5	-	(669)	-	-	(664)
	<u>6,462,211</u>	<u>(4,360,118)</u>	<u>10,332</u>	<u>-</u>	<u>-</u>	<u>2,112,425</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	760	-	-	-	-	760
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 6,462,971</u>	<u>\$ (4,360,118)</u>	<u>\$ 10,332</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,113,185</u>

**Less Non- Cash Activity**

Disc/(Prem) Amortization & Gain/(Loss) on Sale

(10,332)

**Net Change in Investment --Before Non-Cash Activity**

\$ 2,102,853

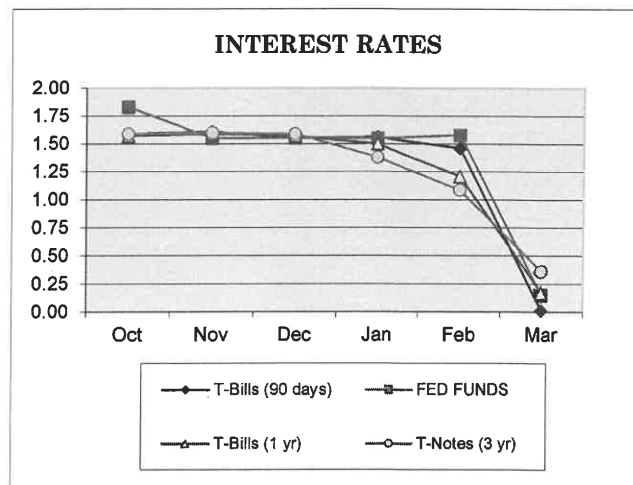
**NOTE A -Investment amounts shown at book carrying value.**



**Northern California Power Agency  
Lodi Energy Center  
Interest Rate/Yield Analysis  
March 31, 2020**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>1.565%</b>	<b>1.412%</b>
Debt Service Account	1.274%	1.296%
Debt Service Reserve	1.713%	1.288%
O & M Reserve	1.762%	1.684%
GHG Cash Account	2.246%	2.246%

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	0.15%	2.41%
T-Bills (90da.)	0.01%	2.44%
Agency Disc (90da.)	0.06%	2.42%
T-Bills (1yr.)	0.17%	2.41%
Agency Disc (1yr.)	0.44%	2.31%
T-Notes (3yr.)	0.36%	2.18%



**Northern California Power Agency/Lodi Energy Center**  
**Total Portfolio**  
**Investment Maturities Analysis**  
**March 31, 2020**

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	\$ -	\$ 18,940	\$150	\$ -	\$ 420	\$ 6,380	\$ -	\$ 25,890	67.38%
Corporate Bonds (MTN)	-	-	-	-	-	1,555	-	1,555	4.05%
US Bank Trust Money Market	8,583	-	-	-	-	-	-	8,583	22.34%
Commercial Paper	-	-	-	-	-	-	-	-	0.01%
Investment Trusts (LAIF)	1,636	-	-	-	-	-	-	1,636	4.26%
Investment Trusts (CAMP)	-	-	-	-	-	-	-	-	0.01%
U.S.Treasury Market Acct. *	6	-	-	-	-	-	-	6	0.02%
U.S.Treasury Bill/Note	-	-	755	-	-	-	-	755	1.96%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
<b>Total Dollars</b>	<b>\$ 10,225</b>	<b>\$18,940</b>	<b>\$905</b>	<b>\$0</b>	<b>\$420</b>	<b>\$7,935</b>	<b>\$0</b>	<b>\$ 38,425</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>26.60%</b>	<b>49.29%</b>	<b>2.36%</b>	<b>0.00%</b>	<b>1.09%</b>	<b>20.65%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.

# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



Northern California Power Agency  
Treasurer's Report

03/31/2020

LEC Issue#1 2010A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	1,132,839	0.600	07/01/2013	1,132,839		1	0.600	1,132,839	SYS79003	79003	1,132,839
Federal Home Loan Ba	USBT	3,621,000	1.550	12/30/2019	3,596,991	06/01/2020	61	1.582	3,620,565	313384XP9 A	26918	3,611,490
Federal Home Loan Ba	USBT	570,000	1.550	01/28/2020	566,932	06/01/2020	61	1.580	569,932	313384XP9A	26936	568,503
Fund Total and Average		\$ 5,323,839	1.347		\$ 5,296,762		48	1.372	\$ 5,323,336			\$ 5,312,832

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	1,466,932	0.600	07/01/2013	1,466,932		1	0.600	1,466,932	SYS79004	79004	1,466,932
Federal Home Loan Ba	USBT	743,000	1.549	12/30/2019	738,074	06/01/2020	61	1.582	742,911	313384XP9 A	26919	741,049
Federal Home Loan Ba	USBT	737,000	1.549	01/28/2020	733,034	06/01/2020	61	1.580	736,912	313384XP9A	26937	735,084
Fund Total and Average		\$ 2,946,932	1.076		\$ 2,938,040		31	1.092	\$ 2,946,755			\$ 2,943,045

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	1,561,640	0.600	07/01/2013	1,561,640		1	0.600	1,561,640	SYS79012	79012	1,561,640
Federal Home Loan Ba	USBT	3,036,000	1.550	12/30/2019	3,015,870	06/01/2020	61	1.582	3,035,636	313384XP9 A	26920	3,028,026
Federal Home Loan Ba	USBT	786,000	1.550	01/28/2020	781,770	06/01/2020	61	1.580	785,906	313384XP9A	26938	783,936
Fund Total and Average		\$ 5,383,640	1.274		\$ 5,359,280		44	1.296	\$ 5,383,182			\$ 5,373,602

LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	586,000	1.550	12/30/2019	582,114	06/01/2020	61	1.582	585,930	313384XP9 A	26921	584,461
Federal Home Loan Ba	USBT	101,000	1.550	01/28/2020	100,456	06/01/2020	61	1.580	100,988	313384XP9A	26939	100,735
Fund Total and Average		\$ 687,000	1.550		\$ 682,570		61	1.582	\$ 686,918			\$ 685,196
GRAND TOTALS:		\$ 14,341,411	1.274		\$ 14,276,652		44	1.296	\$ 14,340,191			\$ 14,314,675

\*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 03/31/2020



Northern California Power Agency  
Treasurer's Report

03/31/2020

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	4,383,704	0.600	07/01/2013	4,383,704		1	0.600	4,383,704	SYS79005	79005	4,383,704
Federal Home Loan Ba	USBT	420,000	1.500	01/28/2020	413,823	01/15/2021	289	1.537	419,462	313385AQ9A	26943	414,943
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	498	1.699	151,541	3137EAE9	26454	148,868
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	08/10/2022	800	1.760	4,257,563	313379Q69	26463	4,131,297
Fund Total and Average		\$ 9,053,704	1.344		\$ 9,112,481		386	1.189	\$ 9,212,270			\$ 9,078,812

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	37,233	0.600	07/01/2013	37,233		1	0.600	37,233	SYS79006	79006	37,233
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	06/12/2020	72	1.540	2,157,870	313370E38	26455	2,152,563
Federal Home Loan Ba	UBOC	150,000	1.920	07/25/2019	147,080	07/24/2020	114	1.980	149,958	313384ZL6	26845	149,088
Fund Total and Average		\$ 2,332,233	3.238		\$ 2,439,459		74	1.553	\$ 2,345,061			\$ 2,338,884

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	1,010	0.600	07/01/2013	1,010		1	0.600	1,010	SYS79013	79013	1,010
U.S. Treasury	USBT	755,000	1.453	01/31/2020	749,484	07/30/2020	120	1.484	754,781	912796WY1	26944	751,343
Federal Home Loan Mt	USBT	380,000	1.650	01/31/2020	380,190	07/28/2023	1,213	1.635	382,892	3134GU6D7	26945	380,181
Fund Total and Average		\$ 1,136,010	1.519		\$ 1,130,684		487	1.534	\$ 1,138,683			\$ 1,132,534

GRAND TOTALS:		\$ 12,521,947	1.713		\$ 12,682,624		337	1.288	\$ 12,696,014.			\$ 12,550,230
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\*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 03/31/2020

Investment #26945 FHLMC Callable on 1/28/2021 only



LEC O & M Reserve

Northern California Power Agency  
Treasurer's Report

03/31/2020

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1,529,977	2.246	07/01/2013	1,529,977		1	2.246	1,529,977	SYS70047	70047	1,529,977
Union Bank of Calif	UBOC	6,327	0.002	07/18/2013	6,327		1	0.002	6,327	SYS70041	70041	6,327
Federal Home Loan Ba	UBOC	3,615,000	1.540	06/30/2017	3,613,952	06/05/2020	65	1.550	3,622,628	3130ABJQ0	26440	3,614,936
Federal National Mtg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	90	1.300	3,005,970	3136G3UJ2	26341	3,000,000
Federal Farm Credit	UBOC	500,000	1.500	10/15/2019	499,335	04/15/2021	379	1.590	505,400	3133EKY83	26892	498,539
Toyota Motor Credit	UBOC	495,000	1.800	02/03/2020	496,995	10/07/2021	554	1.555	490,154	89236TGJ8	26953	496,803
US Bank, N.A.	UBOC	595,000	2.650	05/31/2019	596,290	05/23/2022	782	2.456	606,168	90331HPC1	26822	597,370
Federal Home Loan Mt	UBOC	1,250,000	2.000	10/16/2019	1,250,000	10/16/2023	1,293	2.000	1,250,638	3134GUJB7	26893	1,250,000
Caterpillar Financia	UBOC	465,000	3.250	02/03/2020	496,569	12/01/2024	1,705	1.776	482,019	14912L6G1	26952	495,515
Fund Total and Average		\$ 11,456,304	1.762		\$ 11,491,445		339	1.684	\$ 11,499,281			\$ 11,490,467
GRAND TOTALS:		\$ 11,456,304	1.762		\$ 11,491,445		339	1.684	\$ 11,499,281.			\$ 11,490,467

\*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 03/31/2020

Investment #26822 USB Callable on and anytime after 4/22/2022  
Investment #26893 FHLMC Callable on and anytime after 4/16/2020



Northern California Power Agency  
Treasurer's Report

03/31/2020

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency/ Investm		105,860	2.246	07/01/2013	105,860		1	2.246	105,860	SYS70046	70046	105,860
Fund Total and Average		\$ 105,860	2.246		\$ 105,860		1	2.246	\$ 105,860			\$ 105,860
GRAND TOTALS:		\$ 105,860	2.246		\$ 105,860		1	2.246	\$ 105,860.			\$ 105,860

\*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 03/31/2020



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

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**Date:** May 11, 2020

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

**Subject:** March 31, 2020 Financial Reports (Unaudited)

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

	March	
	2020	2019
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 105,860	\$ 73,707
Interest receivable	574	344
Inventory and supplies - at average cost	2,202,633	2,110,854
Prepaid insurance	551,421	390,189
Due from (to) Agency, net	24,812,021	27,244,230
<b>TOTAL CURRENT ASSETS</b>	<b>27,672,509</b>	<b>29,819,324</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	10,371,042	4,505,237
Investments	28,235,708	32,726,527
Interest receivable	114,425	110,792
<b>TOTAL RESTRICTED ASSETS</b>	<b>38,721,175</b>	<b>37,342,556</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	424,518,053	423,846,087
Less: accumulated depreciation	(107,144,002)	(92,516,138)
	317,374,051	331,329,949
Construction work-in-progress	182,398	182,398
<b>TOTAL ELECTRIC PLANT</b>	<b>317,556,449</b>	<b>331,512,347</b>
<b>OTHER ASSETS</b>		
Regulatory assets	25,594,177	24,892,523
<b>TOTAL OTHER ASSETS</b>	<b>25,594,177</b>	<b>24,892,523</b>
<b>TOTAL ASSETS</b>	<b>409,544,310</b>	<b>423,566,750</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Unamortized excess cost on advance refunding of debt, net	1,586,126	1,899,376
Asset retirement obligations	181,623	173,690
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>1,767,749</b>	<b>2,073,066</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$ 411,312,059</b>	<b>\$ 425,639,816</b>

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

	March	
	2020	2019
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 9,278,258	\$ 3,993,295
Operating reserves	15,573,297	13,588,279
Current portion of long-term debt	12,040,000	11,480,000
Accrued interest payable	4,651,423	4,845,088
<b>TOTAL CURRENT LIABILITIES</b>	<b>41,542,978</b>	<b>33,906,662</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	1,189,188	1,157,113
Asset retirement obligations	181,623	173,690
Long-term debt, net	319,050,000	331,115,776
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>320,420,811</b>	<b>332,446,579</b>
<b>TOTAL LIABILITIES</b>	<b>361,963,789</b>	<b>366,353,241</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	38,104,020	39,872,681
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	(24,457,268)	(21,611,925)
Restricted	21,665,086	22,625,743
Unrestricted	14,036,432	18,400,076
<b>TOTAL NET POSITION</b>	<b>11,244,250</b>	<b>19,413,894</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 411,312,059</b>	<b>\$ 425,639,816</b>

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

		Nine Months Ended March	
		2020	2019
<b>SALES FOR RESALE</b>			
Participants	\$	23,131,968	\$ 17,386,875
Other		35,722,991	77,018,596
<b>TOTAL SALES FOR RESALE</b>		<b>58,854,959</b>	<b>94,405,471</b>
<b>OPERATING EXPENSES</b>			
Operations		27,780,222	52,435,757
Depreciation		10,973,541	10,962,621
Purchased power		1,313,245	4,200,778
Maintenance		17,946,446	2,875,149
Administrative and general		3,365,657	3,624,449
Transmission		1,372,930	710,277
Intercompany (sales) purchases		280,496	222,922
<b>TOTAL OPERATING EXPENSES</b>		<b>63,032,537</b>	<b>75,031,953</b>
<b>NET OPERATING REVENUES</b>		<b>(4,177,578)</b>	<b>19,373,518</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(10,717,382)	(11,068,509)
Interest income		731,612	1,156,900
Insurance reimbursements		14,780,980	-
Other		2,954,724	3,892,664
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>7,749,934</b>	<b>(6,018,945)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>915,933</b>	<b>1,111,561</b>
<b>REFUNDS TO PARTICIPANTS</b>		<b>(745,748)</b>	<b>1,704,227</b>
<b>INCREASE IN NET POSITION</b>		<b>3,742,541</b>	<b>16,170,361</b>
<b>NET POSITION</b>			
Beginning of year		7,501,709	3,243,533
End of period	\$	11,244,250	\$ 19,413,894

**Lodi Energy Center  
FY 2020 Operating Costs  
As of March 31, 2020**

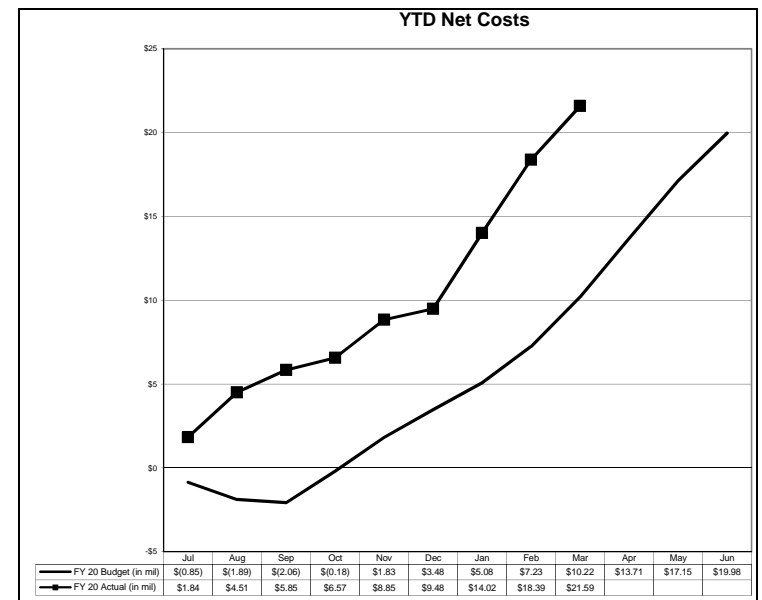
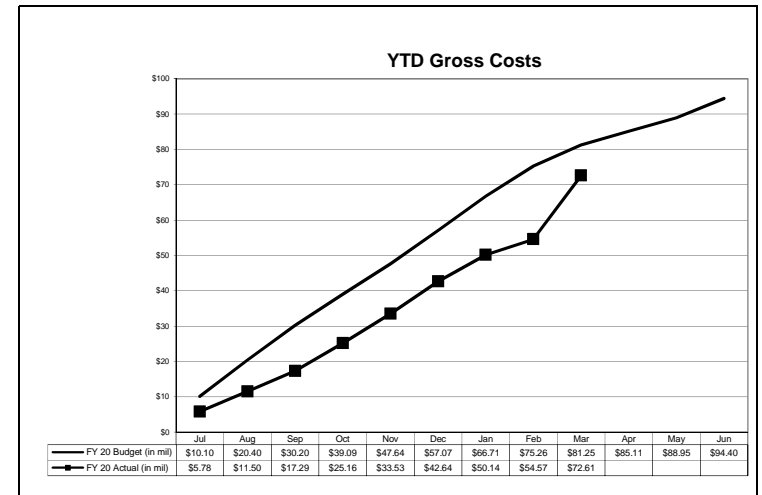
	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Routine O&amp;M Costs</b>					
Variable	\$ 5,381,629	\$ 2,484,636	\$ 2,896,993	54%	<b>A</b>
Fixed	2,646,090	2,717,108	(71,018)	0%	
Administration	209,845	89,801	120,044	57%	
Mandatory Costs	304,750	242,927	61,823	20%	<b>B</b>
<b>Routine O&amp;M Costs without Labor</b>	8,542,314	5,534,472	3,007,842	35%	
Labor	5,558,310	4,016,512	1,541,798	28%	
<b>Total Routine O&amp;M Cost</b>	14,100,624	9,550,984	4,549,640	32%	
<b>Other Costs</b>					
Fuel	39,513,147	20,529,645	18,983,502	48%	<b>F</b>
GHG Allowance Costs	-	35,740	(35,740)	0%	
CA ISO Charges	883,969	1,372,930	(488,961)	0%	
CA ISO Purchased Energy	3,826,263	1,313,245	2,513,018	66%	<b>C</b>
Debt Service	26,054,428	19,540,821	6,513,607	25%	
Insurance	674,648	770,496	(95,848)	0%	<b>D</b>
Other Costs	128,792	161,113	(32,321)	0%	
Generation Services Shared	339,783	278,323	61,460	18%	<b>E</b>
Administrative & General (Allocated)	2,105,792	1,373,679	732,113	35%	
Power Management Allocated Costs	1,439,156	1,079,367	359,789	25%	
<b>Total O&amp;M Cost</b>	89,066,602	56,006,343	33,060,259	37%	
<b>Projects</b>					
Operations & Maintenance	920,683	14,814,916	(13,894,233)	0%	<b>G</b>
Capital	2,915,858	665,016	2,250,842	77%	
Maintenance Reserve	1,496,174	1,122,131	374,043	25%	
<b>Total Projects</b>	5,332,715	16,602,063	(11,269,348)	0%	
<b>Annual Cost</b>	94,399,317	72,608,406	21,790,911	23%	
<b>Less: Third Party Revenue</b>					
Interest Income	385,845	509,949	(124,104)	0%	<b>H</b>
ISO Energy Sales	72,602,551	34,530,053	38,072,498	52%	
Ancillary Services Sales	1,432,533	1,192,938	239,595	17%	
Insurance Receipts	-	14,780,980	(14,780,980)	0%	
Other Income	-	1,577	(1,577)	0%	
	74,420,929	51,015,497	23,405,432	31%	
<b>Net Annual Cost to Participants</b>	<b>\$ 19,978,388</b>	<b>\$ 21,592,909</b>	<b>\$ (1,614,521)</b>	0%	

Total Variable Costs	49,605,008	25,700,456	23,904,552
Total Fixed Costs	44,794,309	46,907,950	(2,113,641)
	<b>\$ 94,399,317</b>	<b>\$ 72,608,406</b>	<b>\$ 21,790,911</b>

Net Cumulative Generation (MWh)	1,599,464	828,613	
Total O&M Cost Per MWh	\$ 55.69	\$ 67.59	
Net Annual Cost Per MWh	\$ 12.49	\$ 26.06	

**Footnotes:**

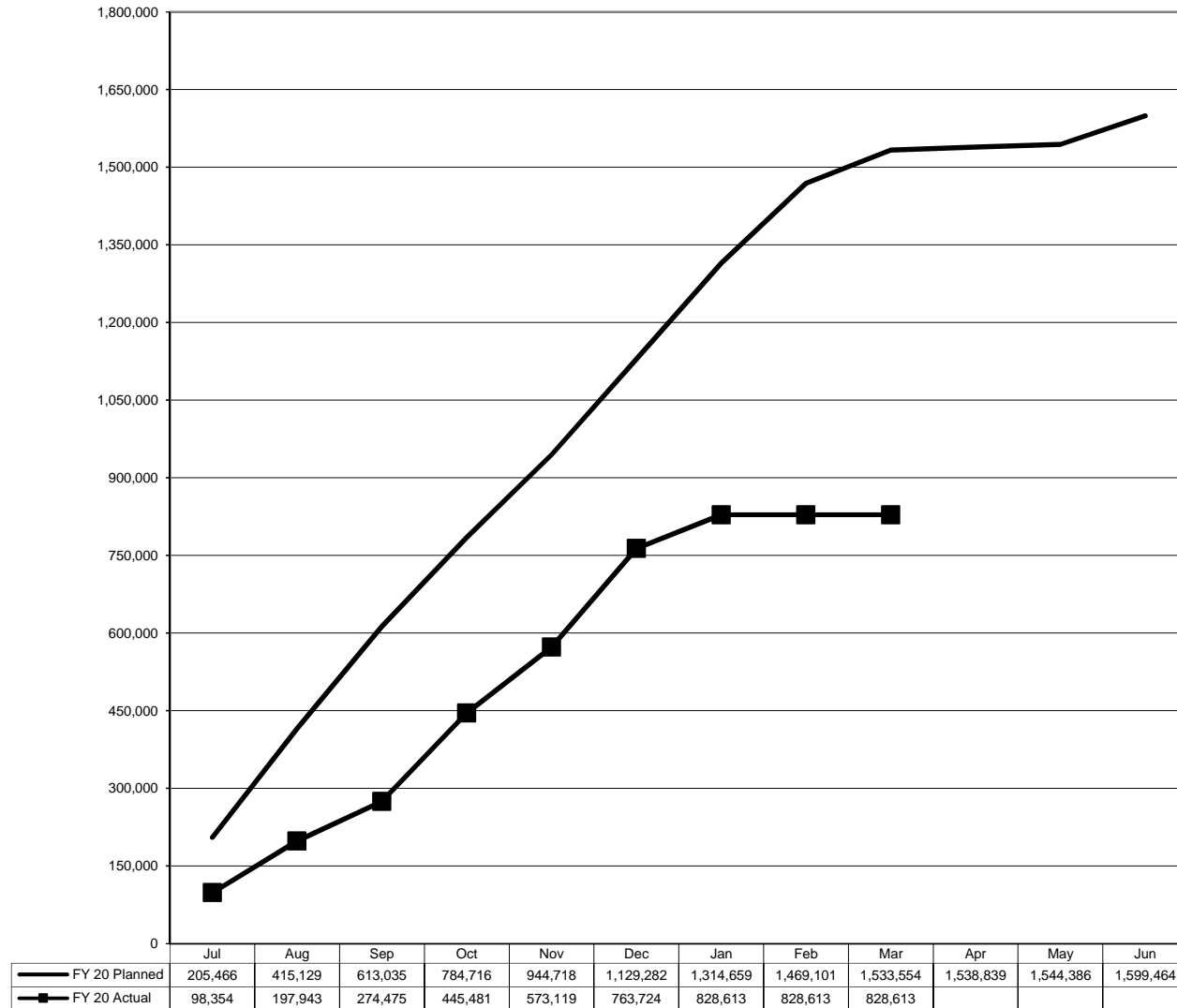
- A - Higher costs resulting from additional maintenance costs for annual outage.
- B - Higher costs due to annual permit fees payment in July, costs expected to level out for remainder of the year.
- C - Insurance paid annually and higher costs due to higher risk factor affecting insurance market.
- D - Higher costs due to expenditure for CAISO Model Implementation that was not budgeted.
- E - Higher costs due to annual membership dues payment in December, costs expected to level out for remainder of the year.
- F - PWRPA's costs to purchase GHG Allowance credits to meet their share of LEC obligations. This item was not budgeted in the current year.
- G - Amount includes unanticipated project due to turbine failure.
- H - Amount received from insurance for turbine failure.



# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2020

In MWh

## Lodi Energy Center





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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

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**Date:** May 11, 2020

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

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

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NCPA All Resources Bill Imports GHG Obligation Report (Cumulative)														
May 2020														
IDENTIFIER	AZU L&P	BART	Biggs	CDWR	Gridley	Healdsburg	Lodi	Lompoc	MID	Plumas	PWR	SVP	Ukiah	Total
Allocation Percentages														
Generation Entitlement Share(%)	2.79%	6.60%	0.27%	33.50%	1.96%	1.64%	9.50%	2.04%	10.71%	0.79%	2.67%	25.75%	1.79%	100.00%
Obligation Accounts														
Current MT Compliance Obligation (MTO) Balance (MT)	23,996	56,857	2,310	288,583	16,918	14,155	81,708	17,505	92,294	6,770	22,982	221,824	15,379	861,281
Current MT Compliance Instrument Account (MTA) Balance (MT)	25,625	61,009	2,829	371,688	18,308	15,489	88,493	18,690	120,162	7,752	24,607	271,685	16,644	1,042,981
MTA Shortfall (MT)	(1,629)	(4,152)	(519)	(83,105)	(1,390)	(1,334)	(6,785)	(1,185)	(27,868)	(982)	(1,625)	(49,861)	(1,265)	(181,700)
Monthly GHG Price \$/MT	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	15.44	
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	4,780	775	0	0	0	66,072	0	2,652	136,516
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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

	CY 2020 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual			Estimated									CY 2020	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	64,890	0	0	0	0	0	0	0	0	0	0	0	64,890	7,961,718
Gas Schedule (MMBtu)	466,226	7	6	0	0	0	0	0	0	0	0	0	466,239	57,934,609
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	4,695
Monthly MT Obligation (MTO)	25,160	0	0	0	0	0	0	0	0	0	0	0	25,160	3,132,108
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)	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187	860,187
Compliance Instrument Participant Transfers														
Carryover Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	32,263
Auction Allowances	0	0	0	2,000	0	0	0	0	0	0	0	0	2,000	3,220,244
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)	0	0	0	2,000	0	0	0	0	0	0	0	0	2,000	3,252,507
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	2,267,985
Total Monthly Activity (MT)	0	0	0	2,000	0	0	0	0	0	0	0	0	2,000	3,298,829
Cumulative MT Account Balance (MTA)	1,029,522	1,029,522	1,029,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522	1,031,522
MTA Shortfall (MT)	(169,335)	(169,335)	(169,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)	(171,335)
Current Month CCA Balance (\$)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	70,444.00
Monthly GHG Price	17.68	17.87	14.81	15.37	15.44	15.51	15.56	15.60	15.65	15.69	15.74	15.78		





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

### **Staff Report**

AGENDA ITEM NO.: 11

**Date:** May 6, 2020

**Meeting Date:** May 11, 2020

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

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

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#### Proposal

Approve the Second Amendment to the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc. for inspection and maintenance services and purchase of spare parts, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the term of the agreement by three months to August 12, 2020, for continued use at any facilities owned and/or operated by Agency, NCPA Members, SCPPA, or SCPPA Members.

#### Background

Inspection and maintenance related services and purchase of spare parts are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and by SCPPA Members.

NCPA entered into a five year Multi Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc. effective May 12, 2015 for an amount not to exceed \$1,500,000. A first amendment was executed on August 30, 2017 to allow for NCPA members, SCPPA and SCPPA Members to utilize the agreement.

The CT1 Alameda Unit 2 has been in a planned outage since the beginning of March. During the outage, it was determined that a “modified minor” Hot Gas Path (HGP) should be performed. The HGP scope of work was sent to four bidders and Sulzer was determined to be the best overall value to NCPA to complete the job. NCPA’s current agreement with Sulzer expires on May 12, 2020, the HGP work will go beyond this date. This second amendment will extend the expiration date of the agreement by three months to August 12, 2020. This agreement is still available for use at any facility owned and/or operated by the Agency, NCPA Members, SCPPA, or SCPPA Members.

#### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has an enabling agreement in place for similar services with Allied Power Group, LLC. NCPA seeks bids from as many qualified providers as possible. Bids are awarded to the vendor providing the overall best 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 to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

#### Environmental Analysis

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

Submitted by:

JOEL LEDESMA  
Assistant General Manager  
Generation Services

#### Attachments: (3)

- Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc.
- First Amendment to Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc.
- Second Amendment to Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Sulzer Turbo Services Houston, Inc.



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

This agreement for general services and purchase of equipment, materials, and supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Sulzer Turbo Services Houston, Inc., a Delaware corporation with its office located at 11518 Old La Porte Road, La Porte, TX 77571 ("Contractor"), (together sometimes referred to as the "Parties") as of 5/12/  
2014 ("Effective Date") in Roseville, California.

2015 AT-

**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 (both services and goods collectively referred to as "Work" herein). Contractor shall deliver the Goods, as further specified in Exhibit B to this Agreement, and title for Goods shall not pass until the Agency accepts delivery at Agency's Project Site and has paid for the Goods.

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end five (5) years from the date this Agreement was signed by Agency.
- 1.2 **Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED 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,

Multi-Task General Services Agreement between  
Northern California Power Agency and Sulzer Turbo Services Houston, Inc.

6/25/12  
1926708.1

GS-VEN-2015- 011

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 Work other than that done on a fixed-price/lump sum basis agreed to by the Parties, 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;
- At Agency's option for Work other than that done on a fixed-price/lump sum basis agreed to by the Parties, 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

**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. Agency shall provide Contractor with any applicable tax-exemption information for the Work.

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

**2.5 Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the

ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

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

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

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

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

**4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention of no more than \$100,000. Contractor agrees that it shall not allow endorsements or other modifications which will materially and adversely affect or eliminate the coverage required herein.

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

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

**4.3 Professional Liability Insurance.** [Intentionally omitted.]

#### **4.4 All Policies Requirements.**

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

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

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

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

#### **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. The indemnification and hold harmless clause in this Section 5 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 (for purposes of this section, "Claims"), to the extent Claims arise out of or in connection with the negligence, recklessness or willful misconduct of Contractor, its officers, officials, agents, and employees.

**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.

- 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.

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

- 7.1 **Governing Law.** The laws of the State of California, excluding its conflict of laws provisions, shall govern this Agreement. The United Nations Convention on Contracts for the International Sale of Goods is specifically rejected.
- 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 **Work Requiring Payment of Prevailing Wages.** If applicable, 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 these services are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement.

## **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 identified as deliverable pursuant to Section 9.1 of this Agreement.



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 Contractor shall survive the termination of this Agreement.

8.4 **Options upon Breach by Contractor.** In case of breach by Contractor, Agency shall be entitled to cancel the Purchase Order, but only if (1) Contractor's breach is of material nature, (2) Agency has given 10 days prior written notice (or such longer time as may be determined by Agency) to Contractor of such breach and (3) Contractor does not cure, or substantially commence and diligently pursue cure of, the breach to Agency's reasonable satisfaction within that period, or such longer period as Agency may determine. If part of the goods or supplies delivered by Contractor to Agency can and will be used by Agency, Contractor shall be entitled to be paid for that part a fair and equitable price, as agreed upon by the Parties. Parts of the Work which will not be bought by Agency shall be returned to Contractor at Contractor's costs, and Contractor shall reimburse the Purchase Order price that was received for such parts. .

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 (after complying with the notice and cure procedures described above) include:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product expressly specified as deliverable and prepared by Contractor pursuant to this Agreement; and/or

8.4.3 Retain a different Contractor to complete the Work not finished by Contractor.

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

9.1 **Records Created as Part of Contractor's Performance.** Subject to any rights, title or interests expressly granted by this Agreement, no party shall acquire any right, title, or interest in or to any intellectual property (including, without limitation, patents, copyright and trade secrets) of any other party. In addition, nothing herein shall be construed to mean that Contractor's patterns, tools, equipment, shop drawings, or any other item not specified as deliverable shall be or become the property of Agency or that Contractor shall be required to deliver such items unless expressly identified as a deliverable. All discoveries, inventions, developments, improvements and techniques pertaining to Contractor's products or services (whether or not capable of patent or like protection) which Contractor or employees, agents, or subcontractors of Contractor may conceive or make alone or with others and which may directly or indirectly result from or in the performance

of the work by Contractor, shall be the sole and absolute property of Contractor. Contractor will document all Work performed for Agency to the extent reasonably possible and as otherwise required by the Agreement. Notwithstanding the preceding, Contractor grants to Agency a perpetual, royalty-free, non-exclusive license to use and reproduce such discoveries, inventions, developments, improvements, and techniques to the extent necessary for the operation, maintenance, and repair of the Work delivered pursuant to this Agreement.

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 (1) Contractor prepares pursuant to this Agreement, (2) are expressly identified as deliverable, and (3) that relate to the matters covered hereunder, shall be the property of the Agency. Contractor hereby agrees to deliver those deliverable documents to the Agency upon termination of the Agreement.

**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 to 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 the Agreement.

**9.4 Confidential Information and Disclosure.**

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

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

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

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

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

**10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with Agency's operations and the operations of other contractors at the

Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work. Agency shall (1) immediately notify Contractor of any contamination that may exist in any part of its facility or on the equipment where Work may or is being performed where such contamination may be due to any hazardous material, including but not limited to, asbestos containing parts, insulation or gaskets or nuclear radiation and (2) be obligated, at its own expense, to decontaminate its facility or parts of the equipment to be repaired or replaced hereunder, which may be contaminated due to any hazardous material, so that such hazardous material shall be reduced or eliminated to a level in which the facility is safe to occupy and/or such parts may be handled and/or shipped in a safe manner and in accordance with all applicable laws and regulations and industry accepted standards without special licensing from any government regulatory authority. Notwithstanding anything contained in this Agreement to the contrary, until the decontamination or radioactive environment has been reduced to a safe, legal and industry accepted standard for occupancy by Contractor's personnel without the need for special protective clothing, Contractor shall be under no obligation to remove, disassemble, repair, reassemble or reinstall or provide any other service to such equipment.

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

- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any Agency owned equipment and property provided by Agency for the performance of Work.

## **Section 11. WARRANTY.**

- 11.1 Nature of Work.** Contractor warrants that all Work shall be free from defects in design (if the design is by Contractor) 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.** The warranty period shall be twelve (12) months, which starts upon completion of the Work. Contractor shall be responsible for uncovering, gaining access to, removing and replacing any portion of the Work necessitated by the warranty set forth herein, provided that if after such uncovering and gaining access, it is found that Contractor's Work is not responsible for the event or events that caused the need for repairs, Agency and Contractor shall work together in good faith to reimburse or to credit Contractor for its reasonable, actual and direct costs for the uncovering and gaining access.

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 reasonable written notice from Agency, replace or repair the same to Agency's reasonable satisfaction.

For that parts of the Work that have been replaced or repaired under the warranty, the warranty period will commence again and be for a period not to exceed six (6) months after replacement or completion of the repair or replacement, in any case no longer than for a period of twelve (12) months calculated from the end of the warranty period referred to above.

The warranty contained in this section will terminate immediately if Agency or a third party undertakes inappropriate or improper modification or repairs or if Agency, in case of a defect, does not take timely and appropriate steps to mitigate damages and notify Contractor in writing of its obligations to remedy such defect.

Excluded from Contractor's warranty are deficiencies caused by design of the equipment (unless Contractor provided the design), normal wear and tear, improper maintenance, Agency's failure to observe the written operating instructions. Contractor explicitly excludes any warranty for erosion or corrosion. Correction of nonconformities in the manner and for the period of time provided above shall constitute fulfillment of all liabilities of Contractor to Agency, whether based on contract, negligence or otherwise, with respect to goods delivered and/or services performed.

CONTRACTOR MAKES NO OTHER WARRANTY OR REPRESENTATION WITH REGARD TO THE WORK OTHER THAN AS SPECIFIED IN THIS SECTION. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

- 11.3 **Assignment of Warranties.** To the fullest extent possible, 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.** Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all Agency site programs.

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

- 12.8 Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

**Section 13 MISCELLANEOUS PROVISIONS.**

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

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

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

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

Sulzer Turbo Services Houston, Inc.  
Attention: Tony Dunkle  
11518 Old La Porte Road  
La Porte, TX 77571

With a copy to:

Sulzer Turbo Services Houston, Inc.  
Attention: Legal Counsel  
11518 Old La Porte Road  
La Porte, TX 77571

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:

Michael F. Dean  
General Counsel  
Northern California Power Agency  
Meyers Nave  
555 Capitol Mall, Suite 1200  
Sacramento, CA 95814

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

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

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

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

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

13.16 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CONTRACT, INCLUDING ALL DOCUMENTS MAKING PART THEREOF AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOSS OF PROFIT OR REVENUE, LOSS OF USE, INTERRUPTION OF PRODUCTION, COST OF CAPITAL, COST OF PURCHASED OR REPLACEMENT POWER, ANY AND ALL COSTS RELATING TO DELAY, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR CLAIMS BY AGENCY'S CUSTOMERS FOR SUCH DAMAGES, IN CONNECTION WITH THIS AGREEMENT, WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR ANY OTHER BASIS OF LEGAL LIABILITY.

THE AGGREGATE TOTAL LIABILITY OF EITHER PARTY WITH RESPECT TO CLAIMS ARISING OUT OF OR RELATING, IN ANY MANNER, TO THE PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OR NON-PERFORMANCE OF THE WORK, WHETHER BASED ON CONTRACT, WARRANTY, GUARANTEE, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) (FOR PURPOSES OF THIS PARAGRAPH, "CLAIMS"), SHALL NOT EXCEED TWO MILLION DOLLARS (\$2,000,000) PER CALENDAR YEAR; PROVIDED, HOWEVER, THAT WHERE A CLAIM ARISES FROM A PARTICULAR PURCHASE ORDER THAT IS IN AN AMOUNT GREATER THAN TWO MILLION DOLLARS (\$2,000,000), THE TOTAL LIABILITY OF EITHER PARTY UNDER THAT PARTICULAR PURCHASE ORDER SHALL NOT EXCEED TWO MILLION DOLLARS (\$2,000,000) OR THE AMOUNTS PAID TO CONTRACTOR FOR THE PERFORMANCE OF THE WORK PURSUANT TO THAT PARTICULAR PURCHASE ORDER, WHICHEVER IS GREATER.

FOR THE AVOIDANCE OF DOUBT, PURCHASE ORDERS IN EXCESS OF TWO MILLION DOLLARS (\$2,000,000) SHALL NOT BE INCLUDED FOR ANY REASON IN DETERMINING THE TWO MILLION DOLLAR (\$2,000,000) ANNUAL AGGREGATE TOTAL LIABILITY CAP SET OUT IN THE PRECEDING PARAGRAPH. CALENDAR YEARS SHALL BE DETERMINED BEGINNING ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONTINUE FROM YEAR TO YEAR THEREAFTER DURING THE TERM OF THE AGREEMENT.

THE REMEDIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE.

13.17 **Termination for Convenience.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor. In the event of such termination, Contractor shall be entitled for reimbursement according to Exhibit B hereof for the Work performed prior to the notice of termination, plus Contractors' actual, direct, and unavoidable costs resulting from the termination which in no event to exceed the

amount of the Purchase Order and shall not include any overhead, indirect costs, profit, or damages. Contractor shall to the fullest commercially reasonable extent possible mitigate any such costs.

**13.18 Force Majeure**

**13.18.1** If a Force Majeure Event prevents either Party from performing any obligation under this Agreement, that inability to perform will not constitute breach, and the schedule for performance will be extended, if the Party asserting the Force Majeure Event ("Asserting Party") (1) uses reasonable efforts to perform its obligations, and (2) complies with its obligations under Section 13.18.3.

**13.18.2** For purposes of this agreement, "Force Majeure Event" means, with respect to the Asserting Party, any event or circumstance that (1) was not caused by the Asserting Party, (2) could not have been reasonably foreseen by the Asserting Party, and (3) is beyond the Asserting Party's reasonable control. A Force Majeure Event may include, but is not limited to, a war, riots, fire, flood, strikes or labor difficulty, governmental acts such as but not limited to trade restrictions, including embargoes and refusal of permissions, acts of God, acts of the other Party, wrecks or delays in transportation, epidemics, or unusual inability to obtain necessary labor or materials from usual sources.

**13.18.3** If a Force Majeure Event occurs, the Asserting Party shall promptly, after it becomes aware of the occurrence of the event, and in any event no more than five (5) days after the Asserting Party becomes aware of such occurrence, notify the other Party of the occurrence of that Force Majeure Event, its effect on performance, and how long the Asserting Party expects it to last. Thereafter the Asserting Party shall update that information as reasonably necessary. During a Force Majeure Event, the Asserting Party shall use reasonable efforts to resume its performance under this Agreement.

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

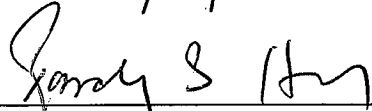
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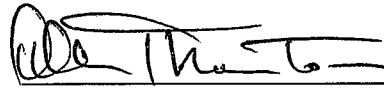
NORTHERN CALIFORNIA POWER AGENCY

SULZER TURBO SERVICES  
HOUSTON, INC.

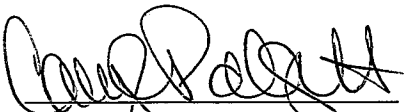
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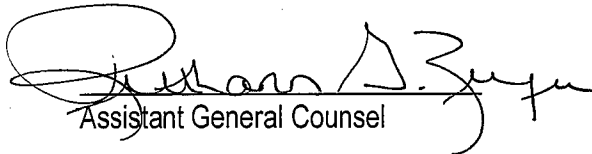
Date March 24 2015


  
RANDY S. HOWARD, General Manager

  
ALLEN THORNTON, VP  
Sales, North America

Attest:

  
Assistant Secretary of the Commission  
Approved as to Form:

  
Assistant General Counsel

  
PRESIDENT

## EXHIBIT A

### SCOPE OF WORK

Sulzer Turbo Services Houston, Inc., ("Contractor") shall provide inspection and maintenance services as requested by the Northern California Power Agency ("Agency").

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

- Compressor inspections
- Combustion inspections (CI)
- Hot gas path inspection (HGP)
- Steam Turbines inspections
- Major turbine inspections
- Process pumps and compressors
- Turbine overhaul and valve maintenance
- Field machining and Millwright services
- Propose resource requirements for maintenance outages
- Crane support and operation
- Project management, turbine tooling kits, and transportation of all equipment
- Provide engineering and senior technical advisors and support packages as required.

At the request of Agency, Contractor shall also supply spare parts within agreed upon timeframe based upon approved detailed list of items on Purchase Order(s).

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, whether on a fixed price or time and materials basis, including hourly fees and expenses, shall not exceed amount as set forth in Section 2 of this Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Delivery of Goods under this Agreement shall, unless otherwise agreed to in writing by the Parties for a particular Purchase Order, shall be FCA, Contractor's facility (INCOTERMS 2010).

2015

Field Service Rate \$/per hour

Classification	Straight Time	Overtime	Premium Time
Millwright Journeyman	\$78.00	\$117.00	\$156.00
Millwright Apprentice	\$65.00	\$97.50	\$130.00
Technician, Safety Personnel, Scheduler	\$114.00	\$159.60	\$205.20
Supervisor, Foreman	\$118.80	\$178.20	\$237.60
Technical Director	\$150.00	\$210.00	\$270.00
Project Manager	\$174.00	\$234.00	\$294.00
Senior Tech Services Engineer	\$216.00	\$324.00	\$432.00
Technical Services Engineer	\$180.00	\$270.00	\$360.00
Site Administration	\$58.80	\$88.20	\$117.60
<b>Field Equipment</b>			
Vibration Analysis Instrumentation		\$450.00	Shift
Laser Alignment, Tracking Instrumentation, ERAG		\$350.00	Shift
Video-Scope		\$750.00	Shift
Hydraulic Wrench (Rented units will be billed per section 7)		\$350.00	Shift
Mobile Tool Unit (plus delivery charges )		\$600.00	Shift
Crew Truck (plus mileage) (Rented units will be billed per section 7)		\$10.00	Per Hour

Domestic rates for Machinery Diagnostic Services Rendered from Sulzer RES La Porte  
Effective January 1, 2015 through December 31, 2015.

Classification	Straight Time	Overtime	Premium Time
	Monday-Friday (non holidays) for first 8 hours	Saturdays, daily other than normal, but less than 12 consecutive hours	Sundays, national holidays, or after 12 consecutive hours
Machinery Diagnostics Engineer	\$180 /hr	\$270 /hr	\$360 /hr
Data Collection	\$150 /hr	\$225 /hr	\$300 /hr
Video Scope Inspection	\$150 /hr	\$225 /hr	\$300 /hr

For work above the Arctic Circle, offshore or hazardous environments: 1.2 multiplier

#### Equipment Rates

Laser Alignment & Tracking	\$375 /shift
Vibration Analysis & Data Acquisition (ADRE 408)	\$660 /shift
Video Scope Equipment	\$375 / shift

#### NOTES:

- Minimum billing for field services will be 8 hours or as originally quoted.
- Overtime is in effect outside normal 8 hour workday Monday – Friday.
- Premium time is in effect beyond 12 hours daily, Sundays, Union holidays and nationally recognized holidays. Sulzer recognizes the following holidays: New Years, Good Friday, Memorial Day, Labor Day, Independence Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve and Christmas Day.
- Minimum billing for generating Vibration Analysis report (on or offsite) is 10 hours.
- All materials, consumables, rental equipment, freight, and sub-contract services supplied in connection with Field Service will be invoices at cost + 20%. Crane rental will be charged at cost plus 25%.
- Cost associated with mobilization and demobilization of field crews and tooling are charged at cost plus 10%.
- Rates are updated annually upon 30 days' prior written notice to NCPA.

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, ALAN ATKINSON VICE PRESIDENT OPERATIONS.

(Name of person signing affidavit)(Title)

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

SULZER TURBO SERVICES HOUSTON, INC.

for contract work at

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

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this ELEVENTH day of MAY, 20 15.

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. MTU

2365685.7





**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT AND AGREEMENT FOR  
PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND SULZER TURBO SERVICES HOUSTON, INC.**

This First Amendment ("Amendment") to Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Sulzer Turbo Services Houston, Inc. ("Contractor") (collectively referred to as "the Parties") as of August 30, 2017.

WHEREAS, the Parties entered into a five year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies dated effective May 12, 2015, (the "Agreement") for Contractor to provide inspection and maintenance services ("Work"), as more specifically detailed in the Agreement to NCPA; and

WHEREAS, the Agency now desires to amend the Agreement to allow Contractor to provide Work to Agency members, Southern California Public Power Authority ("SCPPA"), and/or SCPPA members on the terms and conditions set forth in the Agreement, as amended herein; and

WHEREAS, the Agency now desires to amend the Agreement to add miscellaneous provisions as set forth below; and

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

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

NOW, THEREFORE, the Parties agree as follows:

**A. Section 1.4-Work Provided** is replaced in its entirety by the following Section 1.4.

**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.

**B. Section 1.5-Request for Work to be Performed** is added to the Agreement as follows:

**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.

C. **Section 4.5.4-Additional Certificates and Endorsements** is added to the Agreement as follows:

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

D. **Section 6.1-Independent Contractor** is amended to add the following to that section:

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.

E. **Section 6.5-Maintenance Labor Agreement** is added to the Agreement as follows:

**6.5 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.

F. **Section 7-LEGAL REQUIREMENTS** of the Agreement is amended and restated to read as follows:

**Section 7. LEGAL REQUIREMENTS.**

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

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

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

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

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

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor



or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

G. **Section 10-PROJECT SITE** of the Agreement is amended and restated to read as follows:

**Section 10. PROJECT SITE.**

- 10.1 Project Site Locations.** The Project site at which Contractor may perform Work under this Agreement shall include any facilities owned and/or operated by the Agency, by the Agency's members, by SCPPA, or by SCPPA members.
- 10.2 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with Agency's operations; if applicable, the entity for which Contractor is performing the Work as referenced in Section 1.4, and the operations of other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.3 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. Agency and, if applicable, the entity for which Contractor is performing the work as referenced in Section 1.4, may assume that anything left on the Project site an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency and, if applicable, by the entity for which Contractor is performing the work as referenced in Section 1.4, shall be solely as an accommodation without any liability therefor to Contractor or other party. 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.
- 10.4 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment and property owned and/or provided by Agency, its members, SCPPA, or SCPPA members for the performance of Work.

H. **Section 12.10** is added to the Agreement to read as follows:

**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. In addition, Contractor's actions under the initial paragraph of Section 12 shall comply with all site programs established by Member if Contractor is performing Work for that Member.

I. **Section 13.8-Notices** is amended to specify, as to NCPA only, the following:

Any written notice to Agency shall be sent to:

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

With a copy to:

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

J. **Section 13.12-Controlling Provisions** is replaced in its entirety by the following:

**13.12** **Controlling Provisions.** In the case of any conflict between the terms of this Amendment and the Agreement, the Amendment shall control. 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.

K. **Section 13.15-No Third Party Beneficiaries** is replaced in its entirety by the following:

**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.

- L. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
- M. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

NORTHERN CALIFORNIA POWER AGENCY

Date: 8/30/17

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

SULZER TURBO SERVICES HOUSTON, INC.

Date: Aug 18, 2017

Allen Thornton  
**ALLEN THORNTON,**  
**VP Sales, North America**

Attest:

Gregory R. Hest  
**Assistant Secretary of the Commission**

Approved as to Form:

Ruthann G. Ziegler  
**Ruthann G. Ziegler, Assistant General Counsel**



2698437.3

## **EXHIBIT A**

### **SCOPE OF WORK**

Sulzer Turbo Services Houston, Inc. ("Contractor") shall provide inspection and maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Compressor inspections
- Combustion inspections (CI)
- Hot gas path inspection (HGP)
- Steam Turbines inspections
- Major turbine inspections
- Process pumps and compressors
- Turbine overhaul and valve maintenance
- Field machining and Millwright services
- Propose resource requirements for maintenance outages
- Crane support and operation
- Project management, turbine tooling kits, and transportation of all equipment
- Provide engineering and senior technical advisors and support packages as required.

Contractor may provide services at all Project Site Locations.

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

EXHIBIT E

ATTACHMENT A [from MLA]  
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT  
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

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

DATED: Aug 18, 2017

Name of Employer

Sulzer Turbo Services Houston



[Signature]  
(Authorized Officer & Title)  
VP Sales North America  
11518 Old La Porte Rd  
(Address)  
La Porte, Tx 77571





**SECOND AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT AND  
AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND SULZER TURBO SERVICES  
HOUSTON, INC.**

This Second Amendment ("Amendment") to Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Sulzer Turbo Services Houston, Inc. ("Contractor") (collectively referred to as "the Parties") as of April 30, 2020.

WHEREAS, the Parties entered into a five year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies dated effective May 12, 2015, (the "Agreement") for Contractor to provide inspection and maintenance services; and

WHEREAS, the Parties entered into a First Amendment to the Agreement on August 30, 2017 to also allow for work at any facilities owned or operated by Agency Members, Southern California Public Power Authority ("SCPPA") and/or SCPPA members and to add various legal requirements and other provisions to the Agreement; and

WHEREAS, the Agency now desires to further amend the Agreement to extend the term of the Agreement for an additional 3-months from the original expiration date of May 12, 2020, to a new expiration date of August 12, 2020; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 1.1—Term of Services** of the Agreement is amended and restated to read in full as follows:

The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work described in Exhibit A, or no later than August 12, 2020, whichever is shorter, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.

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2. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

Date: 4/30/20

NORTHERN CALIFORNIA POWER AGENCY

  
RANDY S. HOWARD, General Manager

Date: 4/29/20

SULZER TURBO SERVICES HOUSTON, INC.

  
ALLEN THORNTON,  
VP Sales, North America

Attest:

  
Assistant Secretary of the Commission

Approved as to Form:

  
Jane E. Luckhardt, General Counsel



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

AGENDA ITEM NO.: 12

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**Date:** May 6, 2020

**Meeting Date:** May 11, 2020

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

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

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### Proposal

Approve the General Manager or his designee to enter into a Multi-Task General Services Agreement with Securitas Security Services USA, Inc. for security 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 all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

### Background

Security services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members. NCPA had a previous agreement in place with Securitas Security Services USA, Inc., which is running low on funds and expiring. NCPA has utilized this vendor in the past, and has a good working relationship with the 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 projects. NCPA has a pending agreement in place for similar services with Borgens and Borgens, Inc. dba Delta Protective Services.

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$1,000,000 over five years. 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:

JOEL LEDESMA  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Securitas Security Services USA, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
SECURITAS SECURITY SERVICES USA, 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 Securitas Security Services USA, Inc., a corporation, with its office located at 10 River Park Place East #220, Fresno, CA 93720 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2020 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

**2.6 Rate Increase.** Contractor's rates shall not change for the first year of this agreement. In addition, Contractor's rates shall not change for the first twelve (12) months of any Purchase Order that is longer than a year. Contractor's rates may not change for any purchase order shorter than a year. Outside of these situations Contractor may raise its rates no more than once a year by an amount no greater than four (4) percent on sixty (60) days' written notice to account for an increase in costs, and Agency, may reject such increase in rates and cancel any outstanding Purchase Orders and Contractor may elect to terminate this Agreement or any Purchase Order. If the Purchase Order is the result of a competitive solicitation, Contractor must include the rate escalation in Contractor's bid in order to adjust rates during the term of the Purchase Order resulting from a competitive bid.

**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.

**3.1 Contractor Equipment.** Any equipment/software approved by Agency and provided by Contractor, in connection with Contractor's services is for Contractor's use and will always be Contractor property. Contractor is not selling or leasing any of the equipment/software to Agency, and Contractor will remove its equipment/software upon termination of this Agreement. Contractor will remove all information regarding Agency from its equipment or software storage systems upon the completion of any Purchase Order. Contractor SHALL NOT connect Contractor equipment/software with Agency equipment under any circumstances.

**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. 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. 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. Additional insureds will only be covered by Contractor's insurance for liability assumed by Contractor in 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 (controlling such defense), 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 reasonable costs and fees of litigation), judgments and causes of action of every nature (collectively, "Loss"), to the extent the Loss is caused by or arises out of any (a) negligent or wrongful acts (or negligent or wrongful omissions) by Contractor, its officers, officials, agents, and employees, (b) recklessness or fraudulent acts by Contractor, its officers, officials agents and employees, (c) violation of law by Contractor, its officers, officials, agents and employees, or (d) other fault (including, but not limited to, breach of contract) by Contractor, its officers, officials, agents and employees. 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. Notwithstanding anything to the contrary, in no event will Contractor's liability exceed \$3,000,000. Further, Contractor will not be liable for any (a) consequential damages (e.g., loss of profits), (b) damages arising from any force majeure events (e.g., acts of God or war, mobilization or military call of a comparable scope, requisition, seizure, currency restrictions, insurrection and civil commotion, high-jacking or an act of terrorism, shortage of transport, general shortage of materials or personnel, industrial disputes, etc.), (c) injuries or deaths arising from any hazardous or dangerous conditions of the premises where Contractor's services are performed for which Agency is responsible.

**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.** Not Applicable.
- 7.5 Registration with DIR.** Not Applicable.
- 7.6 Prevailing Wage Rates.** Not Applicable.

**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. Contractor may terminate this Agreement at any time and without cause upon sixty (60) days' prior written notice to Agency. Contractor may not terminate this Agreement if any Purchase Order is outstanding to Contractor.

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

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

have paid Contractor pursuant hereto if Contractor had completed the Work.

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

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

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

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

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

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

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

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

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

**10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if

applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

**10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

## **Section 11. WARRANTY.**

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

**11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the

Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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

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

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



conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.

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

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

- 13.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

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

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

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

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

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

Securitas Security Services USA, Inc.  
Attention: Kelly Davis  
10 River Park Place East #220  
Fresno, CA 93720

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.

**13.16 US SAFETY Act.** Notwithstanding anything to the contrary, in connection with the US SAFETY Act, each party waives all claims against the other for damages arising from or related to an act of terrorism, and the parties intend for this waiver to flow down to their contractors and subcontractors.

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

NORTHERN CALIFORNIA POWER AGENCY

SECURITAS SECURITY SERVICES  
USA, INC.

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**KELLY DAVIS,**  
Area Vice President

Attest:

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

Approved as to Form:

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

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

Securitas Security Services USA, Inc. ("Contractor") shall provide security services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

## **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:

San Joaquin County Standard Rates: \$ 25.75/Hour (Regular) / \$38.62/Hour (OT/Holiday)

Pricing for services to be performed outside San Joaquin County will be quoted at the time services are requested. Also, pricing for new services to be performed after April 30, 2021, 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

Securitas Security Services USA, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

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

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



**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

### **Staff Report**

AGENDA ITEM NO.: 13

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**Date:** May 6, 2020

**Meeting Date:** May 11, 2020

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

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

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#### Proposal

Approve the General Manager or his designee to enter into a Multi-Task General Services Agreement with Energy Project Solutions, LLC for pipeline operations and maintenance 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 all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

#### Background

Pipeline operations and maintenance services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA had a previous agreement in place with Energy Project Solutions, LLC, which is expiring. NCPA requested competitive bids specifically for the CT1 Alameda pipeline services required. Energy Project Solutions, LLC was one of the prospective bidders. NCPA has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into a multi-task enabling agreement with Energy Project Solutions, LLC so established terms and conditions are in place should this vendor be the successful bidder on future projects. Execution of this enabling agreement will also increase the pool of qualified and proven vendors for these types of services. NCPA does not currently have any agreements in place with similar vendors as the vendor pool for these types of services is very limited.

#### Selection Process

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

#### Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$1,000,000 over five years. 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:

JOEL LEDESMA  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Energy Project Solutions, LLC



## **MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND ENERGY PROJECT SOLUTIONS, LLC**

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 Energy Project Solutions, LLC, a limited liability company, with its office located at 841 Mohawk Street, Suite 120, Bakersfield, CA 93309 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2020 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 Pollution Insurance.** Not Applicable.

**4.5 All Policies Requirements.**

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

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

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

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

**4.5.5 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that

may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

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

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

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

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

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



become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

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

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

shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 11. WARRANTY.**

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

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

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

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

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

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



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

Energy Project Solutions, LLC  
Attention: Michael Finch  
P.O. Box 20846  
Bakersfield, CA 93390

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.

SIGNATURES FOUND ON THE FOLLOWING PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

ENERGY PROJECT SOLUTIONS, LLC

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**MICHAEL FINCH,**  
Chief Operating Officer

Attest:

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

Approved as to Form:

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

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

Energy Project Solutions, LLC ("Contractor") shall provide the following Pipeline Maintenance Program services 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:

- Operations and maintenance field activities
- Operations and maintenance compliance activities
- Demonstration of operator qualification (OQ) compliance
- Integrity management program field activities
- Integrity management compliance
- Integrity management action items

Specific CT1 Alameda services to include, but not be limited to the following:

<b>Identified Tasks, Frequency, &amp; Task Assignments</b>							
<b>Task Description:</b>	<b>Frequency</b>	<b>Not to Exceed (mths)</b>	<b>Category</b>	<b>Agency</b>	<b>Primary Reference</b>	<b>Resource</b>	<b>Comment</b>
<b>Reporting</b>							
Pipeline Audit	AR	NA	O&M	PHMSA	49 CFR 192	EPS	EPS would provide onsite lead for any PHMSA audits or regulatory responses.
Annual report to PHMSA	March 15/ year	NA	O&M	PHMSA	49 CFR 191.17	EPS	
Incident reporting & investigation	AR	NA	O&M	PHMSA	49 CFR 191.5 & 15	EPS	
Safety Related Condition Reporting	AR	NA	O&M	PHMSA	49 CFR 191.23 & 25	EPS	
Investigation of failures	AR	NA	O&M	PHMSA	49 CFR 617	EPS	
OMB control number assigned to collect information	AR	NA	O&M	PHMSA	49 CFR 191.21	EPS	
National Registry of Operators and Notifications	AR	NA	O&M	PHMSA	49 CFR 191.22	EPS	
Annual NPMS review and update	March 15/ year	NA	O&M	PHMSA	49 CFR 191.29	EPS	
GIS Mapping and Analysis	AR	NA	NA	NA	NA	EPS	
<b>Corrosion Control</b>							
External corrosion control cathodic protection (CP) system survey	1x/calendar year	15	O&M	PHMSA	49 CFR 192.465(a)	FJ Tech	
External corrosion CP remote monitoring	Ongoing	NA	O&M	PHMSA	49 CFR 192.465(a)	DBTS	Remote CP monitoring was added several years ago using Omnimatrix.
External corrosion control rectifier inspection or critical bonds	6x/calendar year	2 1/2	O&M	PHMSA	49 CFR 192.465(b)&(c)	DBTS	
Internal corrosion corrosive gas investigation - obtain sample	1x/calendar year	NA	O&M	PHMSA	49 CFR 192.477	DBTS	The NPCA pipeline has a long history of product analysis demonstrating that the gas is non-corrosive. No treatment of gas or coupons

							are expected for this pipeline.
Internal corrosion corrosive gas investigation - engineering review	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.477	EPS	
Atmospheric corrosion inspection - onshore	1x/3 calendar year	39	O&M	PHMS A	49 CFR 192.481	DBTS	
Verification of corrosion tasks by qualified person	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.453	EPS	
<b>Emergency Response</b>							
Annual review of emergency plan	1x/calendar year	15	O&M	PHMS A	49 CFR 192.605(a)	EPS	EPS currently provides the ERP for NCPA
Emergency drill or training including verification of effectiveness of training	1x/calendar year	15	O&M	PHMS A	49 CFR 192.615(b)(2)	EPS	
Liaison with appropriate emergency responders	1x/calendar year	15	O&M	PHMS A	49 CFR 192.614 & 615(c)	DBTS	
Emergency activity review after an emergency event	AR	NA	O&M	PHMS A	49 CFR 192.615(b)	EPS	
Hazwoper Refresher	1x/calendar year	NA	O&M	OSHA	29 CFR 1910.120	EPS	
<b>Damage Prevention</b>							
Membership in a One Call	Ongoing	NA	O&M	PHMS A	49 CFR 192.614	EPS	
One Call for excavation activities	AR	NA	O&M	PHMS A	49 CFR 192.614(c)(3)	DBTS	DBTS receives one calls through USA North. Each call is documented as no conflict or marking and locating required. If the dig requires onsite monitoring then this item is billed at based on time and materials.

Damage prevention update list of excavators	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.614(c)(1)	EPS	EPS coordinates with the Pipeline Association of Public Awareness (PAPA).
<b>Damage Prevention - Public Awareness</b>							
Public awareness mailers to emergency officials	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.616(d)	EPS	EPS coordinates with the Pipeline Association of Public Awareness (PAPA).
Public awareness mailers to excavators	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.616(d)	EPS	EPS coordinates with the Pipeline Association of Public Awareness (PAPA).
Public awareness mailers to public officials	1x/3 calendar year	NA	O&M	PHMS A	49 CFR 192.616(d)	EPS	EPS coordinates with the Pipeline Association of Public Awareness (PAPA). As a program enhancement this is being completed annually.
Public awareness mailer to "One-Call" centers	1x/calendar year	NA	O&M	PHMS A	49 CFR 192.616(d)	EPS	EPS coordinates with the Pipeline Association of Public Awareness (PAPA).
Public awareness mailers to residents, businesses along ROW	1x/2 calendar year	NA	O&M	PHMS A	49 CFR 192.616(e)	EPS	EPS coordinates with the Paradigm. Starting in 2020 this has been increased to annually.
Public awareness program annual self assessment (Procedures and Team Charter)	1x/calendar year	18	O&M	PHMS A	49 CFR 192.616(i)	EPS	This is an annual review of the Public Awareness Program.
Public awareness 4yr review & survey of mailer effectiveness	1x/4 calendar year	NA	O&M	PHMS A	49 CFR 192.616(i)	EPS	EPS coordinates this with PAPA and Paradigm. In addition, EPS



							completes the evaluation and provide program enhancements.
<b>O&amp;M Activities</b>							
Conversion of service report	AR	NA	O&M	PHMS A	49 CFR 192.14	EPS	
Abandonment Report	AR	NA	O&M	PHMS A	49 CFR 192.727	EPS	
Pressure Testing Report	AR	NA	O&M	PHMS A	49 CFR 192.501-517	EPS	
Annual review of O&M procedures	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.605(a)	EPS	EPS currently provides the O&M for NCPA
Annual review of pipeline specific O&M (PSOM)	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.605(a)	EPS	EPS currently provides the PSOM for NCPA, this manual provides the details of the pipeline and the startup and shutdown procedures. This is part of the O&M.
Annual review work performed by operator	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.605(b)(8)	EPS	
Change in class location required study	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.609	EPS	
Change in class location, confirmation or revision of MAOP	AR	NA	O&M	PHMS A	49 CFR 192.611	EPS	
Continuing surveillance review	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.613	EPS	
Critical crossing (highways, railroads) inspection - Class 3	4x/calend ar year	4 1/2	O&M	PHMS A	49 CFR 192.705	DBTS	
Patrol of ROWs - Class 3	2x/calend ar year	7 1/2	O&M	PHMS A	49 CFR 192.705	DBTS	
Leak survey - Class 3	2x/calend ar year	7 1/2	O&M	PHMS A	49 CFR 192.706(a)	DBTS	
Pressure limiting device inspection (PSV)	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.739	DBTS	
Pressure limiting device inspection (ESD)	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.739	DBTS	
Pressure limiting gas pipeline capacity review (PSV)	AR	NA	O&M	PHMS A	49 CFR 192.743	EPS	
Valve maintenance	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.745	DBTS	

Update maps & drawings	1x/calend ar year	NA	O&M	PHMS A	49 CFR 192.605(b)(3)	EPS	
Update corrosion maps and records	1x/calend ar year	NA	O&M	PHMS A	49 CFR 192.491(a)	EPS	
Inspect and maintain pipeline markers	1x/calend ar year	15	O&M	PHMS A	192.707	DBTS	
Review response of operator to abnormal operations	1x/calend ar year	15	O&M	PHMS A	49 CFR 192.605(c)(4)	EPS	
Exposed pipe report (external & internal)	AR	NA	O&M	PHMS A	49 CFR 192.475 & 459	DBTS	
Uprating	AR	NA	O&M	PHMS A	49 CFR 192.553	EPS	
Prevention of Accidental Ignition	AR	NA	O&M	PHMS A	49 CFR 192.751	EPS	
<b>Drug and Alcohol</b>							
PHMSA annual drug report (DAMIS)	March 15/ year	NA	D&A	PHMS A	49 CFR 199	EPS	
Verification of Company (Contractor) Drug Plan & Procedures	1x/calend ar year	NA	D&A	PHMS A	49 CFR 199	EPS	
Verification of Company (Contractor) Records of Random Drug Testing	1x/calend ar year	NA	D&A	PHMS A	49 CFR 199	EPS	
Verification of Sub-Contractor Drug Plan & Procedures	1x/calend ar year	NA	D&A	PHMS A	49 CFR 199	EPS	
Verification of Sub-Contractor Records of Random Drug Testing	1x/calend ar year	NA	D&A	PHMS A	49 CFR 199	EPS	
Verification of Post-Accident Drug Testing Records	AR	NA	D&A	PHMS A	49 CFR 199	EPS	
<b>Items Requiring Additional Costs - T&amp;M</b>							
Pipeline modification and/ or repairs	AR	NA	O&M	PHMS A	49 CFR Subpart B, Subpart C, Subpart D, Subpart E, Subpart G, Subpart I, Subpart L and Subpart M	EPS/ DBTS	EPS will provide oversite as part of its monthly fee to ensure the modifications and/or repairs are done according to pertinent PHMSA regulations as outlined in the reference. Actual repairs, parts, and engineering would be billed out as T&M.

Pressure Test Pipeline	Based on Assessment Interval	NA	IMP	PHMS A	49 CFR Subpart J	EPS/ DBTS	EPS will provide oversight as part of its monthly fee to ensure pressure tests are done according to pertinent PHMSA regulations as outlined in the reference. Actual cost of the pressure test would be billed out as T&M.
Supplemental Assessment (CIS, DCVG, etc.)	Note	NA	IMP	PHMS A	49 CFR 192.465(b)	EPS/ FJ	EPS will provide oversight as part of its monthly fee to ensure supplemental tests are done according to pertinent PHMSA regulations as outlined in the reference. Actual cost of supplemental tests would be billed out as T&M.
Direct Assessment (ECDA, etc.)	Note	NA	IMP	PHMS A	49 CFR 192.490	EPS/FJ	EPS will provide oversight as part of its monthly fee to ensure supplemental tests are done according to pertinent PHMSA regulations as outlined in the reference. Actual cost of supplemental tests would be billed out as T&M.
<b>Operator Qualifications</b>							
OQ - Annual review of procedures	1x/calendar year	15	OQ	PHMS A	49 CFR 192.805	EPS	EPS currently provides the OQ Manual for NCPA.

OQ - Monitoring Individuals between Re-evaluation Intervals	AR	NA	OQ	PHMS A	49 CFR 192.805	EPS	
OQ - Program review and/or audit	AR	NA	OQ	PHMS A	49 CFR 192.805	EPS	
Operate Pipeline on Daily Basis Using Only Qualified Personnel	Ongoing	NA	OQ	PHMS A	49 CFR 192.805	EPS	This includes training and/ or qualifying company employees as needed to maintain qualifications.
OQ - Contractor status verification	1x/calend ar year	NA	OQ	PHMS A	49 CFR 192.805	EPS	This will be provided via an online system available to NCPA using password protection.
OQ - Verify company personnel OQ records are current for work performed	1x/calend ar year	NA	OQ	PHMS A	49 CFR 192.805	EPS	This will be provided via an online system available to NCPA using password protection.
<b>Integrity Management</b>							
IMP procedures annual review	1x/calend ar year	18	IMP	PHMS A	49 CFR 192.901	EPS	EPS currently provides the IMP for NCPA.
IMP annual review and team charter: Element #1: ID of HCAs Element #2: ID of threats, Data Integration, and Risk Analysis Element #3: Baseline Assessment Element #4: Direct Assessment Element #5: Remediation Work Element #6: Continual Evaluation and Assessment Element #7: Confirmatory Direct Assessment Element #8: Preventive and Mitigative Element #9: Record Keeping Element #10: Management of	1x/calend ar year	18	IMP	PHMS A	49 CFR 192.901 to 192.951	EPS	This is an annual review of each of the IMP program elements.

Change Element #11: Quality Assurance Element #12: Communication Plan Element #13: Agency Notification Element #14: Environment and Safety							
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## **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:

CT1 Alameda Pipeline Maintenance Program specific Cost:      \$7,900.00 / Month

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(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

Energy Project Solutions, LLC

(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**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)