



12745 N. Thornton Road  
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## LEC PPC Agenda

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**Subject: August 12, 2024 Lodi Energy Center Project Participant Committee Meeting**

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

**Time: 10:00 am Pacific Standard Time**

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

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NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 2150 Webster Street, 1 <sup>st</sup> Floor Oakland, CA 94612	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948	CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438
CITY OF BIGGS 465 "C" Street Biggs, CA 95917	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122	POWER & WATER RESOURCES POOLING AUTHORITY 1002 Cooper Ave Glenwood Springs, CO 81601
CALIFORNIA DEPARTMENT OF WATER RESOURCES 1425 River Park Dr. Suite 300. Sacramento, CA 95815	SILICON VALLEY POWER/CITY OF SANTA CLARA 881 Martin Avenue Santa Clara, CA 95050	CITY OF UKIAH 411 W. Clay St. Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702	CITY OF LODI 1331 South Ham Lane Lodi, Ca. 95242	PLUMAS-SIERRA RURAL ELECTRIC COOP 3524 Mullholland Way Sacramento, CA 95821

*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 July 8, 2024 Regular Meeting Minutes and the July 22, 2024 Special Meeting Minutes.

**DISCUSSION/ACTION ITEM**

**4. Lodi Energy Center FX Upgrade Project** – Staff is seeking approval of the Lodi Energy Center FX Upgrade Project and delegating authority to the General Manager or his designee to award bids, execute agreements and related forms, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$17,500,000.

**MONTHLY REPORTS**

**5. Operational Report for July 2024**

**6. Market Data Report for July 2024**

**7. Monthly Asset Report for June 2024**

**8. Bidding Strategies Report**

**CONSENT CALENDAR**

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

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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.

**9. Treasurer's Report for June 2024** – Accept by all Participants

**10. Financial Report for June 2024** – Approve by all Participants

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

**12. CTi ControlTech, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with CTi ControlTech, Inc. for boiler and burner related services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

**13. KGS Group International, Inc. MTPSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Professional Services Agreement with KGS Group International, Inc. for engineering consulting related services, with a not to exceed amount of \$2,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

**14. Alpha Analytical Laboratories, Inc. First Amendment to MTCSA** – Staff is seeking a recommendation for approval of a First Amendment to the five-year Multi-Task Consulting Services Agreement with Alpha Analytical Laboratories, Inc. for various laboratory testing and chemical analysis related services, increasing the not to exceed amount from \$225,000 to \$325,000, with no change to the contract term, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

**15. Peterson Power Systems, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Peterson Power Systems, Inc. for miscellaneous inspection, load testing, and preventative maintenance related services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

**16. Chemical Waste Management, Inc. Seeking Approval to Increase Authorized Funds for Industrial Waste & Disposal Services Agreement** – Staff is seeking a recommendation for approval to increase the authorized not to exceed amount for industrial waste and disposal services under the three-year Industrial Waste & Disposal Services Agreement with Chemical Waste Management, Inc. from \$225,000 to \$550,000, with no change to the agreement terms and conditions, for continued use at all facilities owned and/or operated by NCPA.

**17. NCPA 2025 Plant Outage Schedule** – Staff is seeking a recommendation for approval of the 2025 Plant Outage Schedule.

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

### **ADDITIONAL DISCUSSION/ACTION ITEMS**

**18. PG&E Negotiated Gas Transmission Rates** – Staff is seeking a recommendation for approval authorizing the General Manager or his designee to negotiate gas transmission rates with Pacific Gas and Electric ("PG&E"), or accept the standard variable rates, as well as

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authority to execute agreements Pursuant to D.24-03-002, as approved by the California Public Utility Commission ("CPUC").

- 19. Lodi Energy Center 2025 Spring Outage** – Staff is seeking a recommendation for approval of the LEC 2025 Spring Outage and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the outage in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$2,845,656.

### **INFORMATIONAL ITEMS**

- 20. Lodi Energy Center Hydrogen Upgrade Project** – Staff will provide an update regarding the potential hydrogen upgrade project at the Lodi Energy Center.

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

### **ADJOURNMENT**

Next Regular Meeting: September 9, 2024 at 10:00 am Pacific Standard Time

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

# LEC PPC Meeting Minutes

**Date:** Monday, July 8, 2024

**Time:** 10:00 am Pacific Standard Time

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

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

## 1. Review Safety Procedures

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

## 2. Call Meeting to Order and Roll Call

Chairman Brock Costalupes called to order the Project Participant Committee meeting at 10:04 am. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Schmidt	Absent	6.6000%
Biggs - Sorensen	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Sanchez	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Wilkie	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Sauers	Absent	1.7857%
<b>Summary</b>		
Present	7	86.9536%
Absent	6	13.0464%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	July 8, 2024	

## **Public Forum**

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

### **3. Meeting Minutes**

The draft minutes from the June 10, 2024 regular meeting. The LEC PPC considered the following motion:

**Date:** 7/8/2024

**Motion:** The PPC approves the minutes from the June 10, 2024 regular meeting.

**Moved by:** DWR  
**Seconded by:** Lompoc

**Discussion:** There was no further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	86.9536%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.0464%
Result: Motion Passed		

## **MONTHLY REPORTS**

### **4. Operational Report**

Ryan Johnson presented the Operational Report for June. There were no OSHA recordable incidents. There was one non-recordable incident. On 6/15/24 a sulfuric acid leak was discovered during normal operational rounds. Operators activated the Emergency Response Plan and notified management. Approximately 120 gallons of sulfuric acid leaked into secondary containment. Cleanup contractors were called to the site to neutralize and remove the acid. No injuries or near misses resulted from this incident. No external reporting was required. The root cause was determined to be a failure of a pump pulsation dampener. The pulsation dampeners were placed in LOTOT and the system was returned to service. Additional corrective actions and safety measures are being evaluated in response to this incident.

There were no NERC/WECC or permit violations. There were no outages in the month of June.

The operational report reflected monthly production of 8,181 MWH, 34 service hours, and equivalent operating availability of 100.0%. The report set for the Capacity Factor @ 302MW Pmax of 3.8%. There was one cold start and no warm or hot starts during the month.

### **5. Market Data Report**

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 2 out of 30 available days. There was 1 start during the month. There were twenty-eight days where LEC was uneconomic.

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

Rafael Santana presented the monthly asset report for May 2024, showing that net costs are above budget. Rafael reviewed the monthly historical comparisons as well as the 12-month history.

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

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

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

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

**Date:** 7/8/2024

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for May 2024; **9.** Financial Report for May 2024; **10.** GHG Reports (excerpted from the Monthly ARB); **11. PMOA Schedule 6.00 Update** to reflect changes for City of Biggs; **12. Hatton Crane & Rigging, Inc. 5-year MTGSA** for crane related services, not to exceed \$1,500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **13. Worley Group, Inc. 5-year MTPSA** for project support services, not to exceed \$1,500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **14. Farwest Insulation Contracting 5-year MTGSA** for insulation, electrical tracing, and protective coating related services, not to exceed \$3,500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **15. Everline Compliance CA, LLC Third Amendment to MTGSA** for pipeline maintenance operations related services, accepting assignment to FR Integrity, LLC dba EverLine Compliance, LLC, with no change to the contract term or not to exceed amount, for continued use at all facilities owned and/or operated by NCPA; **16. Conco Services, LLC 5-year MTGSA** for specialized cleaning and industrial equipment testing services, not to exceed \$1,000,000, for use at all facilities owned and/or operated by NCPA (except LEC), Members/SCPPA.

**Moved by:** SVP  
**Seconded by:** DWR

**Discussion:** There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	86.9536%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.0464%
Result:	Motion Passed	

## **BUSINESS ACTION ITEMS / INFORMATIONAL ITEMS**

**17. Lodi Energy Center FX Upgrade Project** – Rafael Santana discussed voting on the Lodi Energy Center FX Upgrade Project for a total not exceed amount of \$17,500,000, with \$7,113,672 to be funded from the CEC Grant, and to authorize \$4,766,666 from the approved FY25 Lodi Energy Center Budget, and further authorize \$3,059,831 to be collected in FY26 and \$2,559,831 to be collected in FY27, pending future budget approvals, to fund the project. During the discussion members requested updated financial information on the project to be provided for their review. A special meeting will be held on July 22, 2024 to re-discuss.

**18. NCPA 2025 Plant Outage Schedule** – Rafael Santana presented the drafted 2025 outage schedule for review and comments. The schedule will be presented again at the August 7, 2024 for approval.

**19. Lodi Energy Center Hydrogen Upgrade Project** – Gordon Loyd discussed the status of various grants and agreements that NCPA is actively pursuing for this project. He provided updates on ongoing studies being conducted and an updated financial report showing the members cost share.

### **Additional Operational Updates**

**20. Additional Operational Updates** – No other updates.

### **Adjournment**

A special meeting will be held on Monday, July 22, 2024.

The next regular meeting of the PPC is scheduled for Monday, August 7, 2024.

The meeting was adjourned at 11:45 am.

Submitted by: Julie Kenkel



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# LEC PPC Special Meeting Minutes

**Date:** Monday, July 22, 2024  
**Time:** 10:00 am Pacific Standard Time  
**Location:** Lodi Energy Center – 12745 N. Thornton Rd, Lodi, CA 95242 and by teleconference  
**Subject:** Lodi Energy Center Project Participant Committee Special Meeting

## 1. Review Safety Procedures

Safety Procedures were not necessary since there were no LEC members or members of the public in attendance at the Lodi Energy Center.

## 2. Call Meeting to Order and Roll Call

The PPC special meeting was called to order at 10:07 am by Chairman Brock Costalupes. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Absent	2.7857%
BART - Schmidt	Present	6.6000%
Biggs - Sorensen	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Sanchez	Present	1.9643%
Healdsburg - Crowley	Present	1.6428%
Lodi - Chiang	Absent	9.5000%
Lompoc - Wilkie	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Sauers	Present	1.7857%
Summary		
Present	9	86.6607%
Absent	4	13.3393%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	July 22, 2024	

## **Public Forum**

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

## **BUSINESS ACTION ITEMS**

### **3. Lodi Energy Center FX Upgrade Project**

Rafael Santana presented the project information and current financial budget to complete the project. The LEC PPC considered the following motion:

**Date:** 7/22/2024

**Motion:** The PPC approves the Lodi Energy Center FX Upgrade Project and delegates authority to the General Manager or his designee to award bids, execute agreements and related forms, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not to exceed amount of \$17,500,000, with \$7,113,672 to be funded from the CEC Grant, and authorizes \$4,766,666 from the approved FY25 Lodi Energy Center Budget, and further authorizes \$3,059,831 to be collected in FY26 and \$2,559,831 to be collected in FY27, pending future budget approvals, to fund the project.

**Moved by:** SVP  
**Seconded by:** Lompoc

**Discussion:** There was no further discussion.

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Absent	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	No	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Absent	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%

<b>Vote Summary</b>		
Total Ayes	8	53.1607%
Total Noes	1	33.5000%
Total Abstain	0	0.0000%
Total Absent	4	13.3393%
Result:	Motion Passed	

NCPA will review the results of the vote and wait 10 days for participants to request a re-vote before proceeding further on this project.

### **INFORMATIONAL ITEMS**

**4. Lodi Energy Center Hydrogen Upgrade Project** – Mike DeBortoli informed the participants that the grant agreement between the Department of Energy and ARCHES has been signed. ARCHES will be drafting sub-recipient agreements which includes the LEC Hydrogen Project.

### **Adjournment**

The next regular meeting of the PPC is scheduled for Monday, August 12, 2024.

The special meeting was adjourned at 10:36 am.

Submitted by: Julie Kenkel



## Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 04

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**Meeting Date:** August 12, 2024

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

**Subject:** Lodi Energy Center FX Upgrade Project; Applicable to the LEC PPC Members.

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### Proposal

Approve the Lodi Energy Center FX Upgrade Project and delegate authority to the General Manager or his designee to award bids, execute agreements and related forms, and to issue purchase orders for the project in accordance with NCPA purchasing policies and procedures, without further approval by the Commission, for a total not exceed amount of \$17,500,000, with \$7,113,672 to be funded from the CEC Grant, and authorizing \$4,766,666 from the approved FY25 Lodi Energy Center Budget, and further authorizing \$3,059,831 to be collected in FY26 and \$2,559,831 to be collected in FY27, pending future budget approvals, to fund the project.

### Background

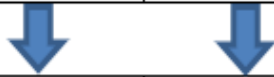
Siemens has developed a new product that is available for LEC as an upgraded. The product is called the FX Upgrade. Siemens describes it as an aerodynamic upgrade in that it radically changes the shape and efficiency of the turbine blades. As a result of the new blades, Siemens is also able to take full advantage of the existing combustion system, allowing it to burn at higher temperatures. These actions combined cause the upgrade to produce more power at all ambient temperatures as well as to produce power more efficiently. It is not only the new power that benefits from the efficiency, but all the existing megawatts benefit from the improved efficiency as well.

The Northern California Power Agency (NCPA) is recommending implementation of the FX Upgrade so that the efficiency and power improvements will benefit Lodi Energy Center and its Participants. The project will upgrade the existing gas turbine and augment the plant's output by up to 19 megawatts and improve the efficiency by 350 BTU/KWHr. The project is expected to cost approximately \$17,500,000. Due to constraints at CAISO, NCPA will not be able to submit a large generator interconnection request until Cluster 16 opens up. Until that time, this project will only be able to take advantage of filling in ambient derates. During normal combustion turbine operation, there is always a range of power capabilities of the turbine, depending upon the ambient temperature. Usually the most power is made during cold temperatures. For example, during cold days in winter, LEC can produce 304 MW. But during the summer, this may become derated to only about 275 MW. Not only does this project propose to increase the maximum power capability of LEC, it will also produce more power during the warm conditions.

The table below shows the expected heat rate improvement over the operating range of LEC. The line for 315 MW is shown as struck out due to the initial operating conditions where it can only operate to improve ambient derate conditions without exceeding Pmax.

### 1. As-Is and defined in the PMOA

Net Power (MW)	HR (Btu/kwh)	Gas (mmBTU/Hr)
175	7450	1304
200	7200	1440
225	7130	1604
250	7081	1770
275	6971	1917
284	6870	1951
302.58	6850	2073



### 2. FX Upgrade

Net Power (MW)	HR (Btu/kwh)	Gas (mmBTU/Hr)	HR Improvement
175	7222.5	1264	227.5
200	6972.5	1395	227.5
225	6885	1549	245
250	6836	1709	245
275	6708.5	1845	262.5
302.58	6590	1994	280
345	6500	2048	350

On December 7, 2023, the California Energy Commission (CEC) released a competitive solicitation to grant funds for the purchase and installation of efficiency upgrades and capacity additions to existing bulk grid power generators in California that will serve as emergency supply for the state's electrical grid during extreme events, as part of the Distributed Electricity Backup Asset program.

NCPA submitted a grant application to the CEC on February 20, 2024, requesting \$7,113,672 to support the FX Upgrade Project at the Lodi Energy Center.

The CEC selected and recommended NCPA for \$7,113,672 in funding, contingent upon the approval of the project at a publicly noticed CEC business meeting and execution of a corresponding Grant Agreement.

NCPA desires to enter into a Grant Agreement with the CEC to accept the proposed funding for the FX Upgrade Project should NCPA's FX Upgrade Project be approved by the CEC for grant funding. The project must be completed by June 30, 2027 or the grant may be forfeited.

### Selection Process

On December 7, 2023, the CEC released a competitive solicitation to grant funds for the purchase and installation of 1) efficiency upgrades and 2) capacity additions to existing bulk grid power generators in California that will serve as emergency supply for the state's electrical grid during extreme events (as defined in Public Resources Code [PRC] section 25790.5[b]). In accordance with the *Distributed Electricity Backup Assets (DEBA) Program Guidelines, First Edition*, GFO-23-401. This solicitation aims to fund eligible projects to strengthen electricity reliability and prioritizes 1) feasible, cost-effective zero- and low-emission resources, and then 2) feasible, cost-effective conventional resources. Grant funding under this solicitation is intended to accelerate project timelines and fill gaps in the market that are preventing implementation of eligible projects. Proposal were due February 20, 2024. The CEC received twelve proposals. Each proposal was screened, reviewed, evaluated, and scored using the

solicitation criteria. All proposals passed administrative screening however one proposal failed technical screening.

This notice and awardees for GFO-23-401 are posted on the CEC's website at <https://www.energy.ca.gov/funding-opportunities/awards>.

### Fiscal Impact

As a result of the cluster process described above, the economic evaluation here only considers the benefits of the efficiency improvement and the filling in of the ambient derates. The extra power increase and the Resource Adequacy benefits have not been included. As a result, the strong economic benefits as evaluated is enough to recommend going forward with this project. Any benefit that comes in the future will only serve to improve the already strong economics. The total cost for the LEC FX Upgrade Project is anticipated not to exceed \$17,500,000. \$7,113,672 will be funded from the CEC Grant. The remaining funds for the project will be collected over the next three years. A collection of \$4,766,666 was included and approved in the FY25 Lodi Energy Center budget. NCPA intends to collect \$3,059,831 in FY26 and \$2,559,831 in FY27, pending future budget approvals, to fund the project.

One adverse impact due to the receipt of the grant is that LEC will be required to complete the upgrade by June 30, 2027. This will be about 1-year in advance of its normally planned outage. As a result, this will trigger the true-up cost component of the Siemens agreement, as the full life of the components had not been realized. The estimated cost of the true-up is about \$2.1M. The net value of the grant benefit is about \$5M as a result of this impact. There are a number of factors that can affect the true-up, so the exact amount of true up will not be known until the start of the outage when the exact number of operating hours and starts is known.

The table below represents the difference in market conditions between LEC with the current turbine configuration and LEC with the new engine configuration. While it shows cost increases across the board, this is due to the fact that it is also producing more megawatt hours. LEC is able to achieve this for two important reasons. The first is that it is able to produce more power, the second is that it is more efficient, creating more opportunities for it to be awarded and run in the market. The Net Value highlighted in Purple, shows the potential annual benefits to the Participants should this project be implemented

<b>Model Differential Outcomes</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>
Generation Increase (MWH)	254,809	324,385	252,109	247,322	281,154
<b>Cost</b>					
GHG Cost Increase (\$)	3,533,457	4,805,402	3,787,730	3,780,066	4,508,354
VOM Increase (\$)	300,675	382,774	297,489	291,840	331,762
Gas Cost Increase (\$)	9,401,816	12,581,240	9,895,308	10,398,807	11,763,867
GMC Cost Increase (\$)	90,534	115,254	89,574	87,874	99,894
Start-Up Cost Increase (\$)	750,000	1,025,000	875,000	900,000	1,150,000
<b>Total Cost Increase (\$)</b>	<b>14,076,482</b>	<b>18,909,670</b>	<b>14,945,102</b>	<b>15,458,587</b>	<b>17,853,876</b>
<b>Total Revenue Increase (\$)</b>	<b>18,755,539</b>	<b>23,842,164</b>	<b>19,051,910</b>	<b>19,584,698</b>	<b>22,109,815</b>
<b>Net Value (\$)</b>	<b>4,679,057</b>	<b>4,932,494</b>	<b>4,106,808</b>	<b>4,126,112</b>	<b>4,255,939</b>

Project Cost	\$17,500,000
Grant Benefit	\$7,113,672
Net Cost to Participants	\$10,386,328
Combined net value of Energy and Efficiency Only (Through 2035)	\$38,677,445
Net Benefit to Participants	\$28,291,117
Payback Period	2 years, 3 months
IRR	37%
NPV	\$15.5M

There is no impact to the terms and conditions of the Siemens agreement.

#### Environmental Analysis

The CEC is requiring both PPC and NCPA supply adopted resolutions providing authorization to NCPA's General Manager to execute all related forms and agreements including the Grant Agreement needed to accept the proposed grant prior to the CEC's Business Meeting where the CEC will formally award the FX Upgrade Project grant and where the CEC will also adopt their analysis of the environmental impacts of the FX Upgrade satisfying the requirements of California Environmental quality Act (CEQA). Furthermore, and upon confirmation of receipt of the FX Upgrade Project grant, NCPA will proceed with ordering equipment, signing the Grant Agreement and constructing the FX Upgrade Project without further approval from PPC or NCPA's Commission.

LEC PPC's decision to accept the proposed grant and authorize the General Manager to enter into the Grant Agreement recognizes that the CEC cannot allow construction of the LEC FX Upgrade Project prior to completing the CEC's environmental review of the potential impacts of this project. The CEC is by statute the lead agency for the evaluation of environmental impacts under CEQA through its equivalent process for LEC. LEC staff has applied for an amendment to LEC's construction and operating license from the CEC for this project. NCPA staff cannot begin construction on this project until the CEC has evaluated the environmental impacts of the project and imposed any required mitigation measures through an amendment to LEC's License. As part of the CEC's review of this project, the CEC will review the evaluation of air quality impacts conducted by the San Joaquin Valley Air Pollution Control District ("Air District"). LEC Staff has prepared and filed an application for an amended permit to construct and ultimately, if built, a permit to operate with the Air District for the LEC FX Upgrade Project. The Air District's modified permit conditions will be included in the amended CEC License, if granted.

Regarding potential environmental impacts, the LEC FX Upgrade results in an energy efficiency upgrade for LEC. As an energy efficiency upgrade, LEC will be able to generate electrical energy without increasing fuel input for a majority of LEC's range of production. In general, the

FX Upgrade Project will decrease environmental impacts associated with production by LEC up to the current electric generation of LEC. For times when LEC is called to run in excess of current production, there will be a small increase in emissions due to the increase in mass flow rates. The CEC and the Air District are analyzing these impacts and evaluating the need for any mitigation measures.

Until the CEC has completed its environmental review of the FX Upgrade Project, the CEC cannot grant LEC an amendment to LEC's CEC License and authorize construction. Thus, the Grant Agreement will require: 1) NCPA Staff to complete the amendment process, that includes the CEC's CEQA equivalent environmental review process, 2) NCPA Staff to complete the Air District's permit to construct and permit to operate processes, and 3) NCPA Staff to obtain an amended CEC License for LEC prior to beginning construction of the LEC FX Upgrade Project. Because these conditions will be included in the Grant Agreement and they do not allow construction of the LEC FX Upgrade Project until after the environmental review process as required by CEQA is complete, LEC PPC can approve execution of the Grant Agreement and approve the FX Upgrade Project now.

Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: (0)

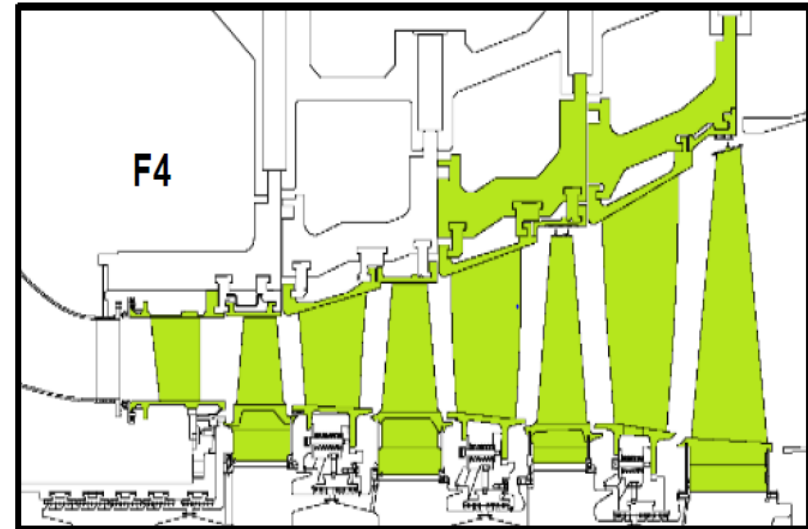


# **SGT6-5000F- F(X) Gas Turbine FX Upgrade Project and Grant Authorization**

Rafael Santana  
Plant Manager  
August 12, 2024

# LEC FX Hardware - Advanced Turbine Efficiency Package

- Advancements in Gas Turbine component technology derived from SGT6-9000HL, this Thermal Performance Upgrade will provide as per Siemens proposal;
  - Increase of 19MW in power output
  - Improvement of heat rate by 350 BTU/KWHr
  - Performance based condition (90°F, 50% RH)
  - Starts (1500) and hours (33k) base intervals stay the same
  - Cost of the upgrade NTE \$17.5M
  - Plant feasibility study is complete, Siemens Engineering has identified some potential concerns but staff continues to work with Siemens to optimize FX implementation.



## FX Permitting Process

- Interconnection: Project economics assume daily market approval, similar to LEC initial operation. LEC will continue to operate within it's approved CEC nominal rating of 296MW summer and 304MW winter rating.
- CEC Petition to Amend: Submitted petition and payment for review, waiting on CEC to conduct CEQA review process.
- Official study for interconnection will follow once CAISO queue opens up. Once study is complete, a CEC PTA license submittal will follow to increase nameplate rating to 319MW.
- CEQA completion is needed for CEC board approval.
- Once project is approved, CEC will start contract negotiations with NCPA.
- Goal is to have the agreement in place with CEC mid-October.
- Data submitted to SJVAPCD for Air Permit review.

## FX Project Costs and Funding

- Total Cost: FX Upgrade not-to-exceed \$17,500,000.
- Collection: During the FY25 budget approval process, PPC approved the collection of \$4,766,666. The plan is to collect \$3,059,831 in FY26 and collect \$2,559,831 in FY27 for the FX Upgrade.
- Grant Award: The CEC proposed DEBA award (GFO-23-401), in the amount of \$7,113,672 for the FX Project Upgrade. Grant dictates FX Upgrade to be completed by June 30, 2027.
- LTP True up Cost: The LTP agreement payments are based on the LEC hours/starts interval based on a ratio. Siemens is forecasting our true up cost to be \$2,150,310 at the end of March 2027.

## Project Costs

Project Cost	\$17,500,000
Grant Benefit	\$7,113,672
Net Cost to Participants	\$10,386,328
Combined net value of Energy and Efficiency Only (Through 2035)	\$38,677,445
Net Benefit to Participants	\$28,291,117
Payback Period	2 years, 3 months
IRR	37%
NPV	\$15.5M

## Funding Sources

Source	Cost
FY25 Budget (Approved)	\$4,766,666
FY26 Budget (Pending)	\$3,059,831
FY27 Budget (Pending)	\$2,559,831
PPC Members Contribution	\$10,386,328
CEC Grant Match	\$7,113,672
<b>Total</b>	<b>\$17,500,000</b>

## FX Revised Payment Schedule

Invoice Milestones for Base Scope	Percentage of Total Price	Siemens Energy Invoice Amount	Estimated Invoice after Taxes
January 2025	25%	\$3,325,000	\$3,599,312.50
January 2026	25%	\$3,325,000	\$3,599,312.50
Delivery of FX Program Parts to site spring 2027	25%	\$3,325,000	\$3,599,312.50
Completion of installation and commissioning of the Performance Upgrade May 2027	25%	\$3,325,000	\$3,599,312.50

## Environmental Analysis

- A Petition to Amend our operating license has been submitted to the California Energy Commission (CEC). The CEC is the leading agency for the CEQA process evaluation. The CEQA review process could result in a direct change to the physical environment and is therefore is considered a “project” for purposes of Section 21065 the California Environmental Quality Act. An Air Permit Review is necessary by SJVAPCD.

## **Recommendation**

- Staff is seeking approval from the Lodi Energy Center Project Participant Committee to approve the 19MW FX gas turbine upgrade and CEC DEBA Grant Award and delegate authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$17,500,000, to be funded from approved FY25 budget in the amount of \$4,766,666 and future budget collection in FY26 \$3,059,831 and FY27 \$2,559,831 and approve CEC DEBA Grant match in the amount of \$7,113,672.

## Lodi Energy Center Project Participant Committee

# Operational Report

Agenda Item No.: 4

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**Date:** 08/12/2024

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

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### Safety

- OSHA Recordable/Reportable: 0 incidents
- Non-Recordable/Reportable: 0 incidents

### Notice of Violations

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

### Outage Summaries:

- 7/01 @ 16:44 - 18:55; Condensate pump trip caused plant trip, OMS 16090408

### Planned Outage Summaries:

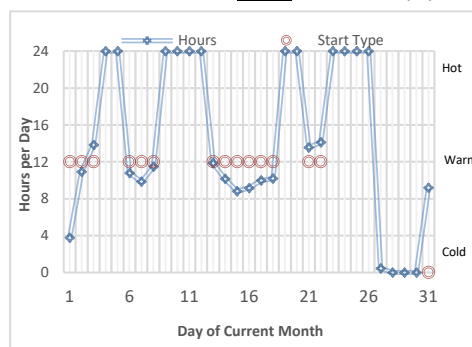
- April 1-30, 2025; Annual maintenance outage.

**LEC Generating Unit Statistics:**
**Date:** 7/1/2024

1. Monthly Production 104,782 MWh  
 2. Productivity Factor  
     a. Service Hours 446 Hours  
     b. Service Factor 60.0 %  
     c. Capacity Factor @ 302MW Pmax 46.6 %

3. Equivalent Operating Availability (EOA) 99.7 %  
 4. Forced Outages  
     a. Forced Outage Rate (FOR) 0.5 %  
     b. Forced Outage Factor (FOF) 0.3 %

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



MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	6,918	0.70%	38	\$7
Seg. 3 275 - 284	6971	6,916	-0.79%	17,941	-\$3,960
Seg. 4 250 - 275	7081	6,947	-1.90%	42,899	-\$23,073
Seg. 5 225 - 250	7130	7,031	-1.39%	19,168	-\$7,597
Seg. 6 200 - 225	7200	7,105	-1.33%	11,073	-\$4,226
Seg. 7 175 - 225	7450	7,455	0.06%	7,143	\$138
Seg. 8 165 - 175	7760	7,807	0.60%	1,479	\$276
	7,164	7,024	-1.96%	99,740	-\$38,435

**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	1	-6	7	\$201
Seg. 5 225 - 250	1	0	1	\$28
Seg. 6 200 - 225	1	0	2	\$53
Seg. 7 175 - 225	0	0	1	\$20
Seg. 8 165 - 175	1	0	1	\$30
	5	-7	12	\$333

**7. Starting Reliability**

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	0	15	1
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	0	18	16
Start Time Deviation (%)	0%	-11%	-20%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	0	193	162
Fuel Deviation (%)	0%	-23%	-35%
Costs of Fuel Deviations (\$)	\$0	-\$3,205	-\$353

**Definitions:**

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



# **LEC PPC Meeting**

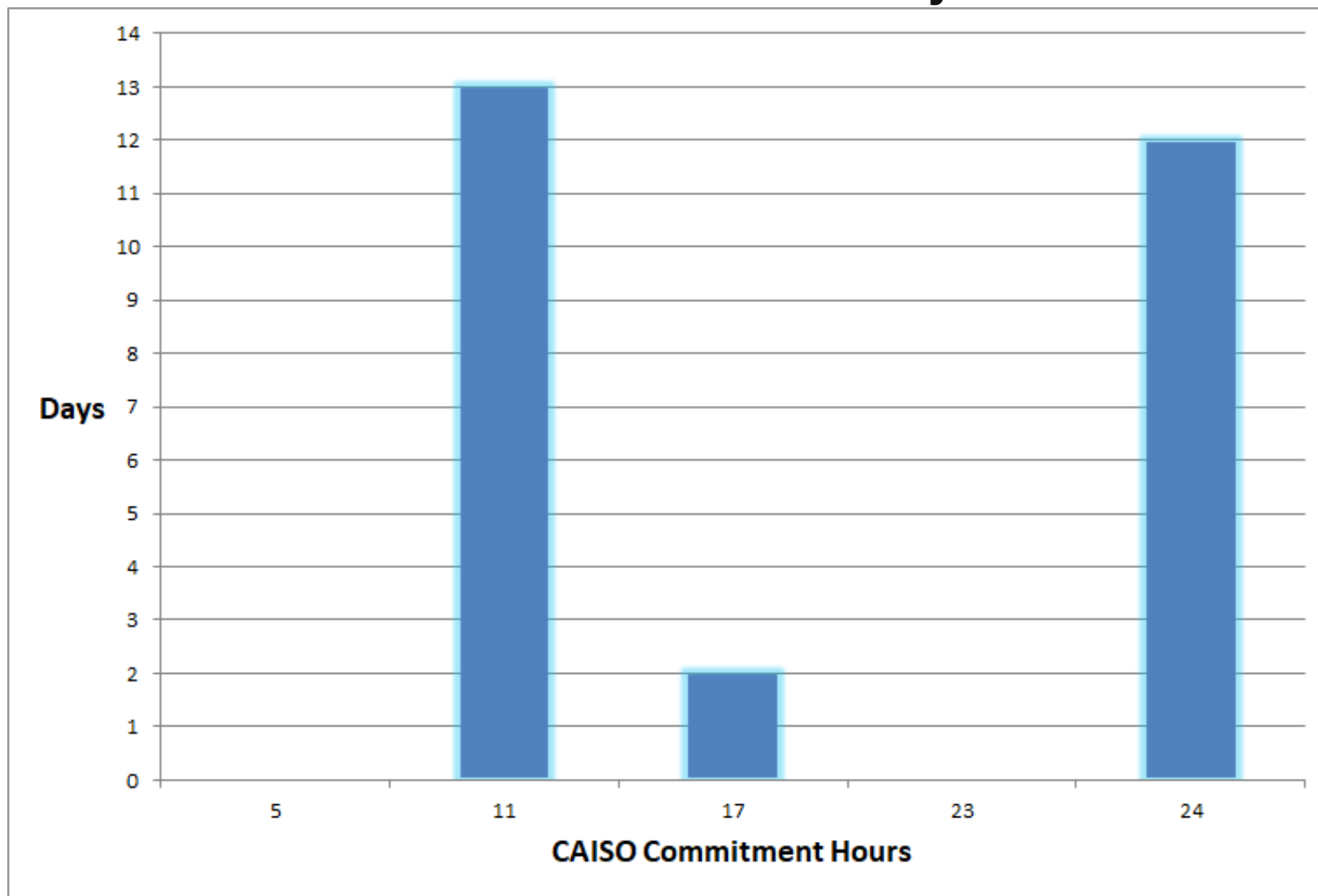
**August 12, 2024**

**July 2024 Market Financial Results**

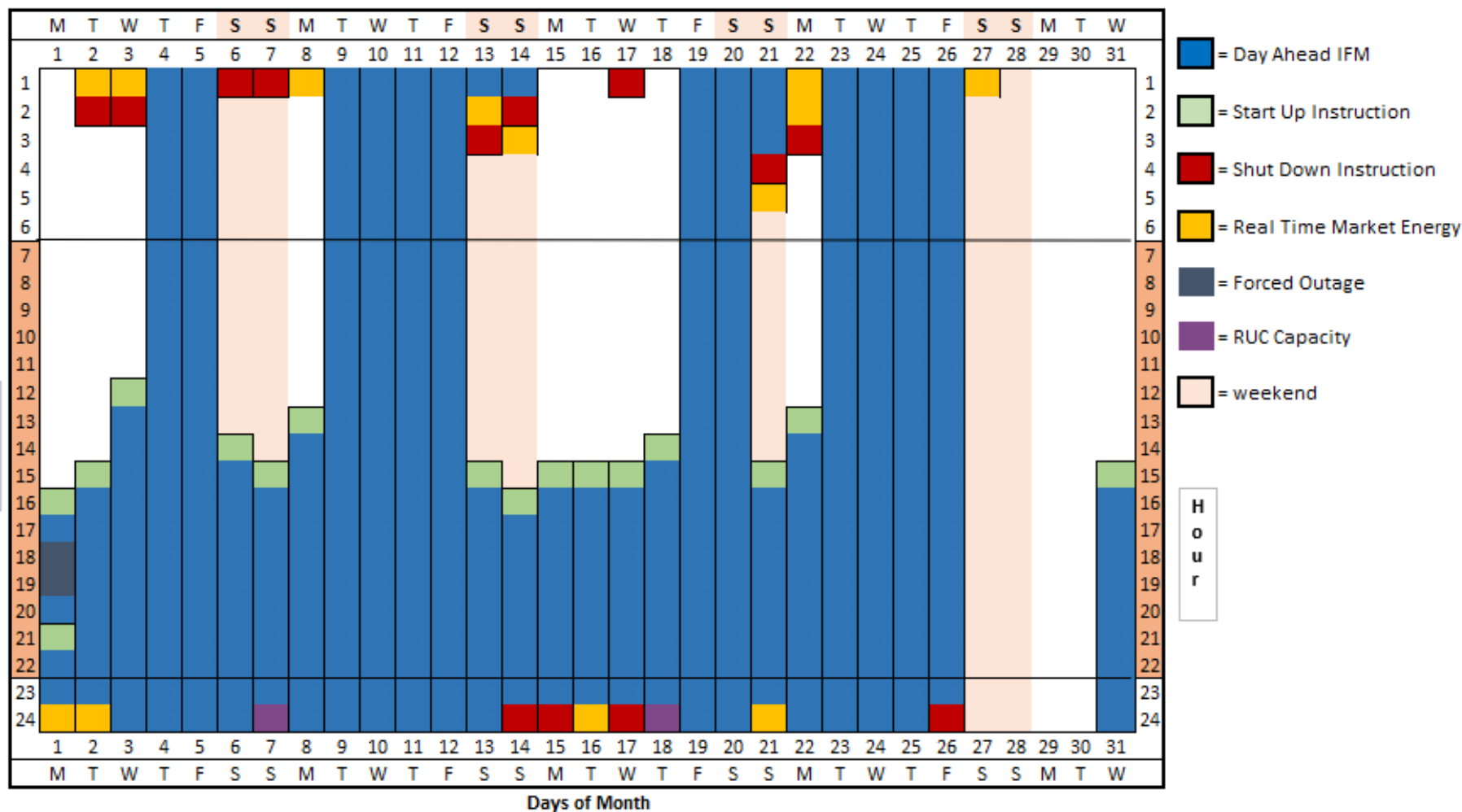
## LEC Operational Results for July 2024

- Resource Adequacy Availability Metrics:
  - 97.93% - Monthly Assessment Generic Performance
  - 99.62% - Monthly Assessment Flexible Performance Vs
  - 96.50% Availability Standard
- Estimated RAAIM Availability Incentive Payment:
  - \$0 for Generic RA based on claimed 126.82 MW
  - \$10,000 for Flexible RA based on claimed 74.39 MW
- LEC was committed by CAISO for market energy 27 days of 31 available days
  - LEC was considered uneconomic 4 days during July.
  - There were 16 starts during the month, and
  - 12 days of continuous 24-hour operations

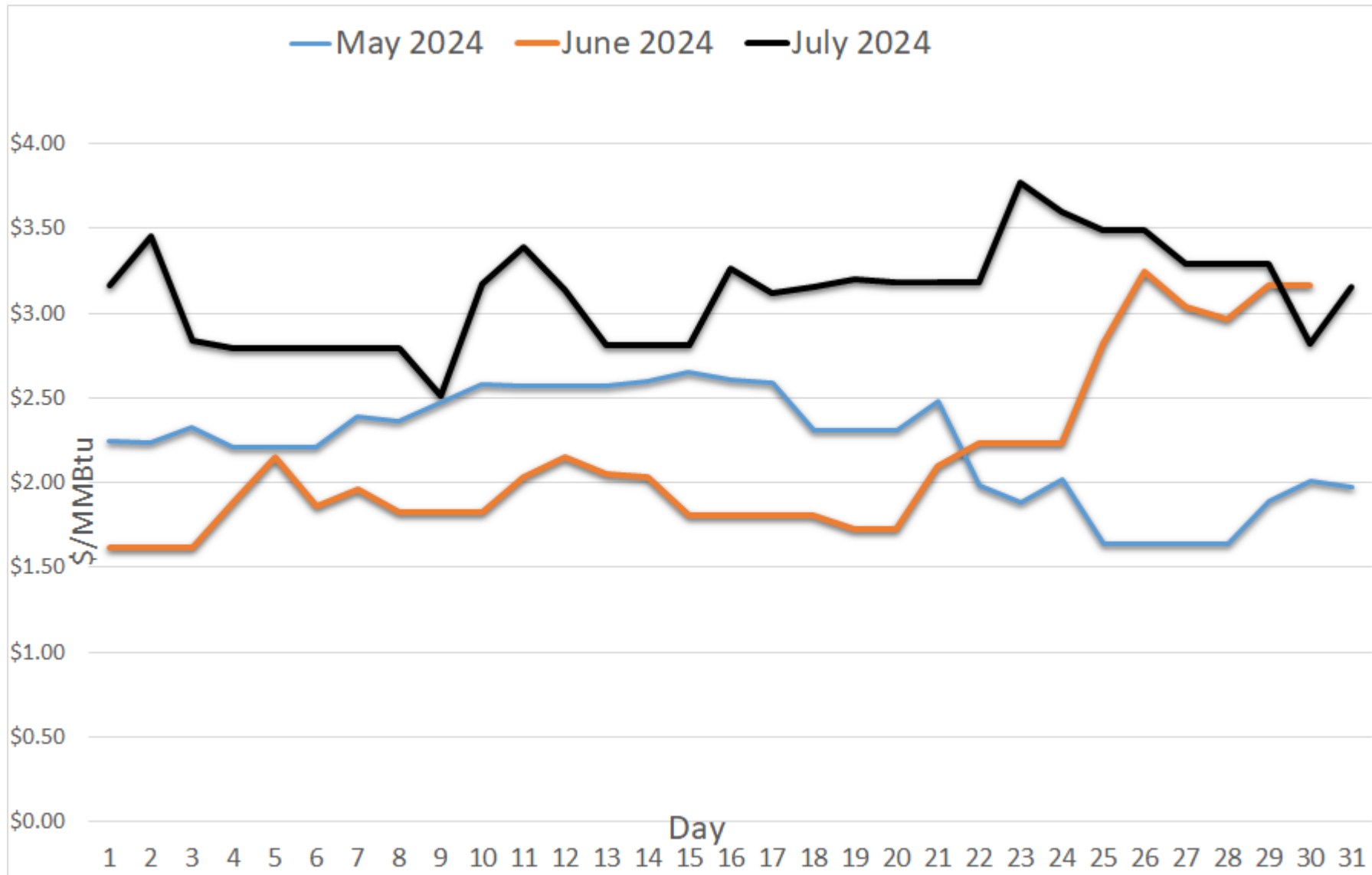
## Frequency Tabulation of Daily CAISO commitment hours for July 2024



## Hour

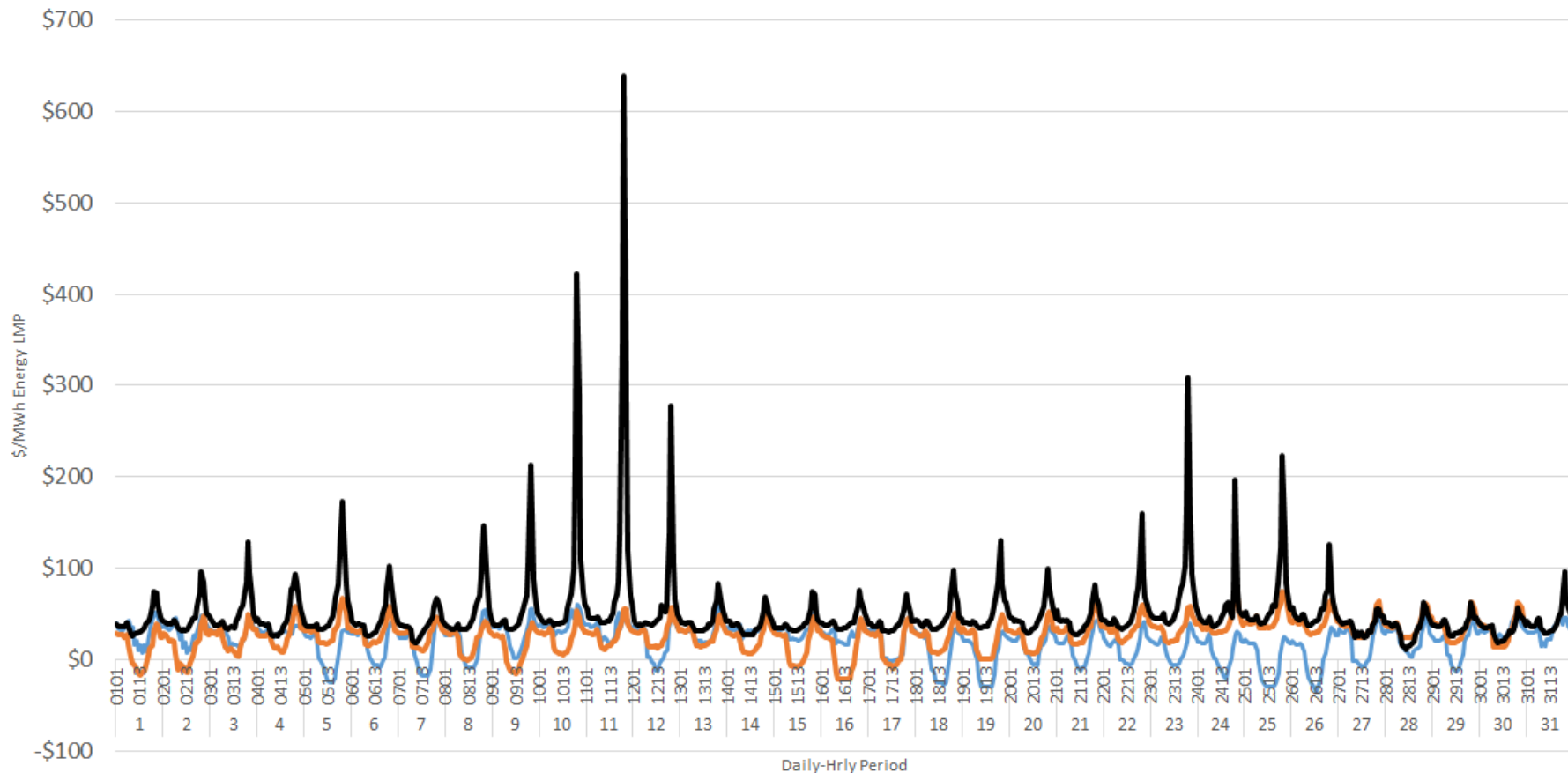


# Daily PG&E City Gate Gas Index Values by Month

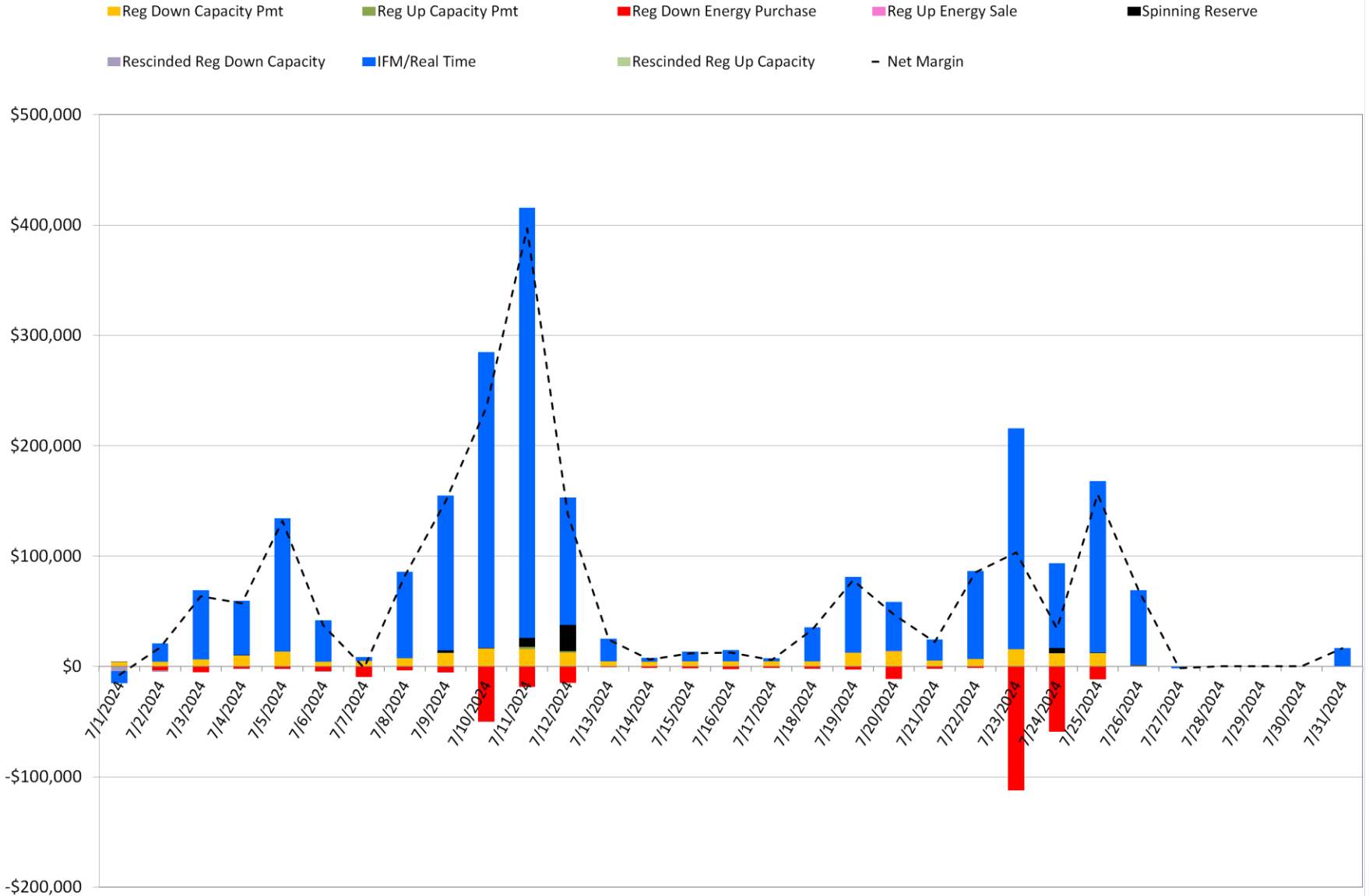


# DA Energy LMP values by Month

— May 2024 — June 2024 — July 2024



# July 2024 LEC Daily Margin Profile by Product



## July 2024 LEC Project Cumulative Monthly Margin

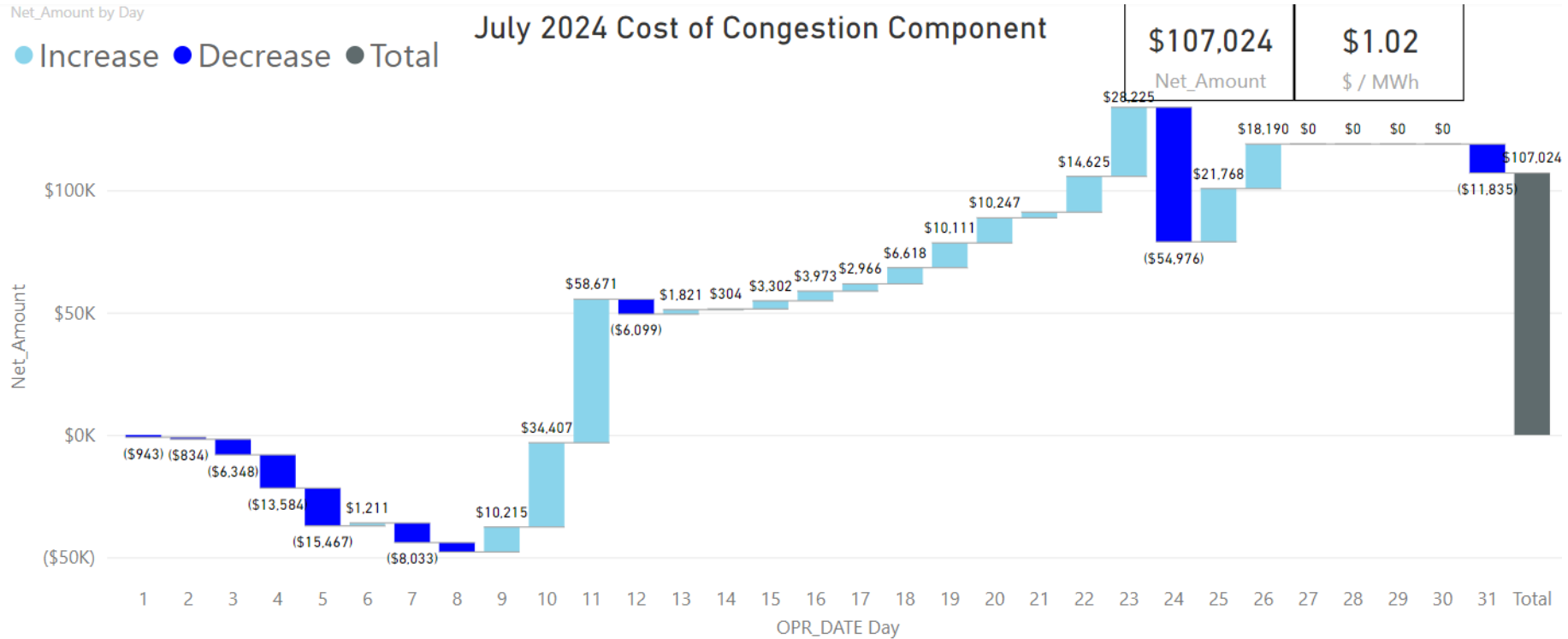
IFM/RTM Gross Revenues	\$ 7,143,500	
Regulation Up Capacity	\$ 4,200	
Regulation Down Capacity	\$ 215,200	
Spinning Reserve	\$ 41,100	
<b>Total Gross LEC Revenue</b>		<b>\$ 7,404,000</b>
LEC CAISO GMC Costs	\$ (41,900)	
CAISO Energy & Capacity Buyback Costs	\$ (649,800)	
Total Monthly LEC Fuel Cost	\$ (2,894,000)	
Total Monthly GHG Obligation	\$ (1,477,300)	
Variable Operations & Maintenance Cost	\$ (337,700)	
<b>Total Gross Costs</b>		<b>\$ (5,400,700)</b>
<b>Cumulative Monthly Margin</b>		<b>\$ 2,003,300</b>
<b>12 Days of Accrued LT Maintenance Costs</b>	\$ (182,169)	
<b>Net Cumulative Monthly Margin</b>		<b>\$ 1,821,131</b>
Average Net Margin \$/MWh	\$	17.37

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

July 2024 Cost of Congestion Component



NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost



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

Net\_Amount by Day

● Increase ● Decrease ● Total

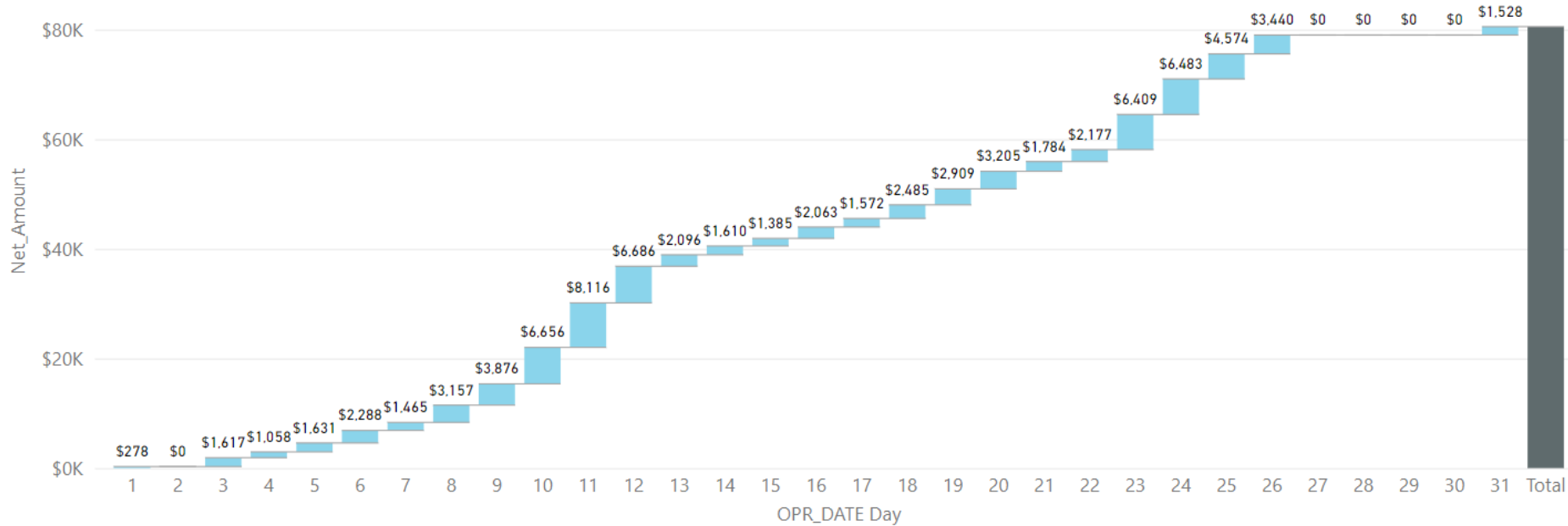
July 2024 Cost of Loss Component

**\$80,546**

Net\_Amount

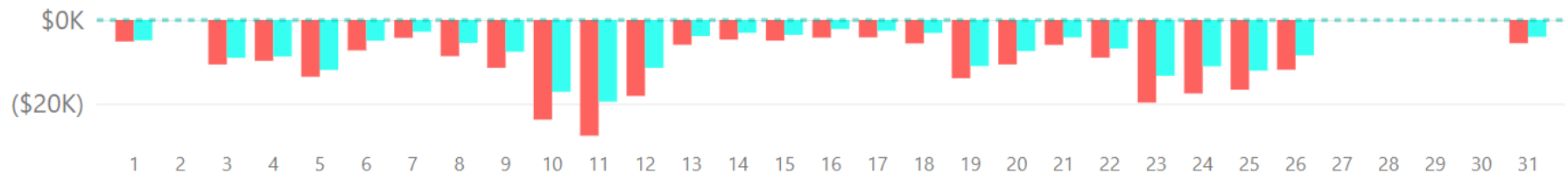
**\$0.77**

\$ / MWh



NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost

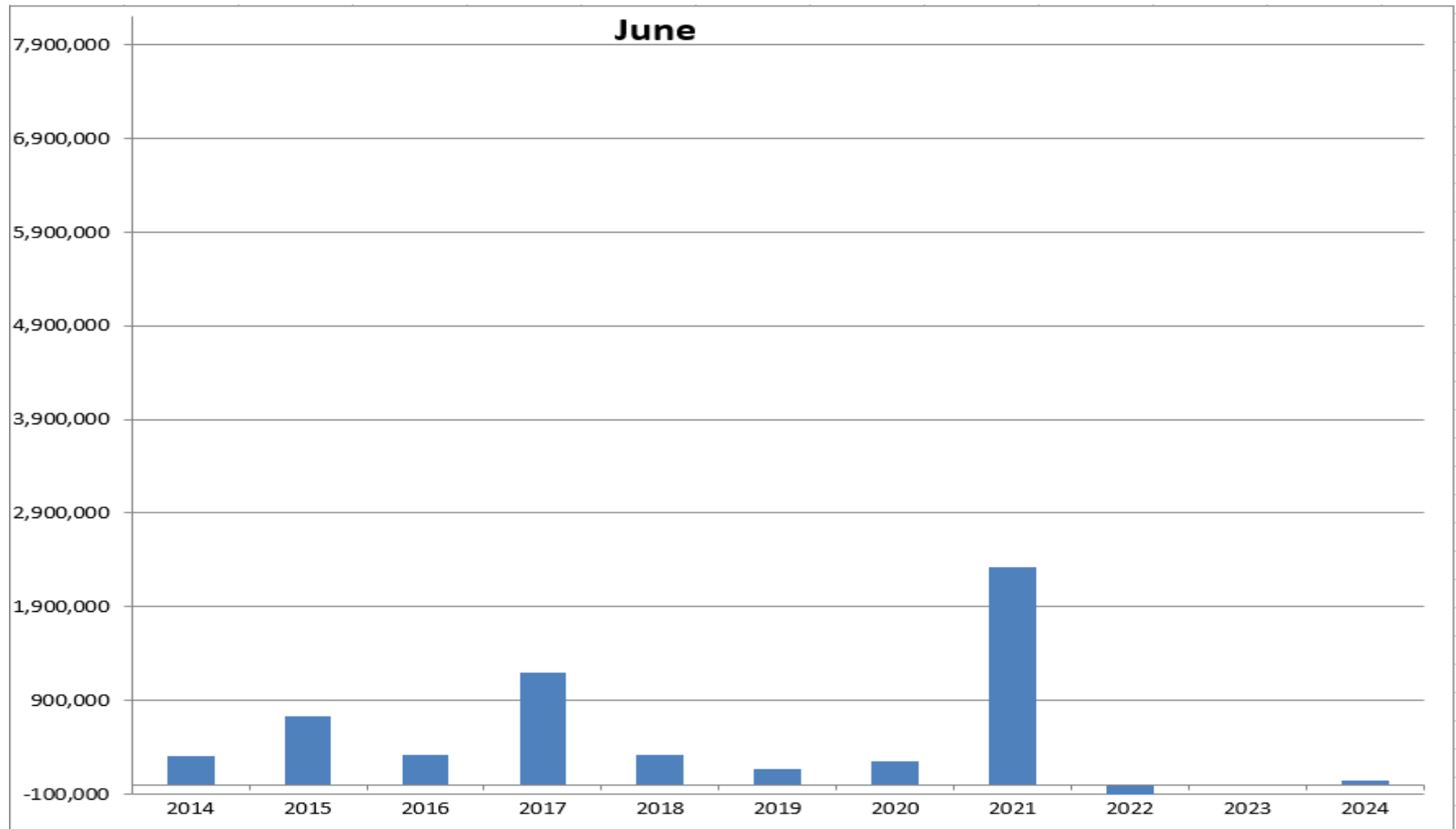


	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2024 Budget	Percent Used	Comments
VOM	6,230,796	8,130,435	1,644,190	8,884,688	6,635,255	7,099,531	12,353,150	3,380,655	590,380	268,823	803,737	394,434	56,416,075	91,703,714	61.5%	
Capacity Factor	49%	65%	15%	56%	50%	65%	69%	35%	5%	1%	2%	4%	35%	35%	100.0%	Lower CF @ 4% for the month.
Fuel Consumed (mmBTU, estimated)	778,036	1,034,230	228,909	881,581	764,290	1,015,613	1,075,545	519,988	82,684	19,279	34,408	60,040	6,494,603	9,058,849	71.7%	
Avg Fuel Cost (\$/mmBTU)	5.41	5.39	4.33	6.38	6.08	4.52	7.51	3.63	3.56	2.65	2.93	3.34	5.58	7.87	70.9%	
Power Produced (MWhr, estimated)	110,534	148,957	31,972	125,082	109,227	146,112	155,019	73,757	11,544	1,604	4,282	8,184	926,274	1,303,566	71.1%	
Avg Power Price (\$/MWhr)	70.51	77.17	60.02	78.22	74.97	60.42	94.74	50.18	53.62	62.14	49.91	53.82	73.16	95.06	77.0%	
Operations / Variable / LTSA	147,690	169,459	141,392	878,497	148,982	81,213	1,172,451	101,694	65,967	137,890	609,540	28,411	3,683,186	4,837,398	76.1%	
Fuel (estimated)	4,211,170	5,569,646	991,544	5,627,298	4,649,538	4,594,126	8,078,944	1,889,865	294,103	51,180	100,732	200,602	36,258,749	71,517,913	50.7%	
AB32 GHG Offset (estimated)	1,462,153	2,030,979	462,367	1,749,465	1,592,739	2,148,977	2,493,608	1,212,320	189,114	40,788	72,790	116,303	13,571,603	13,984,733	97.0%	
CA ISO Charges (estimated)	409,783	360,351	48,887	629,428	243,996	275,215	608,147	176,776	41,196	38,965	20,675	49,118	2,902,537	1,363,670	212.8%	
Routine O&M (Fixed)	1,364,229	1,520,704	1,104,923	1,292,039	1,265,418	1,214,385	1,068,137	1,017,035	1,127,396	1,367,622	1,083,859	1,091,836	14,517,583	14,013,817	103.6%	
Maintenance / Fixed	370,865	330,257	338,399	533,479	371,163	297,764	298,959	268,835	336,606	333,003	315,520	329,696	4,124,546	3,350,082	123.1%	
Administration	2,526	15,273	2,212	12,348	22,003	18,000	3,271	7,470	7,290	16,234	5,158	11,075	122,860	188,173	65.3%	
Mandatory Costs	44,199	405,606	18,181	19,785	14,490	-3,691	24,067	19,541	5,270	105,658	36,538	56,853	746,497	374,870	199.1%	Invoices for MIT waste water disposal and Acid leak clean up.
Inventory Stock	0	0	0	18,118	132,665	9,129	109,059	0	23,650	9,854	0	0	302,475	500,000	0.0%	
Labor	675,240	484,316	459,297	436,142	453,204	618,284	360,196	445,516	482,706	628,416	455,244	668,152	6,166,713	6,167,244	100.0%	
Insurance	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	145,976	-99,519	1,506,217	1,506,217	1,751,712	86.0%	
Power Management & Settlements	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	125,423	1,505,076	1,505,071	100.0%	
Other Costs	0	13,853	15,435	768	494	3,500	1,186	4,274	475	3,058	0	156	43,199	176,665	24.5%	
Projects	218,640	180,755	243,735	222,078	258,846	284,268	271,786	354,707	515,932	1,006,359	1,145,355	422,244	5,124,705	3,912,591	131.0%	
Maintenance Reserve	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	180,755	2,169,060	2,169,063	100.0%	
Operations & Maintenance Projects	37,885	0	62,980	41,323	78,091	103,513	91,031	173,952	335,177	825,604	964,600	207,739	2,921,895	1,698,528	172.0%	Final Outage Invoice/Payments
Capital Projects	0	0	0	0	0	0	0	0	0	0	0	33,750	33,750	45,000	75.0%	
A&G	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,194	223,234	223,194	223,194	2,678,368	2,679,358	100.0%	
Administrative & General (Allocated)	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,458	190,498	190,458	190,458	2,285,536	2,285,971	100.0%	
Generation Services Shared	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	32,736	392,832	393,387	99.9%	
Total O&M Cost	8,036,859	10,055,088	3,216,042	10,621,999	8,382,713	8,821,378	13,916,267	4,975,591	2,456,902	2,866,038	3,256,145	2,131,708	78,736,731	112,309,480	70.1%	
Debt Service	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	2,166,020	25,992,240	25,992,239	100.0%	
Revenues	7,885,997	11,628,566	2,044,088	9,914,012	8,322,394	8,942,838	14,818,020	3,824,413	725,328	188,463	301,808	476,135	69,072,062	126,179,301	54.7%	
ISO Energy Sales (estimated)	7,793,651	11,494,752	1,919,044	9,783,322	8,188,300	8,828,351	14,686,478	3,700,889	618,969	99,679	213,705	440,439	67,767,579	123,918,636	54.7%	Energy Sales lower due to weak power prices.
Other Income	92,346	133,814	125,044	130,690	134,094	114,487	131,542	123,524	106,359	88,784	88,103	35,696	1,304,483	2,260,665		
Net	(\$2,316,882)	(\$592,542)	(\$3,337,974)	(\$2,874,007)	(\$2,226,339)	(\$2,044,560)	(\$1,264,267)	(\$3,317,198)	(\$3,897,594)	(\$4,843,595)	(\$5,120,357)	(\$3,821,593)	(\$35,656,909)	(\$12,122,418)	Above budget by 194.14%	

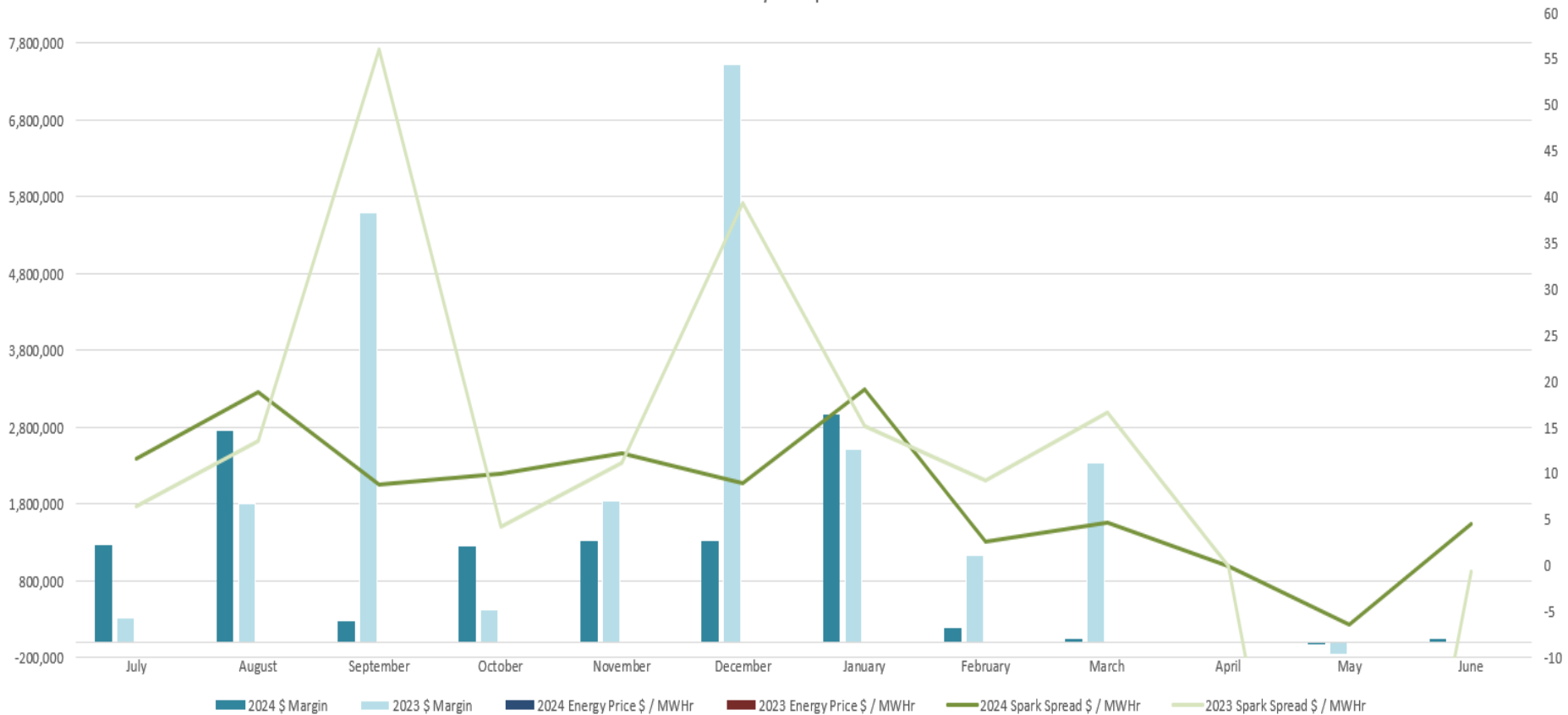
# June Asset Report

		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	476,135	4,233,107	12,460,940	(3,756,972)	-89%	Power Pricing Lower by 41% vs Forecast @ \$90.86.
VOM	394,434	4,082,653	9,591,794	(3,688,219)	-90%	CF @ 4% vs. Forecast @ 21%. Soft Market.
Fixed	1,091,836	1,214,093	1,221,232	(122,257)	-10%	
Projects	422,244	248,255	203,255	173,989	70%	Outage Invoices
A&G	223,194	223,280	223,280	(86)	0%	
Debt	2,166,020	2,166,350	2,166,030	(330)	-0.02%	
Net Cost	(3,821,593)	(3,701,523)	(944,651)	(120,069)	3%	
Net Annual Cost		(35,656,909)	(12,122,418)	(\$23,534,492)		
				Above budget by 194.14%		

# Historical Margins



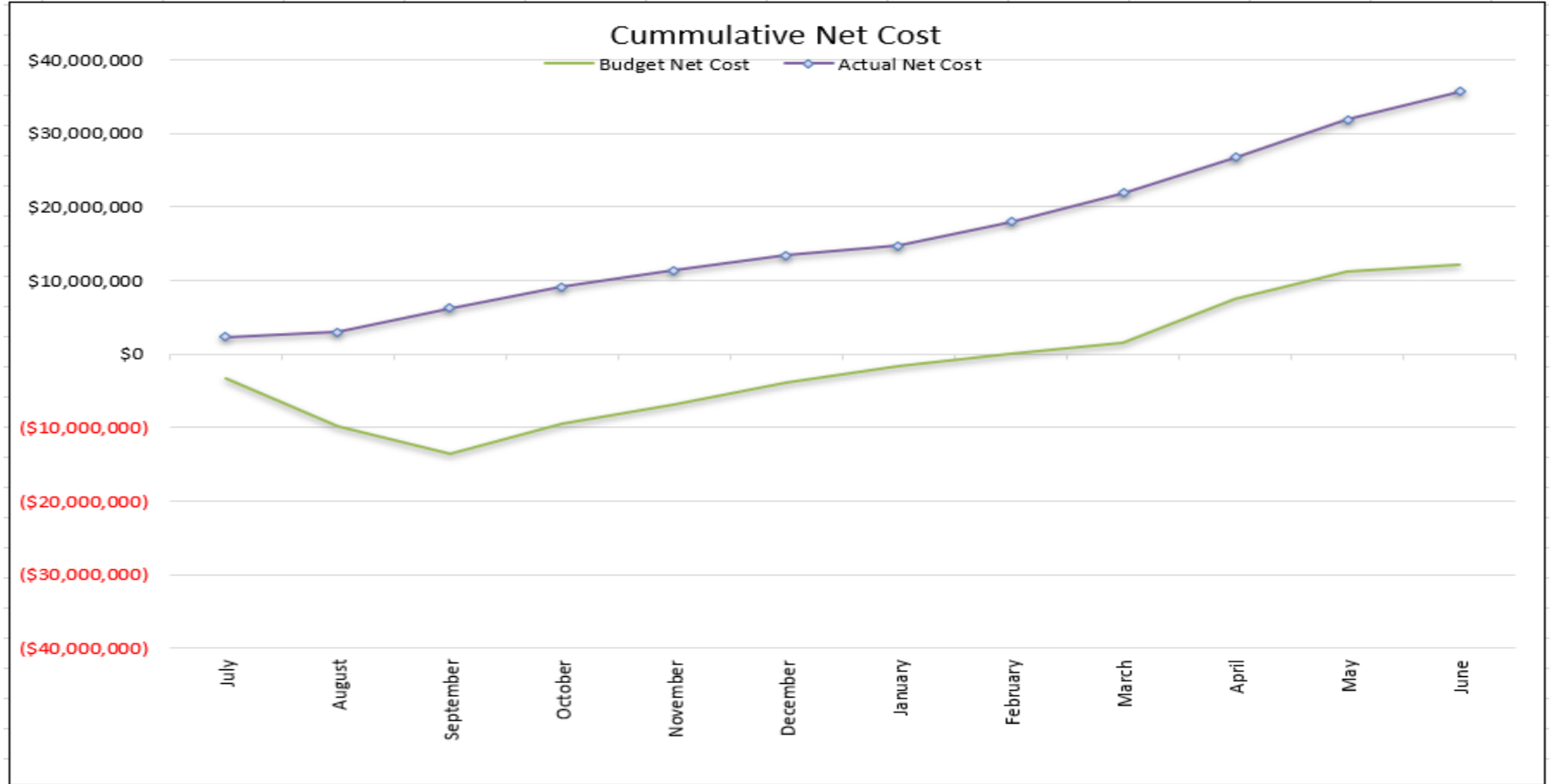
## Historical Monthly Comparison



\* Spark Spread same as June 2023 @ \$0.58 \$/MWhr vs. June 2024 @ \$4.54 \$/MWhr

\* Spark Spread delta lower from June 2023 vs June 2024 @ \$3.21 \$/MWhr

\* Margin comparison from June 2023 \$-5,781 vs June 2024 \$37,219



**\*\* On the cumulative chart, June was a soft month, results are comparable to the last three years. Actual Net Cost \$35,656,909 vs Budget Net Cost \$12,122,418.**



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# LEC Treasurer's Report

AGENDA ITEM NO.: 8

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**Date:** August 12, 2024  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended June 30, 2024

---

In compliance with NCPA policy and State of California Government Code Sections 53601 and 53646(b), the following monthly report is submitted for your information and acceptance.

Cash - At month end cash totaled \$898.

Investments - The carrying value of the LEC's investment portfolio totaled \$30,151,805 at month end. The current market value of the portfolio totaled \$29,205,129.

The overall portfolio had a combined weighted average interest rate of 3.139% with a bond equivalent yield (yield to maturity) of 3.119%. Investments with a maturity greater than one year totaled \$17,734,000. During the month \$5,335,907 was invested.

Funds not required to meet annual cash flow are reinvested and separately reported as they occur.

Interest Rates - During the month, rates on 90 day T-Bills increased 3 basis points from 5.46% to 5.49% and rates on one year T-Bills decreased 10 basis points from 5.20% to 5.10%.

To the best of my knowledge and belief, all securities held by LEC as of June 30, 2024 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

*Monty Hanks*

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

*S. Ainsworth*

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**JUNE 30, 2024**

### **TABLE OF CONTENTS**

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**June 30, 2024**

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 898	\$ 2,158,477	\$ 2,159,375	7.16%	\$ 2,157,847
Debt Service Reserve	-	11,477,177	11,477,177	38.06%	11,137,789
O & M Reserve	-	16,387,233	16,387,233	54.35%	15,780,575
	<b>898</b>	<b>30,022,887</b>	<b>30,023,785</b>	<b>99.57%</b>	<b>29,076,211</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	128,918	128,918	0.43%	128,918
Participant Deposit Account	-	-	-	-	-
	<b>\$ 898</b>	<b>\$ 30,151,805</b>	<b>\$ 30,152,703</b>	<b>100.00%</b>	<b>\$ 29,205,129</b>

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**June 30, 2024**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ 61,713	\$ 5	\$ 15,573,754	\$ (22,769,816)	\$ (2,094,781)	\$ 2,096,438	\$ (7,132,687)
Debt Service Reserve	-	79,166	19,713	(61,713)	(3,115,167)	3,078,001	-
O & M Reserve	-	28,750	30,677	-	(125,959)	66,532	-
	<b>61,713</b>	<b>107,921</b>	<b>15,624,144</b>	<b>(22,831,529)</b>	<b>(5,335,907)</b>	<b>5,240,971</b>	<b>(7,132,687)</b>
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	43,840	545	(44,385)	-	-	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ 105,553</b>	<b>\$ 108,466</b>	<b>\$ 15,579,759</b>	<b>\$ (22,831,529)</b>	<b>\$ (5,335,907)</b>	<b>\$ 5,240,971</b>	<b>\$ (7,132,687)</b>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**June 30, 2024**

			(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	\$ 2,094,781	\$ (15,573,754)	\$ 1,775	\$ -	\$ -	\$ (13,477,198)
Debt Service Reserve	3,115,167	(19,713)	7,259	-	-	3,102,713
O & M Reserve	125,959	(30,677)	(453)	-	-	94,829
	<u>5,335,907</u>	<u>(15,624,144)</u>	<u>8,581</u>	<u>-</u>	<u>-</u>	<u>(10,279,656)</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	-	44,385	-	-	-	44,385
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 5,335,907</u>	<u>\$ (15,579,759)</u>	<u>\$ 8,581</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (10,235,271)</u>

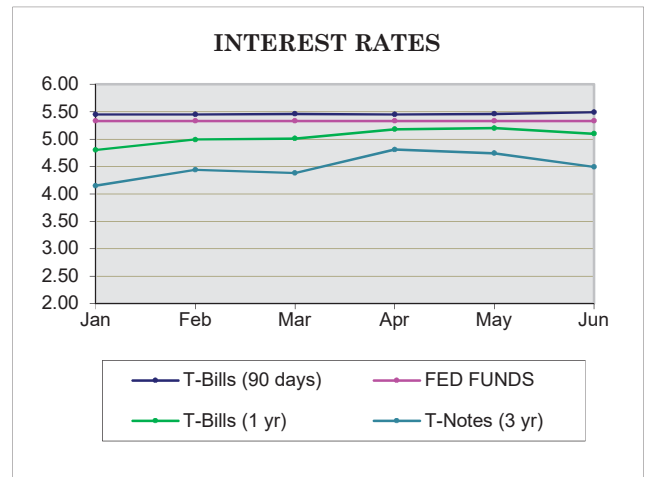
Less Non- Cash Activity	
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(8,581)
Net Change in Investment --Before Non-Cash Activity	<u>\$ (10,243,852)</u>

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency/Lodi Energy Center**  
**Interest Rate/Yield Analysis**  
**June 30, 2024**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>3.139%</b>	<b>3.119%</b>
Debt Service Account	4.972%	5.155%
Debt Service Reserve	3.157%	3.120%
O & M Reserve	2.867%	2.833%
GHG Cash Account	5.430%	5.430%

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	5.33%	5.07%
T-Bills (90da.)	5.49%	5.45%
Agency Disc (90da.)	5.29%	5.10%
T-Bills (1yr.)	5.10%	5.35%
Agency Disc (1yr.)	4.86%	5.13%
T-Notes (3yr.)	4.49%	4.40%

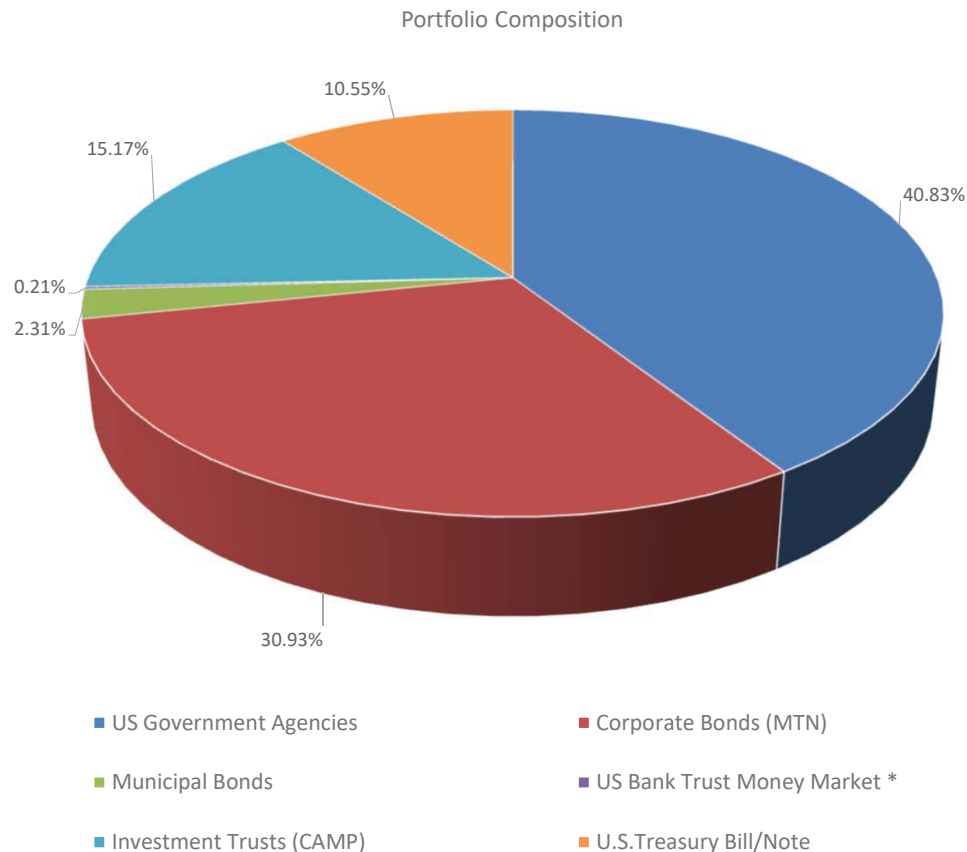


**Northern California Power Agency/Lodi Energy Center  
Total Portfolio  
Liquidity and Investment Maturities Analysis  
June 30, 2024**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ 2,070	\$ 2,142	\$ -	\$ -	\$ 8,141	\$ -	\$ 12,353	40.83%
Corporate Bonds (MTN)	-	-	465	-	-	8,893	-	9,358	30.93%
Municipal Bonds	-	-	-	-	-	700	-	700	2.31%
US Bank Trust Money Market *	64	-	-	-	-	-	-	64	0.21%
Investment Trusts (CAMP)	4,591	-	-	-	-	-	-	4,591	15.17%
U.S.Treasury Bill/Note	-	-	3,191	-	-	-	-	3,191	10.55%
<b>Total Dollars</b>	<b>\$ 4,655</b>	<b>\$ 2,070</b>	<b>\$ 5,798</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$17,734</b>	<b>\$ -</b>	<b>\$ 30,257</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>15.39%</b>	<b>6.84%</b>	<b>19.16%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>58.61%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.

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



# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



## Northern California Power Agency

## Treasurer's Report

06/30/2024

## LEC Issue #1 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	61,786	0.010		61,786		1	0.010	61,786	SYS79004	79004	61,786
Federal Home Loan Ba	USBT	674,000	5.120	06/27/2024	659,142	11/29/2024	151	5.308	659,327	313384R43	27779	659,525
Fund Total and Average		\$ 735,786	4.682		\$ 720,928		138	4.854	\$ 721,113			\$ 721,311

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	692	0.010		692		1	0.010	692	SYS79012	79012	692
Federal Home Loan Ba	USBT	787,000	5.120	06/27/2024	769,651	11/29/2024	151	5.308	769,867	313384R43	27780	770,099
Fund Total and Average		\$ 787,692	5.115		\$ 770,343		151	5.303	\$ 770,559			\$ 770,791

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	681,000	5.120	06/27/2024	665,988	11/29/2024	151	5.308	666,175	313384R43	27781	666,375
Fund Total and Average		\$ 681,000	5.120		\$ 665,988		151	5.308	\$ 666,175			\$ 666,375
GRAND TOTALS:		\$ 2,204,478	4.972		\$ 2,157,259		147	5.155	\$ 2,157,847.			\$ 2,158,477

\*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 06/30/2024



## Northern California Power Agency

## Treasurer's Report

06/30/2024

## LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	959	0.010		959		1	0.010	959	SYS79005	79005	959
Federal Home Loan Ba	USBT	20,000	4.875	04/25/2023	20,107	09/13/2024	74	4.468	19,973	3130ATVD6	27586	20,015
U.S. Treasury	USBT	38,000	5.100	06/27/2024	37,166	11/29/2024	151	5.286	37,184	912797HP5	27782	37,187
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	609	0.840	4,148,917	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	711	0.799	139,046	3130AN4T4	27270	150,215
U.S. Treasury	USBT	3,589,000	4.375	01/03/2024	3,618,020	12/15/2026	897	4.080	3,568,399	91282CJP7	27700	3,613,170
Federal Home Loan Ba	USBT	120,000	4.000	07/28/2023	118,496	06/30/2028	1,460	4.285	116,647	3130AWN63	27624	118,779
U.S. Treasury	USBT	21,000	4.375	09/28/2023	20,785	08/31/2028	1,522	4.608	20,975	91282CHX2	27647	20,818
Fund Total and Average		\$ 8,368,959	2.445		\$ 8,396,061		746	2.321	\$ 8,052,100			\$ 8,391,143

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	155	0.010		155		1	0.010	155	SYS79006	79006	155
U.S. Treasury	USBT	2,315,000	5.095	06/13/2024	2,259,629	11/29/2024	151	5.292	2,265,274	912797HP5	27774	2,265,527
Fund Total and Average		\$ 2,315,155	5.095		\$ 2,259,784		151	5.292	\$ 2,265,429			\$ 2,265,682

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	260	0.010		260		1	0.010	260	SYS79013	79013	260
U.S. Treasury	USBT	838,000	5.095	06/13/2024	817,957	11/29/2024	151	5.292	820,000	912797HP5	27775	820,091
Fund Total and Average		\$ 838,260	5.093		\$ 818,217		151	5.291	\$ 820,260			\$ 820,351
GRAND TOTALS:		\$ 11,522,374	3.157		\$ 11,474,062		586	3.120	\$ 11,137,789.			\$ 11,477,176

\*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 06/30/2024

## Callable Dates:

Inv #

27199 FFCB Anytime



## Northern California Power Agency

## Treasurer's Report

06/30/2024

## LEC O &amp; M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
First American Govt.	USBGC	0	5.200		0		1	5.200	0	SYS70041	70041	0
California Asset Mgm	CMP	4,461,782	5.430	09/09/2022	4,461,782		1	5.430	4,461,782	SYS70075	70075	4,461,782
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70047	70047	0
Federal Farm Credit	USBGC	2,050,000	5.375	09/15/2023	2,053,075	09/13/2024	74	5.217	2,049,016	3133EPVU6	27640	2,050,618
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	153	1.776	461,113	14912L6G1	26952	467,725
Nashville Met Gov	USBGC	350,000	0.610	09/18/2023	350,000	07/01/2025	365	0.609	334,359	592112XC5	27645	350,000
Nashville Met Gov	USBGC	150,000	0.610	09/18/2023	150,000	07/01/2025	365	0.609	143,169	592112XA9	27646	150,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	393	0.579	953,800	3136G4D75	27047	1,000,216
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	413	0.600	951,610	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	455	0.530	708,623	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	455	0.530	633,921	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	587	0.699	466,935	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	668	1.200	459,715	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	745	1.050	922,400	57629WDE7	27250	1,002,975
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	786	1.250	91,177	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	805	1.227	459,395	14913R2Q9	27290	499,178
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	846	1.567	786,607	872898AA9	27335	853,438
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	861	1.490	474,166	74460DAG4	27310	515,114
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	861	1.475	979,635	74460DAG4	27341	1,064,591
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,065	3.654	179,688	088006KB6	27424	187,678
Mercedes-Benz Fin. N	USBGC	275,000	3.750	06/26/2023	260,832	02/22/2028	1,331	5.003	263,464	233851DF8	27609	263,918
Fund Total and Average		\$ 16,400,782	2.867		\$ 16,415,555		388	2.833	\$ 15,780,575			\$ 16,387,233
GRAND TOTALS:		\$ 16,400,782	2.867		\$ 16,415,555		388	2.833	\$ 15,780,575.			\$ 16,387,233

\*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 06/30/2024

## Callable Dates:

Inv #

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



Northern California Power Agency  
Treasurer's Report  
06/30/2024

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
California Asset Mgm	CMP	128,918	5.430	09/13/2022	128,918		1	5.430	128,918	SYS70077	70077	128,918
Local Agency Investm		0	3.590	07/01/2023	0		1	3.590	0	SYS70046	70046	0
Fund Total and Average		\$ 128,918	5.430		\$ 128,918		1	5.430	\$ 128,918			\$ 128,918
GRAND TOTALS:		\$ 128,918	5.430		\$ 128,918		1	5.430	\$ 128,918.			\$ 128,918

\*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 06/30/2024



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

---

**Date:** August 12, 2024

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

**Subject:** June 30, 2024 Financial Reports (Unaudited)

---

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

		June	
		2024	2023
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$	128,918	\$ 165,932
Interest receivable		56,891	27,016
Inventory and supplies - at average cost		2,624,680	2,351,179
Prepaid insurance		768,909	759,254
Due from (to) Agency, net		9,730,222	8,213,383
<b>TOTAL CURRENT ASSETS</b>		<b>13,309,620</b>	<b>11,516,764</b>
<b>RESTRICTED ASSETS</b>			
Cash and cash equivalents		4,526,531	5,384,547
Investments		24,550,574	23,212,026
Interest receivable		22,169	13,885
<b>TOTAL RESTRICTED ASSETS</b>		<b>29,099,274</b>	<b>28,610,458</b>
<b>ELECTRIC PLANT</b>			
Electric plant in service		447,698,040	447,461,789
Less: accumulated depreciation		(153,749,898)	(138,984,131)
<b>TOTAL ELECTRIC PLANT</b>		<b>293,948,142</b>	<b>308,477,658</b>
<b>OTHER ASSETS</b>			
Regulatory assets		28,187,008	29,144,629
<b>TOTAL OTHER ASSETS</b>		<b>28,187,008</b>	<b>29,144,629</b>
<b>TOTAL ASSETS</b>		<b>364,544,044</b>	<b>377,749,509</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Unamortized excess cost on advance refunding of debt, net		174,233	518,823
Asset retirement obligations		204,155	199,062
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>		<b>378,388</b>	<b>717,885</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$</b>	<b>364,922,432</b>	<b>\$ 378,467,394</b>

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

		June	
		2024	2023
<b>LIABILITIES &amp; NET POSITION</b>			
<b>CURRENT LIABILITIES</b>			
Accounts and retentions payable	\$	201,033	\$ 509,116
Operating reserves		21,359,715	17,964,369
Current portion of long-term debt		14,656,591	14,239,000
Accrued interest payable		1,056,358	1,044,101
<b>TOTAL CURRENT LIABILITIES</b>		<b>37,273,697</b>	<b>33,756,586</b>
<b>NON-CURRENT LIABILITIES</b>			
Operating reserves and other deposits		128,890	165,932
Asset retirement obligations		204,155	199,062
Long-term debt, net		287,053,174	301,709,764
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>287,386,219</b>	<b>302,074,758</b>
<b>TOTAL LIABILITIES</b>		<b>324,659,916</b>	<b>335,831,344</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Regulatory credits		37,392,499	38,021,589
<b>NET POSITION</b>			
Invested in capital assets, net of related debt		1,389,842	5,471,211
Restricted		3,264,540	1,137,202
Unrestricted		(1,784,365)	(1,993,952)
<b>TOTAL NET POSITION</b>		<b>2,870,017</b>	<b>4,614,461</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$</b>	<b>364,922,432</b>	<b>\$ 378,467,394</b>

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

		<b>Years Ended June</b>	
		<b>2024</b>	<b>2023</b>
<b>SALES FOR RESALE</b>			
Participants	\$	35,607,651	\$ 21,367,807
Other		67,209,735	167,233,630
<b>TOTAL SALES FOR RESALE</b>		<b>102,817,386</b>	<b>188,601,437</b>
<b>OPERATING EXPENSES</b>			
Operations		64,488,022	148,699,262
Depreciation & amortization		14,765,767	14,749,856
Purchased power		2,515,815	8,068,523
Maintenance		6,826,036	7,393,162
Administrative and general		6,294,063	5,652,556
Transmission		497,506	887,297
Intercompany (sales) purchases		392,836	359,916
<b>TOTAL OPERATING EXPENSES</b>		<b>95,780,045</b>	<b>185,810,572</b>
<b>NET OPERATING REVENUES</b>		<b>7,037,341</b>	<b>2,790,865</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(13,333,668)	(13,727,557)
Interest income		2,414,899	1,195,417
Other		4,652,911	8,123,803
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>(6,265,858)</b>	<b>(4,408,337)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(1,162,409)</b>	<b>(570,190)</b>
<b>REFUNDS TO PARTICIPANTS</b>		<b>(1,353,518)</b>	<b>(140,498)</b>
<b>INCREASE IN NET POSITION</b>		<b>(1,744,444)</b>	<b>(2,328,160)</b>
<b>NET POSITION</b>			
Beginning of year		4,614,461	6,942,621
	\$	2,870,017	\$ 4,614,461

**Lodi Energy Center  
FY 2024 Operating Costs  
As of June 30, 2024**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 4,837,398	\$ 3,701,080	\$ 1,136,318	23%	
Fuel & LDC Costs	71,517,913	39,026,187	32,491,726	45%	
GHG Allowance Costs	13,984,733	14,532,529	(547,796)	0%	<b>A</b>
CA ISO Charges	675,245	497,506	177,739	26%	
CA ISO Energy Purchases	688,425	2,515,815	(1,827,390)	0%	<b>B</b>
<b>Total Variable Costs</b>	<b>91,703,714</b>	<b>60,273,117</b>	<b>31,430,597</b>	<b>34%</b>	
<b>Routine O&amp;M Costs</b>					
Fixed O&M	3,350,082	4,228,884	(878,802)	0%	<b>C</b>
Administration	188,173	125,549	62,624	33%	
Mandatory Costs	374,870	748,727	(373,857)	0%	<b>D</b>
Routine O&M Costs without Labor	4,413,125	5,405,635	(992,510)	0%	
Labor	6,167,244	6,167,833	(589)	0%	
<b>Total Routine O&amp;M Cost</b>	<b>10,580,369</b>	<b>11,573,468</b>	<b>(993,099)</b>	<b>0%</b>	
<b>Other Plant Costs</b>					
Debt Service	25,992,239	25,992,238	1	0%	
Insurance	1,751,712	1,506,217	245,495	14%	
Other Costs	176,665	43,297	133,368	75%	
Generation Services Shared	393,387	392,836	551	0%	
Administrative & General (Allocated)	2,285,971	2,285,496	475	0%	
Power Management Allocated Costs	1,505,071	1,505,071	-	0%	
<b>Total Other Plant Costs</b>	<b>32,105,045</b>	<b>31,725,155</b>	<b>379,890</b>	<b>1%</b>	
<b>Total O&amp;M Costs</b>	<b>134,389,128</b>	<b>103,571,740</b>	<b>30,817,388</b>	<b>23%</b>	
<b>Projects</b>					
Operations & Maintenance	1,698,529	2,968,825	(1,270,296)	0%	<b>E</b>
Capital	45,000	33,750	11,250	25%	
Maintenance Reserve	2,169,063	2,169,063	-	0%	
<b>Total Projects</b>	<b>3,912,592</b>	<b>5,171,638</b>	<b>(1,259,046)</b>	<b>0%</b>	
<b>Annual Cost</b>	<b>138,301,720</b>	<b>108,743,378</b>	<b>29,558,342</b>	<b>21%</b>	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	1,257,237	(1,007,237)	0%	
ISO Energy Sales	123,918,636	66,373,682	57,544,954	46%	
Ancillary Services Sales	2,010,665	836,052	1,174,613	58%	
Other Income	-	947	(947)	0%	
	<b>126,179,301</b>	<b>68,467,918</b>	<b>57,711,383</b>	<b>46%</b>	
<b>Net Annual Cost to Participants (without GHG Transfer Credits)</b>	<b>12,122,419</b>	<b>40,275,460</b>	<b>(28,153,041)</b>		
GHG Allowance Credits	13,611,634	14,236,369	(624,735)	0%	
<b>Net Annual Cost to Participants (with GHG Transfer Credits)</b>	<b>\$ (1,489,215)</b>	<b>\$ 26,039,091</b>	<b>\$ (27,528,306)</b>	<b>1849%</b>	
<b>Total Variable Costs</b>	<b>91,703,714</b>	<b>60,273,117</b>	<b>31,430,597</b>		
<b>Total Fixed Costs</b>	<b>46,598,006</b>	<b>48,470,261</b>	<b>(1,872,255)</b>		
	<b>\$ 138,301,720</b>	<b>\$ 108,743,378</b>	<b>\$ 29,558,342</b>		
<b>Net Cumulative Generation (MWh)</b>	<b>1,626,895</b>	<b>926,277</b>			
<b>Total O&amp;M Cost Per MWh</b>	<b>\$ 82.60</b>	<b>\$ 111.82</b>			
<b>Net Annual Cost Per MWh</b>	<b>\$ (0.92)</b>	<b>\$ 28.11</b>			
<b>Net Annual Cost Per KW Month</b>	<b>\$ (0.41)</b>	<b>\$ 7.19</b>			

**Footnotes:**

**General** - The plant ran 3 out of 30 days during the month due to economics.

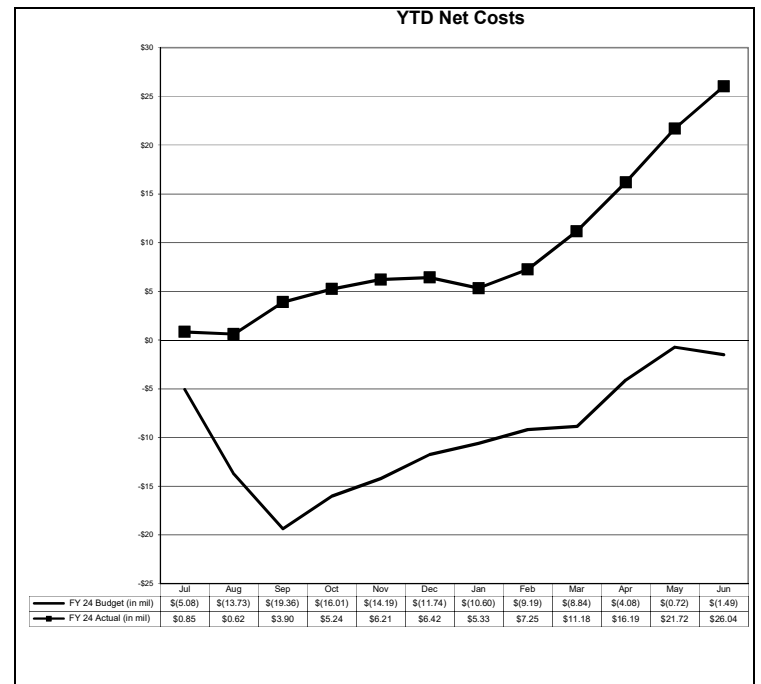
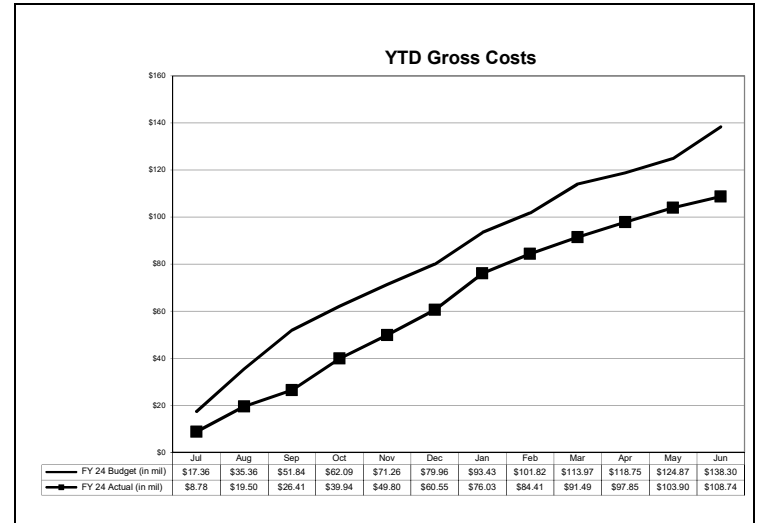
**A** - Higher GHG obligation costs due to increasing obligation costs per metric ton.

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

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

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

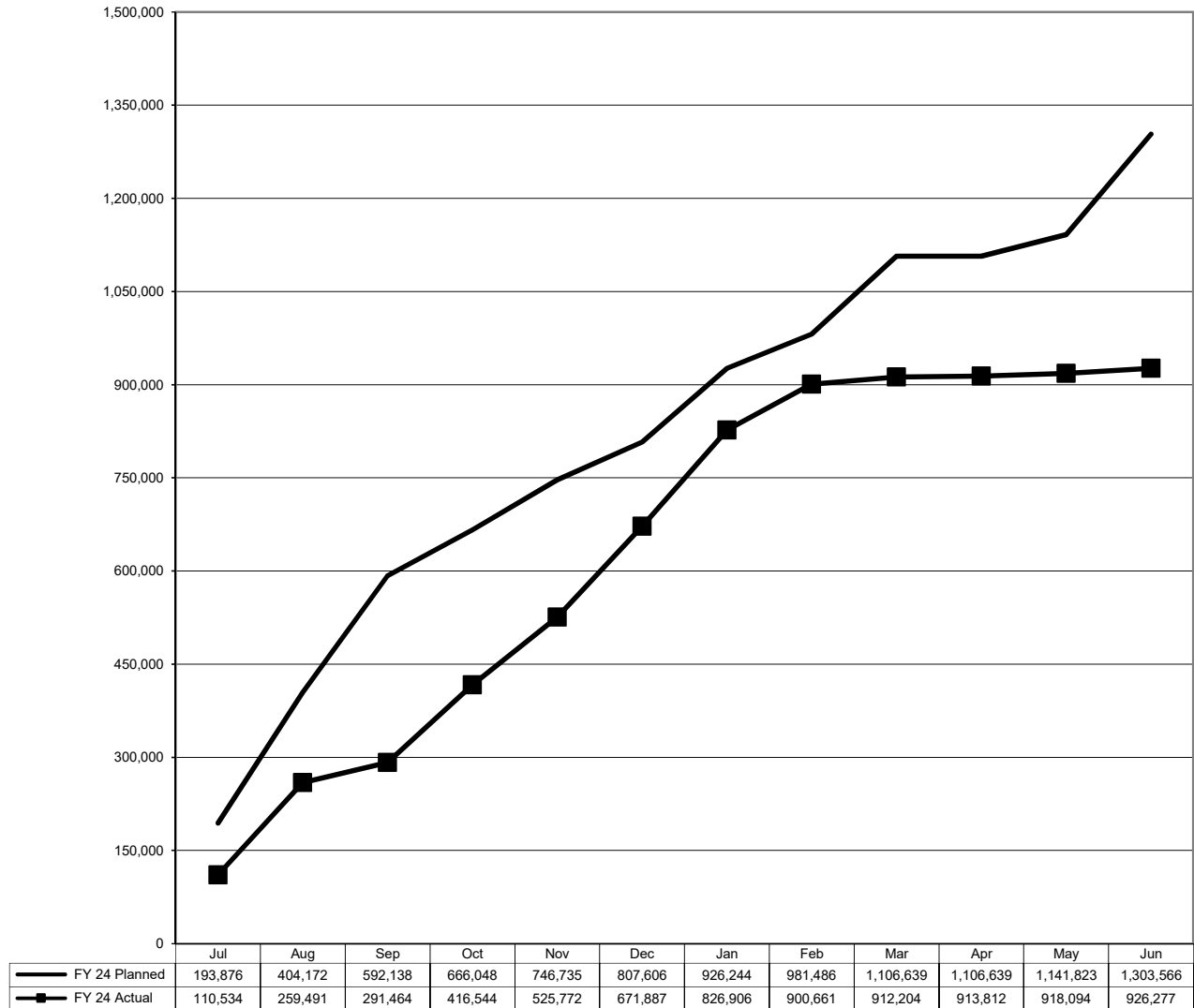
**E** - Higher than expected costs for materials and supplies for the annual outage.



# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2024

In MWh

## Lodi Energy Center





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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

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**Date:** August 12, 2024

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

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

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[illegible]

	CY 2024 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual						Estimated						CY 2024	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	155,019	73,755	11,543	1,608	4,282	0	36,559	56,147	73,733	49,373	26,043	108,664	596,726	12,932,523
Gas Schedule (MMBtu)	1,076,706	519,176	82,361	20,954	33,351	60,696	283,699	435,697	572,164	383,137	202,096	843,236	4,513,273	93,147,056
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054		
HVAC/Water Heater (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	6,315
Monthly MT Obligation (MTO)	58,104	28,017	4,445	1,131	1,800	3,275	15,310	23,512	30,877	20,676	10,906	45,505	243,558	5,034,732
Annual Cal e-GGRT/MT Obligation True Up (MTO)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cumulative MT Obligation (MTO)	1,326,057	1,354,074	1,358,519	1,359,650	1,361,450	1,364,725	1,380,035	1,403,547	1,434,424	1,455,100	1,466,006	1,511,511	1,511,511	1,511,511
Compliance Instrument Participant Transfers														
Carryover Allowances	10,000	0	0	0	0	0	0	0	0	0	0	0	10,000	109,263
Auction Allowances	939	294	0	0	0	0	1,067	0	0	0	0	0	2,300	5,104,820
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	10,939	294	0	0	0	0	1,067	0	0	0	0	0	12,300	5,214,083
NCPA Compliance Instrument Purchases														
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument NCPA Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Internal Transfers (LEC from/to STIG)	0	0	0	0	0	0	0	0	0	0	0	0	0	(678)
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	3,517,755
Total Monthly Activity (MT)	10,939	294	0	0	0	0	1,067	0	0	0	0	0	12,300	5,260,405
Cumulative MT Account Balance (MTA)	1,741,967	1,742,261	1,742,261	1,742,261	1,742,261	1,742,261	1,743,328	1,743,328	1,743,328	1,743,328	1,743,328	1,743,328	1,743,328	1,743,328
MTA Shortfall (MT)	(415,910)	(388,187)	(383,742)	(382,611)	(380,811)	(377,536)	(363,293)	(339,781)	(308,904)	(288,228)	(277,322)	(231,817)	(231,817)	(231,817)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	128,372	0	0	0	0	0	128,372
Monthly GHG Price	41.40	40.44	39.36	37.87	39.19	40.01	35.32	35.52	40.66	35.89	36.07	41.30		



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

AGENDA ITEM NO.: 12

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**Meeting Date:** August 12, 2024

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

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

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### Proposal

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

### Background

Various boiler and burner related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with Air Hygiene International and Montrose Air Quality Services.

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with CTi Controltech, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
CTI CONTROLTECH, 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 CTi Controltech, Inc., a Delaware corporation] with its office located at 22 Beta Court, San Ramon, CA 94583 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 ("Effective Date") in Roseville, California.

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

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

not respond within the seven day period specified, then Contractor will have agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

**4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident. An alternate employer endorsement shall be endorsed to the Workers Compensation coverage naming Agency as an alternate employer.

**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 for Professional Services.** For services including those provided by licensed architects, licensed engineers, licensed landscape architects, and/or licenses land surveyors, Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.

**5.3 Scope for General Services.** 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), judgements 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.

**5.4 Transfer of Title.** Not Applicable.

**Section 6. STATUS OF CONTRACTOR.**

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

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

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

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

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

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

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

**6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.

**6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

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

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

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

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

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

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

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

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

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

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

## **Section 11. WARRANTY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CTi Controltech, Inc.  
Attention: George Conostas  
22 Beta Court  
San Ramon, CA 94583

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

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

NORTHERN CALIFORNIA POWER AGENCY

CTI CONTROLTECH, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**GEORGE CONSTAS,**  
**President**

Attest:

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

Approved as to Form:

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

**EXHIBIT A**

**SCOPE OF WORK**

CTi Controltech, Inc. ("Contractor") shall provide boiler and burner maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Design/Engineering/Configuration/Documentation/Field Engineering/Surveying
- Boiler/Burner Support including:
  - System and Component Set-Up
  - Testing
  - Training
  - Supervision
  - Consultation
  - Calibration
  - Boiler Load Tests
  - Start-Up
  - Maintenance

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

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

<u>Discipline</u>	<u>Base Rate</u>
Controls Engineer	\$275/hr
Project Manager / Engineer	\$260/hr
Systems Engineer	\$260/hr
Service Technician	\$250/hr
CAD Technician	\$200/hr

*The above rates are straight time, normal working hours of 8:00am to 5:00pm, Monday through Friday excluding CTi Controltech recognized holidays. Outside of normal working hours, overtime multiplier shall apply as follows:*

Outside of normal working hours, hours in excess of 8 hours/day and Saturdays x 1.5

Excess of 12 hours/day x 2.0

Sundays and holidays x 2.0

#### **Minimum Billing**

The minimum billing will be four (4) hours unless otherwise stated in the quotation. All billing will be made in one-half (½) hour increments. Off-site standby billing is a minimum of four (4) hours at that day's rate.

#### **Miscellaneous Materials**

Any miscellaneous materials required to complete the job will be billed at cost +15% unless otherwise stated in the quotation.

#### **Travel Time and Living Expenses**

The maximum billing for travel time, at the applicable rate, will be eight (8) hours per man for any one calendar day. Travel time and expenses for each man are portal to portal. Travel, meals and lodging will be billed at actual cost plus 15%. Mileage to and from the job site in company vehicle will be invoiced at current IRS rates.\*\*

#### **Cancellation or Change Notification**

Three (3) day notification of cancellation and/or schedule change is required. Otherwise, the job will be billed in its entirety.

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

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(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

CTi Controltech, 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.

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(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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**Meeting Date:** August 12, 2024

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

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

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### Proposal

Approve the Multi-Task Professional Services Agreement with KGS Group International, Inc. for project support related engineering consulting services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various project support related engineering consulting services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with AECOM Technical Services Inc, Condor Earth Technologies Inc, Gannett Fleming Inc, GEI Consultants, GHD Inc, Mead & Hunt Inc, and Provost & Pritchard Consulting Group.

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$2,000,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Professional Agreement with KGS Group International, Inc.



## **MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND KGS GROUP INTERNATIONAL, INC**

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and KGS Group International, Inc., a C-corporation, with its office located at 410 Bellevue Way SE, Suite 301, Bellevue, WA 98004 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2024 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

**4.4 All Policies Requirements.**

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

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

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

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

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

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

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

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

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

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

**5.3 Limitation of Liability.** Notwithstanding any other provision of this Agreement, and subject to the provisions of California law (see, e.g., civ. Code § 1668) the aggregate liability of the Consultant, and the Consultant's officers, directors, employees, subcontractors, agents and anyone for whom the consultant is responsible at law, for any losses, obligations, claims, demands, damages,

liabilities, suits, actions, costs, fees and/or expenses arising out of or in connection with this agreement or the performance or non-performance of the services, including negligent acts and omissions, or howsoever arising shall be and is hereby limited four million dollars (\$4,000,000.)

The liability of each party with respect to a claim (which includes demands, losses, expenses, causes of action, liabilities and costs, including legal costs) against the other is limited to direct damages only and neither party will have any liability whatsoever for indirect, incidental, economic or consequential loss or damage, including and whether or not the following are determined in any proceeding to be direct damages: loss of profit, revenue, production, business, contracts or opportunity and/or increased cost of capital, financing or overhead.

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

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

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

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

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

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

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

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall exercise usual and customary professional care and judgment in complying with applicable laws in effect as of the Effective Date.
- 7.3 Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses,

permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

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

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

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

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

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

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

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

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

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the

Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

**9.2 Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

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

**9.4 Confidential Information and Disclosure.**

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

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

**9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any

permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

KGS Group International, Inc.  
Andi Bogdanovic  
410 Bellevue Way SE, Suite 301  
Bellevue, WA 98004

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive

Roseville, CA 95678

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 10.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:
- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
  - 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
  - 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
  - 10.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
  - 10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
  - 10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 10.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the

Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

KGS GROUP INTERNATIONAL, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**ANDI BOGDANOVIC,**  
**General Manager and Regional Director**

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

KGS Group International, Inc. ("Consultant") shall provide engineering consulting related as requested by Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Engineering Consulting;
- Civil, Environmental, Geotechnical and Structural Engineering;
- Engineering Geology;
- Mechanical/Electrical Plant Engineering;
- Mapping / Land Surveying / GIS;
- Development of Construction Drawings, Plans, Specifications, Technical Documents, Report and Presentation;
- Verification of Greenhouse Gas Reporting;
- Other Regulatory Reporting and Consulting;
- Construction Observation and Testing;
- Special Inspections; and
- Other Miscellaneous Engineering Tasks.

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

Billing Category	2024 Cali Rates USD
Clerical 1	\$104
Clerical 2	\$114
Clerical 3	\$125
Tech Level 1	\$125
Tech Level 2	\$140
Tech Level 3	\$151
Tech Level 4	\$166
Tech Level 5	\$192
Tech Level 6	\$205
Tech Level 7	\$218
Prof Level 1	\$140
Prof Level 2	\$161
Prof Level 3	\$192
Prof Level 4	\$218
Prof Level 5	\$244
Prof Level 6	\$286
Prof Level 7	\$320
Prof Level 8	\$345

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

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

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

**EXHIBIT C**  
**CERTIFICATION**

**Affidavit of Compliance for Contractors**

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

(Name of person signing affidavit)(Title)

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

KGS Group International, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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



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

AGENDA ITEM NO.: 14

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**Meeting Date:** August 12, 2024

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

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

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### Proposal

Approve the First Amendment to the existing five-year Multi-Task Consulting Services Agreement with Alpha Analytical Laboratories, Inc. for various laboratory testing and chemical analysis services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not-to-exceed amount from \$225,000 to \$325,000, with no change to the contract term, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various laboratory testing and chemical analysis services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA entered into a five-year Multi-Task Consulting Services Agreement with Alpha Analytical Laboratories, Inc., effective September 24, 2020, for an amount not-to-exceed \$225,000, for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

This agreement has been primarily used by the Geothermal Facility for laboratory testing and chemical analysis, and is now running low on funds. NCPA desires to enter into a First Amendment to the current Multi-Task Consulting Services Agreement, increase the not-to-exceed amount from \$225,000 to \$325,000 to ensure sufficient funds are available for the remainder of the contract term. This agreement will continue to be available for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

NCPA has agreements in place for similar services with Thermochem, Inc.

### Selection Process

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

purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

Upon execution, the total not to exceed amount of the agreement will increase from \$225,000 to \$325,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task Consulting Services Agreement with Alpha Analytical Laboratories, Inc.
- First Amendment to Multi-Task Consulting Services Agreement with Alpha Analytical Laboratories, Inc.



## MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND ALPHA ANALYTICAL LABORATORIES, INC.

This Consulting 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 Alpha Analytical Laboratories, Inc., a corporation with its office located at 208 Mason Street, Ukiah, CA 95482 ("Consultant") (together sometimes referred to as the "Parties") as of September 24, 2020 ("Effective Date") in Roseville, California.

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

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

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

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED TWO HUNDRED TWENTY FIVE THOUSAND** dollars (\$225,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.4 All Policies Requirements.**

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

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

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

**4.4.4 Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and

policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPA or SCPA member.

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

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

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

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

**5.2 Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, 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 Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

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

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

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

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

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

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

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 10. MISCELLANEOUS PROVISIONS.**

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

in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

Robbie C. Phillips  
President  
Alpha Analytical Laboratories, Inc.  
208 Mason Street  
Ukiah, CA 95482

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

**10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or

agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

Date 9/24/20



RANDY S. HOWARD, General Manager

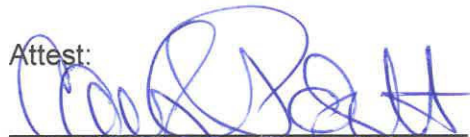
ALPHA ANALYTICAL LABORATORIES, INC.

Date 9-16-20



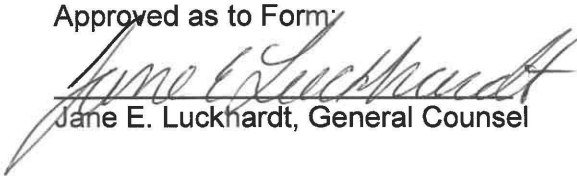
ROBERT C. PHILLIPS, President

Attest:



Assistant Secretary of the Commission

Approved as to Form:



Jane E. Luckhardt, General Counsel

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Alpha Analytical Laboratories, Inc., ("Consultant") shall provide various laboratory testing and chemical analysis for but not limited to the following, as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

Services include:

- Water Analysis
- Sulphur Analysis
- Geothermal Scale

All services will be billed according to Time & Material (T&M) Rates.

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### Pricing Summary

Parameter	Method	Quantity	TAT (days)	Unit Price
<b>Other (W)</b>				
Digest-Metals (Sulphur Furnace Digest)	-	1	10	\$10.00
Handling & Disposal	-	1	10	\$3.00
Hg EPA 7471 Modified for Sulphur	EPA 7471M	1	10	\$65.00
Hg EPA 7471 Standard	EPA 7471A	1	10	\$65.00
V EPA 6010 Standard	EPA 6010B	1	10	\$25.00

#### Turnaround Pricing

##### Digest-Metals (Sulphur Furnace Digest) by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$12.50	\$12.50
3 days	2 days	1 day	Same Day			
\$12.50	\$15.00	\$20.00	\$30.00			

##### Handling & Disposal by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
3 days	2 days	1 day	Same Day			
\$3.00	\$3.00	\$3.00	\$3.00			

##### Hg EPA 7471 Standard by EPA 7471A

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$68.25	\$71.50	\$74.75	\$78.00	\$81.25	\$91.00
3 days	2 days	1 day	Same Day			
\$97.50	\$113.75	\$130.00	\$195.00			

##### Hg EPA 7471 Modified for Sulphur by EPA 7471M

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$65.00	\$65.00	\$65.00	\$65.00	\$81.25	\$81.25
3 days	2 days	1 day	Same Day			
\$81.25	\$97.50	\$130.00	\$195.00			

### Turnaround Pricing

#### V EPA 6010 Standard by EPA 6010B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

Analysis Details							
Analyte	MDL	Reporting Limit	Surrogate %R	Dup RPD	Matrix Spike %R RPD	Blank Spike %R RPD	
<b>Metals by EPA 6000/7000 Series Methods</b>							
Hg EPA 7471 Standard in Other (W) (EPA 7471A)							
Mercury	0.050	0.20 mg/kg		20	60 - 140	20	80 - 120 20
V EPA 6010 Standard in Other (W) (EPA 6010B)							
Vanadium	0.20	5.0 mg/kg		20	70 - 130	20	85 - 115 20
<b>Metals by Modified EPA 6000/7000 Series Method</b>							
Hg EPA 7471 Modified for Sulphur in Other (W) (EPA 7471)							
Mercury	1.0	1.0 mg/kg		20	60 - 140	20	80 - 120 20

Container Information				
Analysis	Container	Preservation	Volume Required	Hold (Days)
<b>Matrix: Other (W)</b>				
Hg EPA 7471 Modified for Sulphur	2 oz. jar	<6°C	25g	28
Hg EPA 7471 Standard	2 oz. jar	<6°C	25g	28
V EPA 6010 Standard	4 oz. jar	None	1g	180

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

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I, Bobie Phillips  
(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

Alpha Analytical Labs, Inc.  
(Company name)

for contract work at:

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

(Project name and location)

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

[Signature]  
(Signature of officer or agent)

Dated this 16 day of Sept, 20 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.



**FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
ALPHA ANALYTICAL LABORATORIES, INC.**

This First Amendment (“Amendment”) to Multi-Task Consulting Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Alpha Analytical Laboratories, Inc. (“Consultant”) (collectively referred to as “the Parties”) as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task Consulting Services Agreement dated effective September 24, 2020, (the “Agreement”) for Alpha Analytical Laboratories, Inc. to provide various laboratory testing and chemical analysis services at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority (“SCPPA”) or SCPPA members, as requested; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a not to exceed amount of \$225,000 to a not to exceed amount of \$325,000; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 2—Compensation** of the Agreement is amended and restated to read as follows: Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED THREE HUNDRED TWENTY-FIVE THOUSAND** dollars (\$325,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

2. Section 10.7 Contract Administrator is replaced in its entirety as follows:

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

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

ALPHA ANALYTICAL LABORATORIES, INC.

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

\_\_\_\_\_  
**ROBERT C. PHILLIPS, President**

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.: 15

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**Meeting Date:** August 12, 2024

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

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

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### Proposal

Approve the Multi-Task General Services Agreement with Peterson Power Systems, Inc. for miscellaneous inspection, testing, and preventive maintenance related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

### Background

Miscellaneous inspection, testing, and preventive maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA currently had an agreement in place with Peterson Power Systems, Inc., which has expired. 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 agreements in place for similar services with Koffler Electric Mechanical Apparatus Ind. DbA Kemar, and Vince Sigal Electric, Inc.

### Selection Process

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

### Fiscal Impact

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

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Peterson Power Systems, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
PETERSON POWER SYSTEMS, 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 Peterson Power Systems, Inc., a corporation with its main office located at 2828 Teagarden Street, San Leandro, CA 94577 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven (7) calendar days from the date of the Contractor's receipt and acknowledgement 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 (7) day period specified,

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

**4.4 Pollution Insurance.** Intentionally Omitted

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

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

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

System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that 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 reasonably acceptable 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.** Either Party may cancel this Agreement at any time for cause upon ten (10) business days' prior written notice to the other Party, unless Contractor is performing Work on an open Purchase Order, in such case, Contractor must provide thirty (30) days' notice. Either Party may cancel this Agreement at any time for convenience upon thirty (30) days' prior written notice to the other Party.

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 shall issue a written notice to cure to Contractor. If, following ten (10) business days from the Contractor's receipt of written notice to cure from Agency, Contractor has not adequately cured the default, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1** Immediately terminate the Agreement;
  - 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product to the extent prepared by Contractor for 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 for or obtains under this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to return 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 beyond its consultants, subcontractors, vendors or manufacturers with a direct need-to-know, any data, plans, specifications, reports and other documents.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all project records or documents (excluding financials) 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 project 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 reasonable prior 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/vendors 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/or 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.** Agency acknowledges that Contractor is not the manufacturer of the new and used equipment, trucks, attachments, components, technology and parts (collectively, "Goods"). Contractor will pass through to Agency the manufacturer's warranty to the extent permitted by the terms of such warranty as to the Goods or any manufacturer's warranty of or for such goods. For services purchased by Agency from Contractor, Contractor warrants that its services will be performed and completed in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services. In addition to all other rights and remedies which Agency may have, during the applicable warranty period(s), 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 applicable warranty period(s) 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 material 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 assignable warranties.

**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 to those for which it is responsible 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 General Services, 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:

Contract Review  
Peterson Power Systems, Inc.  
2828 Teagarden Street  
San Leandro, CA 94577

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 and conditions 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 terms and conditions of the Exhibits attached hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms and conditions of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

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

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

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

**13.16 Limitation of Liability/Consequential Damages.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOST REVENUE, LOST BUSINESS, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER ARISING WHETHER OR NOT THAT PARTY WAS AWARE OF THE POSSIBILITY OF THOSE DAMAGES AND DESPITE THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED IN THIS AGREEMENT.

**13.17 Non-Solicitation.** To the extent permitted by law, during the term of this Agreement and for one (1) year thereafter, the Parties will not, except with the prior written consent of the other Party, directly or indirectly, solicit or hire, or encourage the solicitation or hiring of any person who is, or was within a six (6) month period prior to such solicitation or hiring, an employee of the other Party or any of its affiliates for any position as an employee, independent contractor, consultant or otherwise. Nothing herein shall preclude either Party from hiring the other Party's employee or former employee if said individual was identified by the hiring Party solely, without any solicitation or encouragement of any sort by the hiring Party, as a result of said individual's response to a general advertisement, including but not limited to advertisements through newspapers, trade publications, periodicals, or internet database, or efforts by any recruiting or employment agencies, not specifically directed at employees of the other Party or any of its affiliates, or former employees of the other Party or any of its affiliates.

**13.18 Force Majeure.** Neither party shall be liable for delays due to events beyond its reasonable control.

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

NORTHERN CALIFORNIA POWER AGENCY

PETERSON POWER SYSTEMS, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JOHN KRUMMEN, Executive VP**

Attest:

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

Approved as to Form:

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

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

Peterson Power Systems, Inc. ("Contractor") shall provide miscellaneous inspection, testing, and preventive maintenance related services as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA") or SCPPA Members.

Services included, but not limited to the following:

- Inspection services
- Load testing
- Air compressor engine service only
- Generator and Stand-by Generator service
- Engine service
- Replacement parts
- Rental or Equipment

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

## **EXHIBIT B**

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

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

#### **2024 Labor Rates & Service Fees**

##### **On-Site Hourly Labor Rates**

- \$239/hr. Normal Business Hours 7:30am – 4pm, weekdays
- \$335/hr. Before 7:30am and after 4pm weekdays & Saturday (overtime)
- \$450/hr. Sundays (double time)

Environmental Fee 3%: Calculated on total work order labor.

Misc. Supplies Fee 3%: Calculated on total work, with a cap of \$500

Fuel Surcharge \$90. Calculated per truck, per each visit to customer's site.

Note: Emergency call outs are subject to a 4-hour minimum.

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

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

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

**EXHIBIT C**  
**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

\_\_\_\_\_  
(Name of person signing affidavit)(Title)

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

\_\_\_\_\_  
(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 16

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**Meeting Date:** August 12, 2024

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

**Subject:** Chemical Waste Management, Inc. – Seeking Approval to Increase Authorized Funds for Industrial Waste & Disposal Services Agreement; Applicable to the following projects: All NCPA Facilities.

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### Proposal

Approve to increase the authorized not-to-exceed amount for industrial waste and disposal services under the three-year Industrial Waste & Disposal Services Agreement – Kettleman Hills landfill location with Chemical Waste Management, Inc. from \$225,000 to \$550,000, with no change to the agreement terms and conditions, with any non-substantial changes recommended and approved by the NCPA General Counsel, for continued use at all facilities owned and/or operated by NCPA.

### Background

Industrial waste and disposal services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. Effective April 15, 2022, NCPA entered into a three-year Industrial Waste & Disposal Services Agreement with Chemical Waste Management, Inc to provide hazardous waste disposal services for NCPA Plant facilities on an as-needed basis. While the original agreement did not stipulate a dollar amount, NCPA executed the agreement with an authorized not-to-exceed amount of \$225,000, to be managed through its accounting systems process.

This agreement has been used frequently for ongoing hazardous waste disposal of sulfur material as well as larger projects, such as the Geothermal Plant 2 Cooling Tower Basin Cleanout Project, and the authorized funds for services under this agreement are running low. Staff is now seeking Commission approval to increase the authorized funds for this agreement from not-to-exceed \$225,000 to not-to-exceed \$550,000.

NCPA does not have any agreements in place for similar services with additional vendors at this time.

### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are needed, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. Because of the nature of the hazardous materials being disposed of under this agreement, NCPA does not have any agreements in place for similar services with additional vendors at this time. NCPA previously had an enabling agreement with Chemical Waste Management's facility in Arlington, Oregon for hazardous waste disposal,

however, utilizing that facility is not only cost prohibitive due to the trucking distance (approximately 613 miles) but also comes with increased risk due to hauling hazardous materials so far. For this reason, NCPA awards this work to Chemical Waste Management on a Sole Source Basis. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

#### Fiscal Impact

Upon Commission approval, the total authorized not-to-exceed amount for services under the agreement will increase from \$225,000 to \$550,000. As stated above, the agreement does not include an explicit not-to-exceed dollar amount, but NCPA manages the authorized dollar amount through its accounting system process. 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 of the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Industrial Waste & Disposal Services Agreement with Chemical Waste Management, Inc.

## INDUSTRIAL WASTE &amp; DISPOSAL SERVICES AGREEMENT

COMPANY: CWM - Kettleman Hills Landfill  
A WASTE MANAGEMENT COMPANY

Address: 35251 Old Ship Lane Road  
City/State/Zip: Kettleman City, CA 93221

DocuSigned by:  
Signed: Eric Lynch  
Name: Eric Lynch  
Title: Area Dir - MandI Sales

Address: 851 Commerce Drive  
City/State/Zip: Roseville, CA 95678

Signed: Randy S. Howard  
Name: Randy S. Howard  
Title: General Manager

Effective Date: 04/20/22 Date: 4/15/2022 Term: 3 years

AGREEMENT

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

## TERMS AND CONDITIONS

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

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

3. **TERM OF AGREEMENT.** The Term of this Agreement shall be as set forth above and if no such term is set forth above, it shall be 36 months commencing on the Effective Date set forth above.

(In accordance with Section 8) and pay or reimburse Company for any and all costs, damages and/or fines incurred as a result of or relating to Customer's tender or delivery of Nonconforming Waste or other failure to comply or conform to this Agreement, including costs of inspection, testing and analysis. Company also may impose volume limitations on inbound deliveries, reject any Industrial Waste that could adversely impact the receiving facility, or Company may terminate the Agreement or the applicable Exhibit A related to such Industrial Waste.

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

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

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

8. **CHARGES AND PAYMENTS.** Customer shall pay the rates ("Charges") set forth on Exhibit A or a Confirmation Letter, which may be modified as provided in this Agreement. Company reserves the right, and Customer acknowledges that it should expect Company to increase or add Charges payable by Customer hereunder during the Term. The rates may be adjusted by Company to account for: any changes or modifications to, or differences between, the actual equipment and Services provided by Company to Customer and those specified on Exhibit A; any increase in or to recover all or any portion of, disposal, transportation, processing and fuel costs or environmental compliance fees or costs, or recovery of the Company's and affiliates' costs associated with host community fees, waste disposal taxes and similar charges paid to municipal or other governmental authorities or agencies to engage in recycling and waste collection, transfer, processing, disposal and treatment; any change in the composition, amount or weight of the Industrial Waste collected by Company from Customer's service location(s) from what is specified on Exhibit A (including for container overages or overflows) of the Industrial Waste; increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state, federal or foreign laws or regulations (or the enforcement, interpretation or application thereof), including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters. Company also reserves the right to charge Customer additional charges for Services provided by Company to Customer, whether requested or incurred by Customer, including, but not limited to, dig out, minimum load charges, profile approval charges, all at such rates that Company is charging its customers at such time. The Company may also increase the charges by an amount equal to the average percentage increase for the previous twelve-month period in the Consumer Price Index for Water & Sewer & Trash Collection Services, as published by the U.S. Department of Labor, with the amount of the increase based on the most current information available from the U.S. Department of Labor 30 days prior to the date of the increase, unless the parties have

4. **INSPECTION; REJECTION OF WASTE.** Title to and liability for Nonconforming Waste shall remain with Customer at all times. Company shall have the right to inspect, analyze or test any waste delivered by Customer. If Customer's Industrial Waste is Nonconforming Waste, Company can, at its option, reject Nonconforming Waste and return it to Customer or require Customer to remove and dispose of the Nonconforming Waste at Customer's expense. Customer shall indemnify, hold harmless



## INDUSTRIAL WASTE &amp; DISPOSAL SERVICES AGREEMENT

COMPANY:

CWM - Kettleman Hills Landfill

A WASTE MANAGEMENT COMPANY

Address:

City/State/Zip:

Signed:

DocuSigned by:

Eric Lynch

3048C9BDF16546B Authorized Signature  
Eric Lynch

Name:

Area Dir - MandI Sales

Title:

Effective Date:

Date

CUSTOMER: Northern California Power Agency

Address:

651 Commerce Drive

City/State/Zip

Roseville CA 95678

Signed:

Name:

Randy S Howard

Title:

General Manager

Initial Term:

3 years

Date

4/15/2022

AGREEMENT

Approved as to form:  
Janel E. Luckhauff

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

## TERMS AND CONDITIONS

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

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

3. **TERM OF AGREEMENT.** The Initial Term of this Agreement shall be as set forth above and if no such term is set forth above, it shall be 36 months, commencing on the Effective Date set forth above. This Agreement shall automatically renew thereafter for additional terms of twelve (12) months each (Renewal Term), with Initial Term, collectively, the "Term" unless either party gives to the other party written notice of termination at least ninety (90) days prior to the termination of the then-existing term; provided however, that the terms and conditions of this Agreement shall remain in full force and effect, in accordance with its terms, with respect to any uncompleted or unfinished Services provided for in an Exhibit A, Confirmation Letter and/or Profile Sheet until such Services are completed. Notice of termination received at any other time will be considered ineffective and the Agreement will be considered automatically renewed upon completion of the then-existing term.

4. **INSPECTION; REJECTION OF WASTE.** Title to and liability for Nonconforming Waste shall remain with Customer at all times. Company shall have the right to inspect, analyze or test any waste delivered by Customer. If Customer's Industrial Waste is Nonconforming Waste, Company can, at its option, reject Nonconforming Waste and return it to Customer or require Customer to remove and dispose of the Nonconforming Waste at Customer's expense. Customer shall indemnify, hold harmless

(in accordance with Section 9) and pay or reimburse Company for any and all costs, damages and/or fines incurred as a result of or relating to Customer's tender or delivery of Nonconforming Waste or other failure to comply or conform to this Agreement, including costs of inspection, testing and analysis. Company also may impose volume limitations on inbound deliveries, reject any Industrial Waste that could adversely impact the receiving facility, or Company may terminate the Agreement or the applicable Exhibit A related to such Industrial Waste.

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

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

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

8. **CHARGES AND PAYMENTS.** Customer shall pay the rates ("Charges") set forth on Exhibit A or a Confirmation Letter, which may be modified as provided in this Agreement. Company reserves the right, and Customer acknowledges that it should expect Company to increase or add Charges payable by Customer hereunder during the Term. The rates may be adjusted by Company to account for: any changes or modifications to, or differences between, the actual equipment and Services provided by Company to Customer and those specified on Exhibit A; any increase in or to recoup all or any portion of, disposal, transportation, processing and fuel costs or environmental compliance fees or costs, or recovery of the Company's and affiliates' costs associated with host community fees, waste disposal taxes and similar charges paid to municipal or other governmental authorities or agencies to engage in recycling and waste collection, transfer, processing, disposal and treatment; any change in the composition, amount or weight of the Industrial Waste collected by Company from Customer's service location(s) from what is specified on Exhibit A (including for container overages or overflows) of the Industrial Waste; increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state, federal or foreign laws or regulations (or the enforcement, interpretation or application thereof), including the imposition of or increases in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters. Company also reserves the right to charge Customer additional charges for Services provided by Company to Customer, whether requested or incurred by Customer, including, but not limited to, dig out, minimum load charges, profile approval charges, all at such rates that Company is charging its customers at such time. The Company may also increase the charges by an amount equal to the average percentage increase for the previous twelve-month period in the Consumer Price Index for Water & Sewer & Trash Collection Services, as published by the U.S. Department of Labor, with the amount of the increase based on the most current information available from the U.S. Department of Labor 30 days prior to the date of the increase, unless the parties have

otherwise agreed to a different CPI as stated in an Exhibit A. Without limiting the foregoing, Company also reserves the right to adjust all pricing provided in an Exhibit A at any time with ten (10) days' advance written notice to Customer. Changes to the Charges payable under this Agreement may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, electronic or online acceptance or payment of the invoice reflecting such changes, and written notice to Customer of any such changes and Customer's failure to object to such changes, which shall be deemed to be Customer's affirmative consent to such changes. Increases to Charges as specified in this Section may be applied singly or cumulatively and may include an amount for Company's operating or profit margin. Customer acknowledges and agrees that any increased Charges under this section are not represented to be solely an offset or pass through of Company's costs. All rate adjustments as provided above and in Section 5 shall take effect upon notification from Company to Customer. Customer shall pay the rates in full within thirty (30) days of the invoice date.

Company shall send all invoices for Charges and any required notices to Customer under this Agreement to Customer's billing address specified at the top of the Agreement. Unless specifically agreed to in writing by Company and subject to such additional costs that Company may charge, in its discretion, Company shall not be required to bill Customer using Customer's or any third party billing portal or program. In no event shall the use by Company of Customer's or any third party billing portal or program, or any terms thereof, operate to amend or supplement the terms and conditions of this Agreement, which will remain binding in accordance with its terms. Customer shall pay all invoiced Charges within thirty (30) days of the invoice date, by check mailed to Company's payment address on Customer's invoice. Payment by any other method or channel, including in person, online or by phone, shall be as allowed by Company and subject to applicable convenience fees and other costs charged by Company, from time to time. Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Customer check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Customer acknowledges that any late charge charged by Company is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to Company for late payment. If payment is not made when due, Company retains the right to suspend Services until the past due balance is paid in full. In addition to full payment of outstanding balances, Customer shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, Company may immediately terminate this Agreement for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 14.

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

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

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

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

**11. RECYCLING SERVICES.** The following shall apply to the collection and recycling of fiber and non-fiber recyclables ("Recyclable Materials"). Special terms and conditions, if any, with respect to such Services shall be set forth on an exhibit to this Agreement and shall be incorporated herein. (i) Single stream Recyclable Materials ("Single Stream") will consist of Customer's entire volume of uncoated office and writing paper, magazines, pamphlets, mail, newspaper, flattened, uncoated cardboard, paperboard boxes; aluminum food and beverage containers, tin or steel cans; glass, and rigid container plastics #1, #2 and #5, including narrow neck containers and tubs. Any material not specifically set forth above, including but not limited to foam, film plastics, plastic bags, napkins, tissue, paper towels, or paper that has been in contact with food, is unacceptable. Glass may not be accepted at all locations. All Single Stream must be clean, dry, unshredded, empty, loose and unbagged. (ii) Source-separated wastepaper, cardboard, plastics and metals shall consist of Customer's entire volume of such materials and be provided in accordance with the most current ISRI Scrap Specifications Circular and any amendments thereto or replacements thereof. All other Recyclable Materials will be delivered in accordance with industry standards or such specifications communicated to Customer by Company from time-to-time. (iii) Company reserves the right, upon notice to Customer, to discontinue acceptance of any category of Recyclable Materials as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials. Collected Recyclable Materials for which no commercially reasonable market exists may be landfilled at Customer's cost. (iv) Notwithstanding anything to the contrary contained herein, Recyclable Materials may not contain Nonconforming Waste, Hazardous Waste, Special Waste or other materials that are deleterious or capable of causing material damage to property, personnel or the public or materially impair the strength or the durability of structures or equipment (all "Excluded Materials"). (v) Company may reject in whole or in part, or may process, in its sole discretion, Recyclable Materials not meeting the specifications. Customer may be charged a contamination fee for increased handling, processing, transportation and disposal, including profit margin, related to such non-conforming Recyclable Materials and any Recyclable Materials which contain Excluded Materials. Additional

charges may be assessed for bulky items such as appliances, concrete, furniture, mattresses, tires, electronics, pallets, yard waste, propane tanks, etc. (v) Recycling Services are subject to a Recyclable Material Offset (RMO) charge to the extent that (a) Company's processing cost per ton, including costs of disposal for contamination and profit margin, exceeds (b) an amount equal to recyclables value per ton minus an amount for profit margin. The RMO charge, including profit margin, processing and disposal costs and recyclable value shall be determined by Company from time-to-time, in its sole discretion, based on applicable operating data and market information. If recyclables value exceeds processing costs, plus profit margin, an RMO credit may apply, at Company's sole discretion.

**12. ASSIGNMENT & SUBCONTRACTING.** This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Customer acknowledges and agrees that the Company may utilize unaffiliated subcontractors that are not affiliates of Company to provide the Services to Customer. Customer may not broker the disposal of Industrial Waste through third parties under this Agreement without Company's express written consent.

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

**14. TERMINATION; LIQUIDATED DAMAGES.** Company may immediately terminate this Agreement, (a) in the event of Customer's breach of any term or provision of this Agreement, including failure to pay on a timely basis, or (b) if Customer becomes insolvent, the subject of an order for relief in bankruptcy, receivership, reorganization dissolution, or similar law, or makes an assignment for the benefit of its creditors or if Company deems itself insecure as to payment ("Default"). Notice of termination shall be in writing and deemed given when delivered in person or by certified mail, postage prepaid, return receipt requested. In the event Customer terminates this Agreement prior to the expiration of the Initial or Renewal Term ("Term") for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay any outstanding Charges for the services performed the following liquidated damages in addition to the Company's legal fees, if any: (a) if the remaining Term (including any applicable Renewal Term) under this Agreement is six (6) or more months, Customer shall pay the average of its six (6) most recent monthly Charges (or, if the Effective Date is within six (6) months of Company's last invoice date, the average of all monthly Charges) multiplied by six (6); or (b) if the remaining Term under this Agreement is less than six (6) months, Customer shall pay the average of its six (6) most recent monthly Charges multiplied by the number of months remaining in the Term. Customer shall pay liquidated damages of \$100 for every Customer waste tire that is found at the disposal facility. Customer acknowledges that the actual damage to Company in the event of termination is impractical or extremely difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon charge and is not imposed as a penalty. Collection of liquidated damages by Company shall be in addition to any rights or remedies available to Company under this Agreement or at law. In addition to and not in limitation of the foregoing, Company shall be entitled to recover all losses, damages and costs, including attorneys' fees and costs, resulting from Customer's breach of any other provision of this Agreement in addition to all other remedies available at law or in equity.

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

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

**17. MISCELLANEOUS.** (a) The prevailing party will be entitled to recover reasonable fees and court costs, including attorneys' and expert fees, in enforcing this Agreement. In the event Customer fails to pay Company all amounts due hereunder, Company will be entitled to collect all reasonable collection costs or expenses, including reasonable attorneys' and expert fees, court costs or handling fees for returned checks from Customer; (b) The validity, interpretation and performance of this Agreement shall be construed in accordance with the law of the state in which the Services are performed; (c) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be deemed severable from and shall not affect the remainder of this Agreement, which shall remain in full force and effect; (d) Customer's payment obligation for Services and the Warranties and Indemnification made by each party shall survive termination of this Agreement; (e) Company shall act as an independent contractor pursuant to this Agreement and nothing herein shall create a partnership, joint

venture or any other relationship between the parties.

**Certificate Of Completion**

Envelope Id: 788D87BEFC5A4DB7BB7ED3EE949C26C7  
 Subject: Please DocuSign: Chemical\_Waste\_Management\_Kettleman\_Hills\_2022.pdf  
 Source Envelope:  
 Document Pages: 3  
 Certificate Pages: 1  
 AutoNav: Enabled  
 EnvelopeId Stamping: Enabled  
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed

Envelope Originator:  
 Eric Lynch  
 P.O. Box 4745  
 Portland , OR 97208-4745  
 elynch2@wm.com  
 IP Address: 98.37.239.123

**Record Tracking**

Status: Original  
 4/26/2022 2:21:42 PM

Holder: Eric Lynch  
 elynch2@wm.com

Location: DocuSign

**Signer Events**

Eric Lynch  
 elynch2@wm.com  
 Area Dir - Mandl Sales  
 CWM - Kettleman Hills Landfill  
 Security Level: Email, Account Authentication  
 (None)

**Signature**

DocuSigned by:  
  
 3046C98DF16545B...

Signature Adoption: Pre-selected Style  
 Signed by link sent to elynch2@wm.com  
 Using IP Address: 98.37.239.123

**Timestamp**

Sent: 4/26/2022 2:25:06 PM  
 Viewed: 4/26/2022 2:25:28 PM  
 Signed: 4/26/2022 2:28:44 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/26/2022 2:25:06 PM
Certified Delivered	Security Checked	4/26/2022 2:25:28 PM
Signing Complete	Security Checked	4/26/2022 2:28:44 PM
Completed	Security Checked	4/26/2022 2:28:44 PM
Payment Events	Status	Timestamps



## NCPA 2025 Project Outage Schedule

Plant	Unit Name	Resouce ID	MW	Start Date/Time	End Date/Time	Duration	Work Description
CT	CT1 Lodi	LODI25_2_UNIT 1	23.4	5/1/25 0:00	5/31/25 23:59	31	Routine Annual Maintenance
CT	CT1 Alameda, Unit 1	ALMEGT_1_UNIT 1	23.5	1/1/25 0:00	1/31/25 23:59	31	Routine Annual Maintenance
CT	CT1 Alameda, Unit 2	ALMEGT_1_UNIT 2	23.8	1/1/25 0:00	1/31/25 23:59	31	Routine Annual Maintenance
CT	CT2 (STIG)	STIGCT_2_LODI	49.9	4/1/25 0:00	4/30/25 23:59	30	Routine Annual Maintenance
CT	LEC	LODIEC_2_PL1X2	302.58	4/1/25 0:00	4/30/25 23:59	30	Routine Annual Maintenance
Geo	Geo Plant 1, Unit 1	NCPA_7_GP1UN1	31	5/1/25 0:00	5/31/25 23:59	31	Plant 1 Stretford Outage / Unit 2 Overhaul / Unit 2 GSU Refurb / Unit 1 & 2 Steam Strainer Inspection
Geo	Geo Plant 1, Unit 2	NCPA_7_GP1UN2	28	5/1/25 0:00	5/31/25 23:59	31	Plant 1 Stretford Outage / Unit 2 Overhaul / Unit 2 GSU Refurb / Unit 1 & 2 Steam Strainer Inspection
Geo	Geo Plant 2, Unit 4	NCPA_7_GP2UN4	43	3/1/25 0:00	3/31/25 23:59	31	Plant 2 Stretford / BOP Activities / U4 Steam Strainer Inspections
Hydro	Collierville Unit 2	COLVIL_7_PL1X2	126.5	10/4/25 5:00	10/17/25 18:00	14	Routine Annual Maintenance - GSU Maintenance
Hydro	Collierville Unit 1/2	COLVIL_7_PL1X2	126.5	10/4/25 5:00	10/4/25 19:00	1	Routine Annual Maintenance - CV Dual Unit Outage Weekend includes CV Dual unit trip tests, fire system maintenance, & MPDD intake trash rack cleaning
Hydro	Collierville Unit 1/2	COLVIL_7_PL1X2	126.5	10/5/25 5:00	10/5/25 19:00	1	Routine Annual Maintenance - CV Dual Unit Outage Weekend includes CV Dual unit trip tests, fire system maintenance, & MPDD intake trash rack cleaning
Hydro	Collierville Unit 1	COLVIL_7_PL1X2	126.5	10/20/25 7:00	10/31/25 18:00	11	Routine Annual Maintenance
Hydro	Spicer Unit 3	SPICER_1_UNITS	0.5	9/2/25 8:00	9/5/25 18:00	3	NSM3 & Intake Annual Maintenance
Hydro	Spicer Unit 1	SPICER_1_UNITS	2.8	9/8/25 8:00	9/12/25 17:00	4	NSM1 Annual Maintenance
Hydro	Spicer Unit 2	SPICER_1_UNITS	2.8	9/15/25 8:00	9/19/25 17:00	4	NSM2 Annual Maintenance



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

AGENDA ITEM NO.: 18

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**Date:** August 12, 2024

**Meeting Date:** August 12, 2024

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

**Subject:** Pacific Gas & Electric (PG&E) Negotiated Gas Transmission Rates

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### Proposal

Staff recommends that the Lodi Energy Center Project Participant Committee authorize the General Manager or his designee to negotiate gas transmission rates with Pacific Gas and Electric ("PG&E"), or accept the standard variable rates, as well as authority to execute agreements Pursuant to D.24-03-002, as approved by the California Public Utility Commission ("CPUC").

### Background

In July 2016, PGE increased local gas transmission rates by 212% for LEC, while raising Back-Bone transmission rates by just 6% for many competitors. This large price differential led to a ~70% reduction in LEC generation.

NCPA, working through the Northern California Generation Coalition ("NCGC"), participated in negotiating a revised rates structure with PG&E. These negotiations resulted in a reduced variable rate and a new fixed monthly rate, allowing NCPA's Combustion Turbines to bid competitively against generators on the back-bone. Due to these negotiated rates, LEC's capacity factor resumed to normal by the end of 2017.

In December 2022, the NCPA Commission approved an extension of the previously negotiated Rate Agreement. This extension enabled NCPA's Combustion Turbines to operate under the agreed rates beyond the original expiration date of December 31, 2022. At the same time, NCGC and other stakeholders engaged in settlement workshops with PG&E to establish a long-term "EG-LT Fixed or Variable Rate Option" through a comprehensive all-party settlement agreement process.

On July 22, 2024, the CPUC approved PG&E's GT&S CARD Advice Letter filing, 4913-G. This approval allows for the implementation of end-use gas and unbundled rates based on the revenue requirements set by the 2023 General Rate Case (GRC), along with the allocations and rate design outlined in the CARD Settlement agreement, including the "EG-LT Fixed or Variable Rate Option."

On July 24, 2024, PG&E sent an email to NCPA and other settlement parties to offer negotiated "EG-LT Fixed or Variable Rate Options." The following includes a timeline of events, in 2024, and next steps:

- July 22, 2024 - CPUC approved PG&E's advice letter, 4913-G, to implement revenue requirements from the 2023 GRC along with the CARD Settlement
- July 24, 2024 - Parties received an offer letter for negotiated rates.
- **August 9, 2024 - Last day for parties to respond to PG&E email offer letter**
- August 10-31, 2024 - Draft Negotiated Rate Contracts
- **September 6, 2024 - Contract must be signed**
- September 30, 2024 - Current Contract end if electing a new negotiated rate
- October 1, 2024 - If elected, new negotiation rates begin
- October 31, 2024 - Current negotiated rates end

NCPA staff is recommending that the General Manager be delegated the authority to negotiate gas transmission rates with PG&E, or accept the standard variable rates, as well as the authority to execute any agreements or related forms as needed. If this authority is not granted or NCPA chooses not to enter into negotiated agreements with PG&E, NCPA's Combustion Turbines plants will default to the standard variable rate structure previously approved by the CPUC.

#### Selection Process

PG&E is the only provider of natural gas delivery in Lodi and Alameda.

#### Fiscal Impact

The negotiated rate structure will allow NCPA to effectively choose the best rate design for CT1, CT2, or LEC to reduce cost and maximize market efficiency.

#### 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 of the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services



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

AGENDA ITEM NO.: 19

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**Date:** August 12, 2024

**Meeting Date:** August 12, 2024

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

**Subject:** Lodi Energy Center 2025 Spring Outage

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### Proposal

Staff recommends that the Lodi Energy Center Project Participant Committee approve the LEC 2025 Spring Outage and delegate authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the outage in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$2,845,656.

### Background

The Lodi Energy Center has a planned Spring outage scheduled from April 1, 2025 through April 31, 2025 for work related to the 2025 Spring outage. During the outage, the LEC team will complete preventative maintenance work on equipment that cannot be worked on while the unit is operating without affecting the output of the facility. NCPA will hire a number of contractors to perform work during the 2025 Spring outage.

Listed below are highlights of major work to be performed as a part of the 2025 Spring outage:

1. HRSG Maintenance
  - a. New redesigned reheater 3 supports
2. Gas Turbine Borescope Inspection
3. DCS Patch and Software Updates
4. Electrical Maintenance
5. High Energy Piping Survey
6. ST Drains Replacement and BOP Steam Valves Maintenance
7. Water Treatment Plant Maintenance
8. Service Water Piping Replacement
9. Incidentals
  - a. Cranes
  - b. Porta Potties
  - c. Trailers / Guard
  - d. Forklift / Manlift
  - e. Scaffold
  - f. Insulation
  - g. Confined Space
  - h. Rental Equipment

### Selection Process

The Gas Turbine Borescope, DCS Software and Patch updates work will be awarded to Siemens, as it falls under the LTP agreement between Siemens and NCPA. All other work has been put out for bid to qualified contractors and the lowest priced qualified contractors will be awarded the work.

### Fiscal Impact

LEC 2025 Spring Outage Projected Costs		
Balance of Plant	✓	\$693,000
Electrical Systems	✓	\$153,656
Gas Turbine	✓	\$210,000
HRSB / Steam	✓	\$915,000
Incidentals	✓	\$172,000
Steam Turbine	✓	\$212,000
Water Treatment	✓	\$190,000
Contingency		\$300,000
		<b>\$2,845,656</b>

The budgetary funds to complete the 2025 Spring outage include \$1,235,000 of pre-collected funds in the Maintenance Reserve (Account # 265-009-005-610-044-002). Additional funds in the amount of \$408,934 were anticipated in the Fixed Maintenance, \$1,126,722 in the O&M Project Annual Outage Project and Service Water Piping replacement \$75,000. All items are a part of the FY25 Routine O&M budget.

FY25 Budget	
Fixed Maintenance	\$408,934
Service Water Piping	\$75,000
O&M Project Annual Outage	\$1,126,722
Maintenance Reserve	\$1,235,000
	<b>\$2,845,656</b>

### Environmental Analysis

The CEC licensed NCPA's Lodi Energy Center facility on April 21, 2010. The CEC exercised its exclusive siting authority under its CEQA equivalent program and as such has adopted conditions of certification within its license to address environmental impacts of regular and routine maintenance at this facility. Thus, these activities have already been subject to CEQA equivalent review. To the extent the CEC's license does not cover the Lodi Energy Center 2025 Spring Outage, the proposed activities of the Lodi Energy Center facility's annual outage are exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to Sections 15301(b), 15302(c), 15309 and 15311(c) (Classes 1, 2 and 9 as described in Title 14 of the California Code of Regulations at §§15000 *et seq.*). This project consists of routine, recurring maintenance to the existing equipment listed above.

This project will not change the function, size or operation of the equipment. A Notice of Exemption was approved by the NCPA Commission on September 27, 2013 for this class of work and was filed in San Joaquin County on January 14, 2014. Thus, this project conforms to these exemptions.

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services



# 2025 LEC Spring Outage

Rafael Santana  
Plant Manager  
8/12/2024

## LEC – Spring Outage Scope of Work

Planned Outage Dates- April 1 thru April 30, 2025

- HRSG Maintenance
  - New redesigned Reheater 3 supports (HRST) →
  - Hot spots repairs
  - Penetration bellows replacements on FWHTR 1
- Electrical Maintenance
- High Energy Piping Survey
- ST drains replacement and BOP Steam Valves Maintenance
- Water Treatment Plant Maintenance
- Service Water Piping Replacement
- CT Borescope Inspection
- Rental Equipment, Scaffold and Insulation Support



## 2025 Spring Outage Projected Costs

### LEC 2025 Spring Outage Projected Costs

Balance of Plant	\$693,000
Electrical Systems	\$153,656
Gas Turbine	\$210,000
HRSB / Steam	\$915,000
Incidentals	\$172,000
Steam Turbine	\$212,000
Water Treatment	\$190,000
Contingency	\$300,000
	\$2,845,656

## 2025 LEC Spring Outage Funding

### FY25 Budget

Fixed Maintenance	\$408,934
Service Water Piping	\$75,000
O&M Project Annual Outage	\$1,126,722
Maintenance Reserve	\$1,235,000
	\$2,845,656

# LEC Maintenance Reserve Schedule

<u>Balances</u>	
Maintenance Reserve Balance (6/30)	\$4,195,464
FY25 Contribution	\$2,769,390
Outage Work	<b>-\$1,235,000</b>
End of FY24 Balance	\$5,729,854

## 5-Year Maintenance Reserve Projections

	FY26	FY27	FY28	FY29	FY30
Project Spending	\$3,940,000	\$3,807,551	\$3,590,162	\$2,230,475	\$1,710,031
Annual Contribution	\$2,852,472	\$2,938,046	\$3,026,188	\$3,116,973	\$3,210,483
End of FY Balance	\$4,642,327	\$3,772,822	\$3,208,848	\$4,095,346	\$5,595,798

## Environmental Analysis

- The CEC licensed NCPA's Lodi Energy Center facility on April 21, 2010. The CEC exercised its exclusive siting authority under its CEQA equivalent program and as such has adopted conditions of certification within its license to address environmental impacts of regular and routine maintenance at this facility. Thus, these activities have already been subject to CEQA equivalent review. To the extent the CEC's license does not cover the Lodi Energy Center 2025 Spring Outage, the proposed activities of the Lodi Energy Center facility's annual outage are exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to Sections 15301(b), 15302(c), 15309 and 15311(c) (Classes 1, 2 and 9 as described in Title 14 of the California Code of Regulations at §§15000 *et seq.*).
- This project consists of routine, recurring maintenance to the existing equipment listed above. This project will not change the function, size or operation of the equipment. A Notice of Exemption was approved by the NCPA Commission on September 27, 2013 for this class of work and was filed in San Joaquin County on January 14, 2014. Thus, this project conforms to these exemptions.

## **Recommendation**

- Staff is seeking approval from the Lodi Energy Center Project Participant Committee for the LEC 2025 Spring Outage and delegate authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the LEC 2025 Spring Outage in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$2,845,656 with \$1,235,000 from Maintenance Reserves.