



12745 N. Thornton Road  
Lodi, CA 95242

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## LEC PPC Agenda

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**Subject: September 9, 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	CITY OF LODI 1331 S. Ham Lane Lodi, CA 95242	CITY OF UKIAH 411 W. Clay St. Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702		

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

*The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or [www.ncpa.com](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 August 12, 2024 Regular Meeting Minutes**

**MONTHLY REPORTS**

**4. Operational Report for August 2024**

**5. Market Data Report for August 2024**

**6. Monthly Asset Report for July 2024**

**7. Bidding Strategies Report**

**CONSENT CALENDAR**

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

**8. Treasurer's Report for July 2024 – Accept by all Participants**

**9. Financial Report for July 2024 – Approve by all Participants**

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

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- 11. Brenntag Pacific, Inc. First Amendment to MTS** – Staff is seeking a recommendation for approval of a First Amendment to the five-year Multi-Task Agreement for Purchase of Supplies with Brenntag Pacific, Inc. for purchasing chemicals, extending the contract expiration date from October 14, 2024 to April 14, 2025, with no change to the original not to exceed amount of \$2,500,000, for continued use at all facilities owned and/or operated by NCPA.
- 12. Hill Brothers Chemical Company First Amendment to MTEMS** – Staff is seeking a recommendation for approval of a First Amendment to the five-year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Hill Brothers Chemical Company for purchasing chemicals, extending the contract expiration date from October 25, 2024 to April 25, 2025, with no change to the original not to exceed amount of \$2,500,000, for continued use at all facilities owned and/or operated by NCPA.
- 13. Thatcher Company of California, Inc. First Amendment to MTEMS** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Thatcher Company of California, Inc. for purchasing chemicals, extending the contract expiration date from November 25, 2024 to May 25, 2025, with no change to the original not to exceed amount of \$2,500,000, for continued use at all facilities owned and/or operated by NCPA.
- 14. Matheson Tri-Gas, Inc. First Amendment to MTEMS** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Matheson Tri-Gas, Inc. for purchasing CEMS gasses, extending the contract expiration date from October 24, 2024 to April 24, 2025, with no change to the original not to exceed amount of \$1,000,000, for continued use at all facilities owned and/or operated by NCPA.
- 15. Southern Counties Lubricants, LLC MTGSA-EMS** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Southern Counties Lubricants, LLC for oil analysis, oil filtration and flushing related services and for purchasing miscellaneous lubricants, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA.
- 16. MP Environmental Services, Inc. First Amendment to MTGSA** – Staff is seeking a recommendation for approval of a First Amendment to the five-year Multi-Task General Services Agreement with MP Environmental Services, Inc. for removal and replacement of sulfur binds, phase separators and vacuum truck services, increasing the not to exceed amount from \$3,000,000 to \$4,000,000, with no change to the original contract term, for continued use at all facilities owned and/or operated by NCPA.
- 17. Hometown Connections, Inc. MTCSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Consulting Services Agreement with Hometown Connections, Inc. for various consulting related tasks including but not limited to organization assessments, strategic planning, market research, and training with a not to exceed amount of \$1,000,000 for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

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

*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.*

## **DISCUSSION/ACTION ITEMS**

- 18. LEC CT Expansion Joint Replacement Project** – Staff is seeking a recommendation for approval of the Lodi Energy Center CT Expansion Joint Replacement 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 procurement policies and procedures, for a total cost not to exceed \$725,000, to be funded from the approved FY25 Lodi Energy Center budget.
- 19. LEC CT Inlet Platform Structure Project** – Staff is seeking a recommendation for approval of the Lodi Energy Center CT Inlet Platform Structure 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, for a total cost not to exceed \$650,000, to be funded from the approved FY25 Lodi Energy Center budget.

## **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: October 7, 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.*



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# LEC PPC Meeting Minutes

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**Date:** Monday, August 12, 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

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## 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. Gridley and Biggs arrived after roll call.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Schmidt	Present	6.6000%
Biggs - Sorensen	Absent	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Sanchez	Absent	1.9643%
Healdsburg - Crowley	Present	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Wilkie	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Present	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Sauers	Present	1.7857%
<b>Summary</b>		
Present	11	97.7678%
Absent	2	2.2322%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	August 12, 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 July 8, 2024 regular meeting and the July 22, 2024 Special Meeting were considered. CDWR requested minor clarifications to the July 22, 2024 Special Meeting Minutes, there were no objections to the requested corrections. The LEC PPC considered the following motion:

**Date:** 8/12/2024

**Motion:** The PPC approves the minutes from the July 8, 2024 regular meeting and the July 22, 2024 special meeting. Including corrections made by CDWR.

**Moved by:** SVP

**Seconded by:** Lodi

**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	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Abstain	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%
<b>Vote Summary</b>		
Total Ayes	10	96.9821%
Total Noes	0	0.0000%
Total Abstain	1	0.7857%
Total Absent	2	2.2322%
Result: Motion Passed		

## **MONTHLY REPORTS**

### **Discussion Item**

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

Mike DeBortoli requested that this item be moved to the Action Item section to ensure those members having technical issues have time to connect properly and be allowed to vote.

#### **5. Operational Report**

Ryan Johnson presented the Operational Report for July. There were no OSHA recordable or non-recordable incidents.

There were no NERC/WECC or permit violations. There was one outage in the month of July due to the condensation pump tripping.

The operational report reflected monthly production of 104,782 MWH, 446 service hours, and equivalent operating availability of 99.7%. The report set for the Capacity Factor @ 302MW Pmax of 46.6%. There was one cold start, 15 warm starts and no hot starts during the month.

#### **6. Market Data Report**

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 27 out of 31 available days. There was 16 start during the month. There were four days where LEC was uneconomic.

#### **7. Monthly Asset Report**

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

#### **8. Bidding Strategies Report**

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

### **Consent Calendar (Items # 9 – # 17)**

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:** 8/12/2024

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **9.** Treasurer's Report for June 2024; **10.** Financial Report for June 2024; **11.** GHG Reports (excerpted from the Monthly ARB); **12. CTi ControlTech, Inc. 5-year MTGSA** for boiler and burner related services, not to exceed \$500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **13. KGS Group International, Inc. 5-year MTPSA** for engineering consulting related services, not to exceed \$2,000,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **14. Alpha Analytical Laboratories, Inc. First Amendment to 5-year MTCSA** for various laboratory testing and chemical analysis related services, increasing the not to exceed amount from \$225,000 to \$325,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **15. Peterson Power Systems, Inc. 5-year MTGSA** for miscellaneous inspection, load testing, and preventative maintenance related services, not to exceed \$1,000,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **16. Chemical Waste Management, Inc.** 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** approval of the proposed outage schedule.

**Moved by:** CDWR  
**Seconded by:** Lompoc

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Yes	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%
Vote Summary		
Total Ayes	13	100.0000%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	0	0.0000%
Result:	Motion Passed	

## **BUSINESS ACTION ITEMS**

**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 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.

**Date:** 7/8/2024

**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 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. This is a revote as requested by CDWR per section 8.3.2 of the PSA being polled by a GES perspective.

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

**Lodi  
Biggs**

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Yes	0.2679%
CDWR	No	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Yes	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%
<b>Vote Summary</b>		
Total Ayes	12	66.5000%
Total Noes	1	33.5000%
Total Abstain	0	0.0000%



Total Absent	0	0.0000%
Result:	Motion passed by GES greater than 75% as adjusted (see note 4)	

Quorum Summary	Outcome	% or Applicable GES
Quorum by number?	Yes	100.00%
Quorum by >50% GES?	Yes	100.0000%

#### Motion Summary

(1) Pass by number?	Yes	92.31%
(2) Pass by >50% GES here?	Yes	66.5000%
(3) Pass by >=65% GES?	Yes	66.5000%
(4) Pass by >=75% GES?	Yes	66.5000%
(reduced to 63.75% due)		
(to CDWR & SVP's excess over)		
(24% per 8.3.2 of PSA)		

- (1) Passing is attained by a majority of the quorum in attendance.
- (2) Passing is attained by a majority of the GES in attendance.
- (3) Applies only if GES vote is called.
- (4) Applies only if GES vote is called and applicable dollar amount is above Threshold Amount.

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

**Date:** 8/12/2024

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

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

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Yes	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%
<b>Vote Summary</b>		
Total Ayes	13	100.0000%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	0	0.0000%
Result:	Motion Passed	

**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 LEC PPC, for a total cost not to exceed \$2,845,656.

**Date:** 8/12/2024

**Motion:** The LEC PPC approves the LEC 2025 Spring Outage and delegates 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 LEC PPC, for a total cost not to exceed \$2,845,656 with \$1,235,000 funded by the Maintenance Reserves.

**Moved by:** SVP

**Seconded by:** MID

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Yes	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Yes	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Yes	1.7857%
<b>Vote Summary</b>		
Total Ayes	13	100.0000%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	0	0.0000%
Result:	Motion passed	

## **INFORMATIONAL ITEMS**

**20. Lodi Energy Center Hydrogen Upgrade Project** – Mike DeBortoli presented information about various costs to be considered with the Hydrogen project.

**21. Additional Operational Updates** – There were no additional updates

## **ADJOURNMENT**

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

The meeting was adjourned at 12:35 pm.

Submitted by: Julie Kenkel

## Lodi Energy Center Project Participant Committee

# Operational Report

Agenda Item No.: 4

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**Date:** 09/09/2024

**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:

- 8/08 @ 12:00 - 23:08; Emissions RATA testing, OMS 16421010
- 8/29 @ 12:00 - 20:30; Emissions RATA testing, OMS 16449308
- Testing company did not follow correct testing protocol, necessitating retest.

### Planned Outage Summaries:

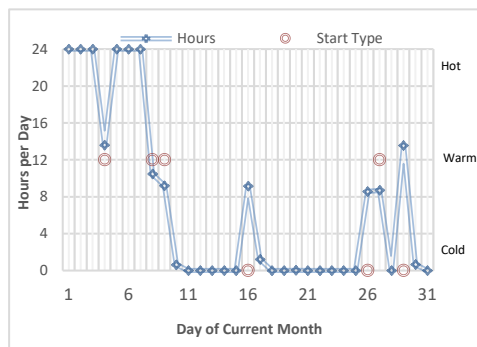
- April 1-30, 2025; Annual maintenance outage.

**LEC Generating Unit Statistics:**
**Date:** 8/1/2024

1. Monthly Production 55,214 MWh  
 2. Productivity Factor  
     a. Service Hours 220 Hours  
     b. Service Factor 29.5 %  
     c. Capacity Factor @ 302MW Pmax 24.6 %

3. Equivalent Operating Availability (EOA) 100.0 %  
 4. Forced Outages  
     a. Forced Outage Rate (FOR) 0.0 %  
     b. Forced Outage Factor (FOF) 0.0 %

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



MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	6,841	-0.42%	5	-\$1
Seg. 3 275 - 284	6971	6,900	-1.01%	23,635	-\$6,672
Seg. 4 250 - 275	7081	6,933	-2.09%	21,902	-\$12,982
Seg. 5 225 - 250	7130	7,060	-0.98%	4,553	-\$1,270
Seg. 6 200 - 225	7200	7,145	-0.77%	1,212	-\$268
Seg. 7 175 - 225	7450	7,381	-0.92%	835	-\$229
Seg. 8 165 - 175	7760	7,700	-0.78%	250	-\$60
	7,164	6,945	-3.06%	52,392	-\$21,482

**6. AGC Control Deviation**

MW Range	High Dev MWh	Low Dev MWh	Total Dev MWh	Cost \$
Seg. 1 296 +	0	0	0	\$0
Seg. 2 284 - 296	0	0	0	\$0
Seg. 3 275 - 284	0	0	0	\$0
Seg. 4 250 - 275	0	0	0	\$0
Seg. 5 225 - 250	0	0	0	\$0
Seg. 6 200 - 225	0	0	0	\$0
Seg. 7 175 - 225	0	0	0	\$13
Seg. 8 165 - 175	0	0	0	\$0
	0	0	0	\$13

**7. Starting Reliability**

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	0	4	3
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	0	18	20
Start Time Deviation (%)	0%	-13%	0%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	0	175	212
Fuel Deviation (%)	0%	-30%	-15%
Costs of Fuel Deviations (\$)	\$0	-\$1,201	-\$460

### **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**

## **September 9, 2024**

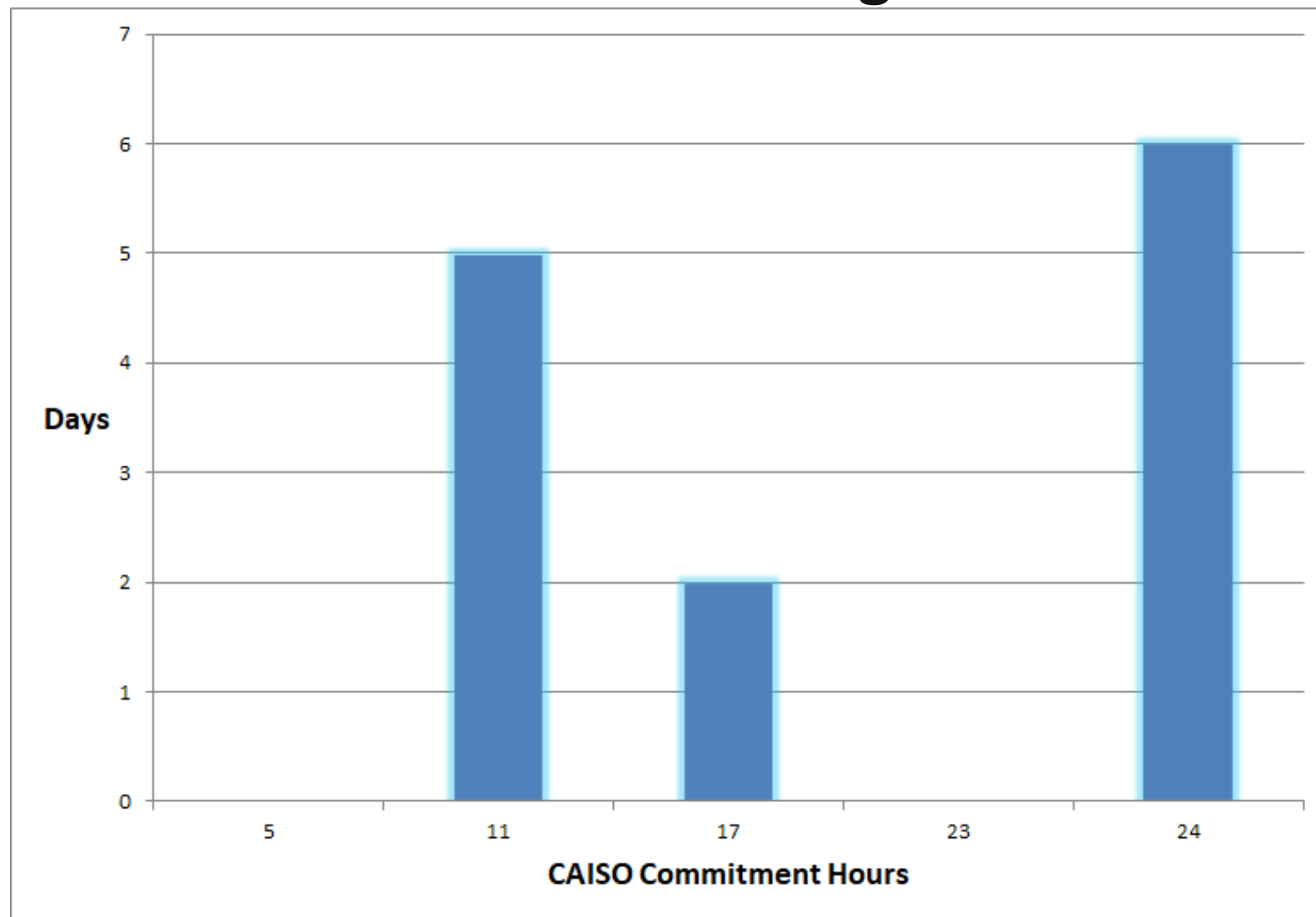
### **August 2024 Market Financial Results**



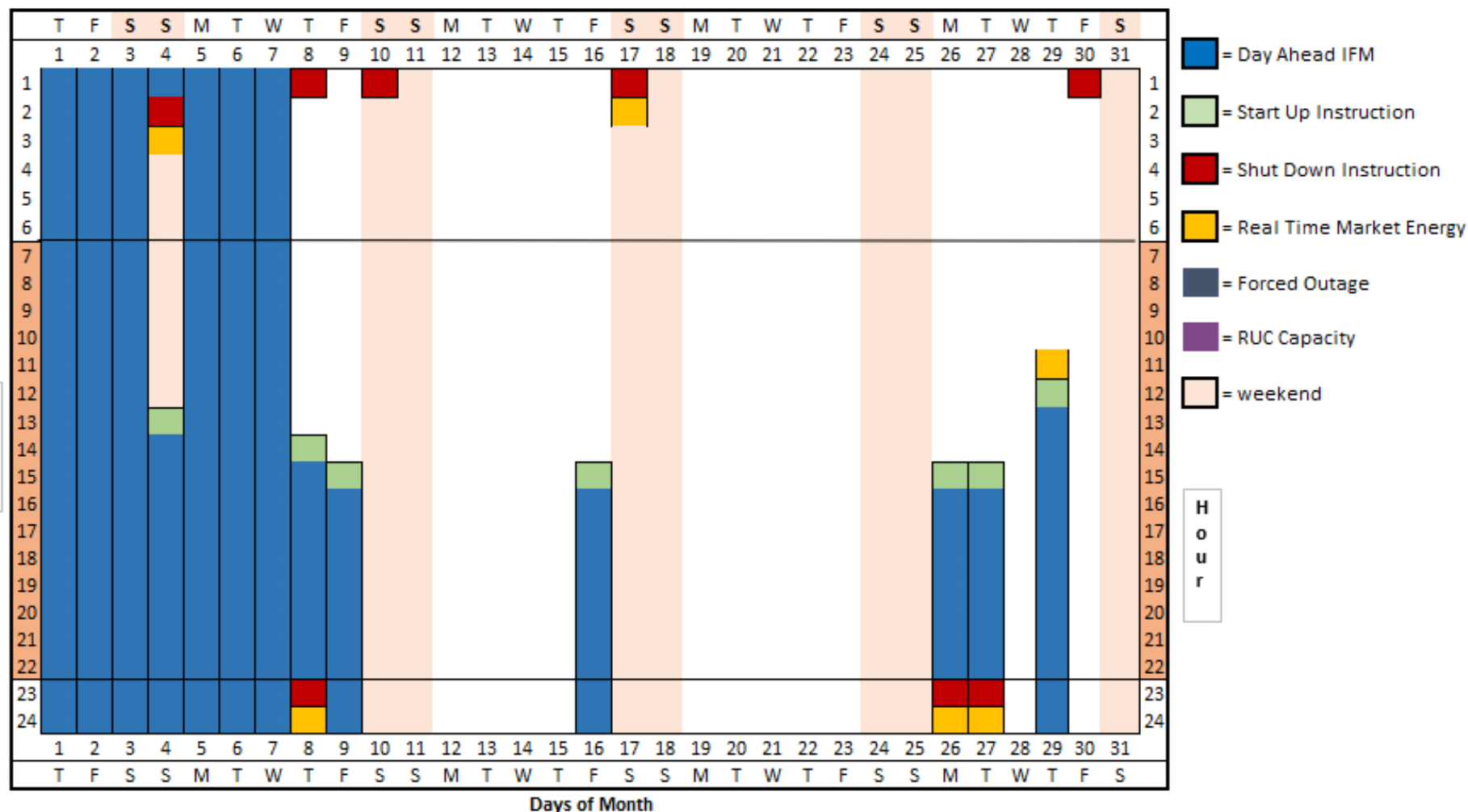
## LEC Operational Results for August 2024

- Resource Adequacy Availability Metrics:
  - 100% - Monthly Assessment Generic Performance
  - 100% - Monthly Assessment Flexible Performance Vs
  - 96.50% Availability Standard
- Estimated RAAIM Availability Incentive Payment:
  - \$13K for Generic RA based on claimed 64.58 MW
  - \$13K for Flexible RA based on claimed 66.63 MW
- LEC was committed by CAISO for market energy 13 days of 31 available days
  - LEC was considered uneconomic 18 days during August.
  - There were 7 starts during the month, and
  - 6 days of continuous 24-hour operations

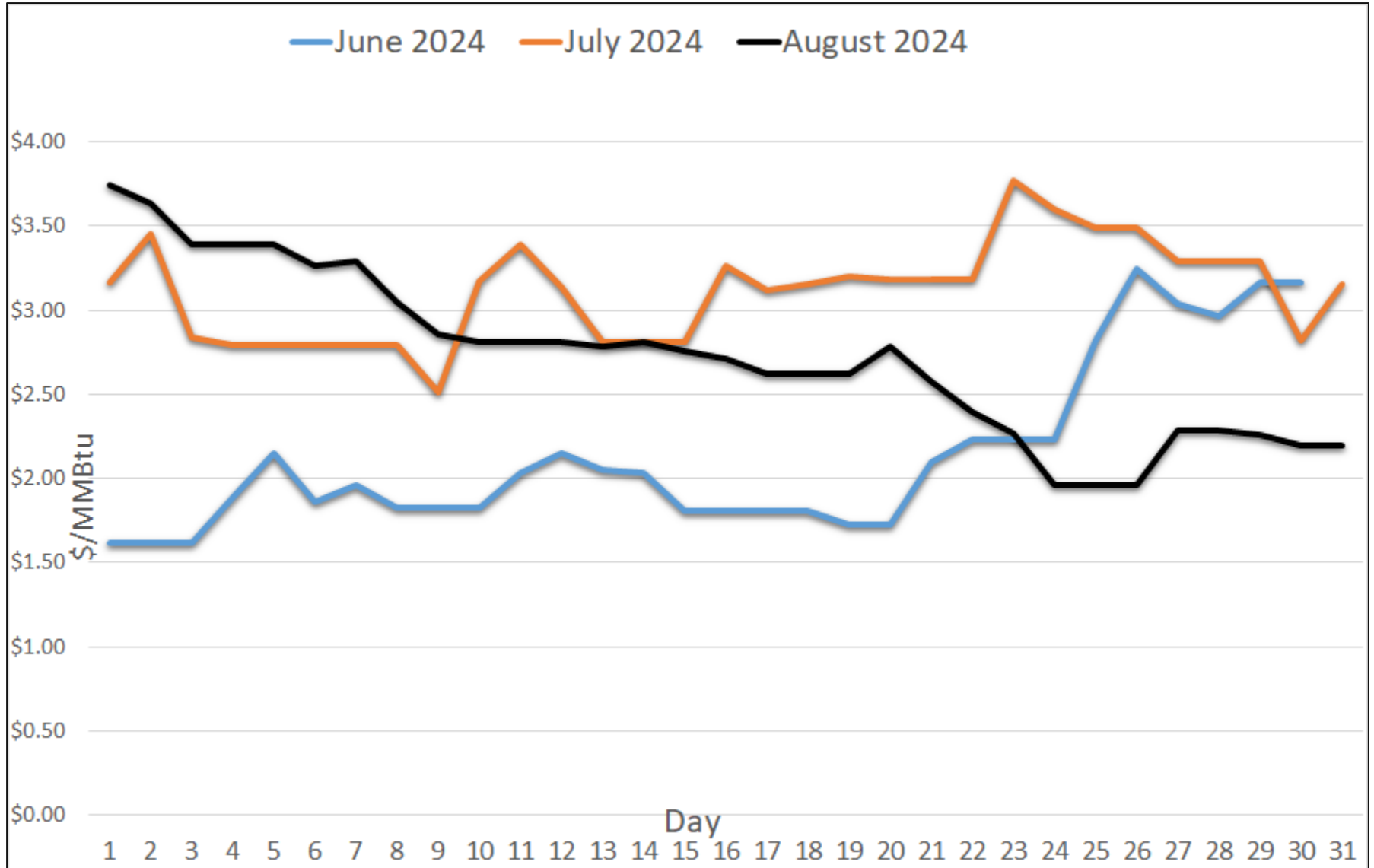
## Frequency Tabulation of Daily CAISO commitment hours for August 2024



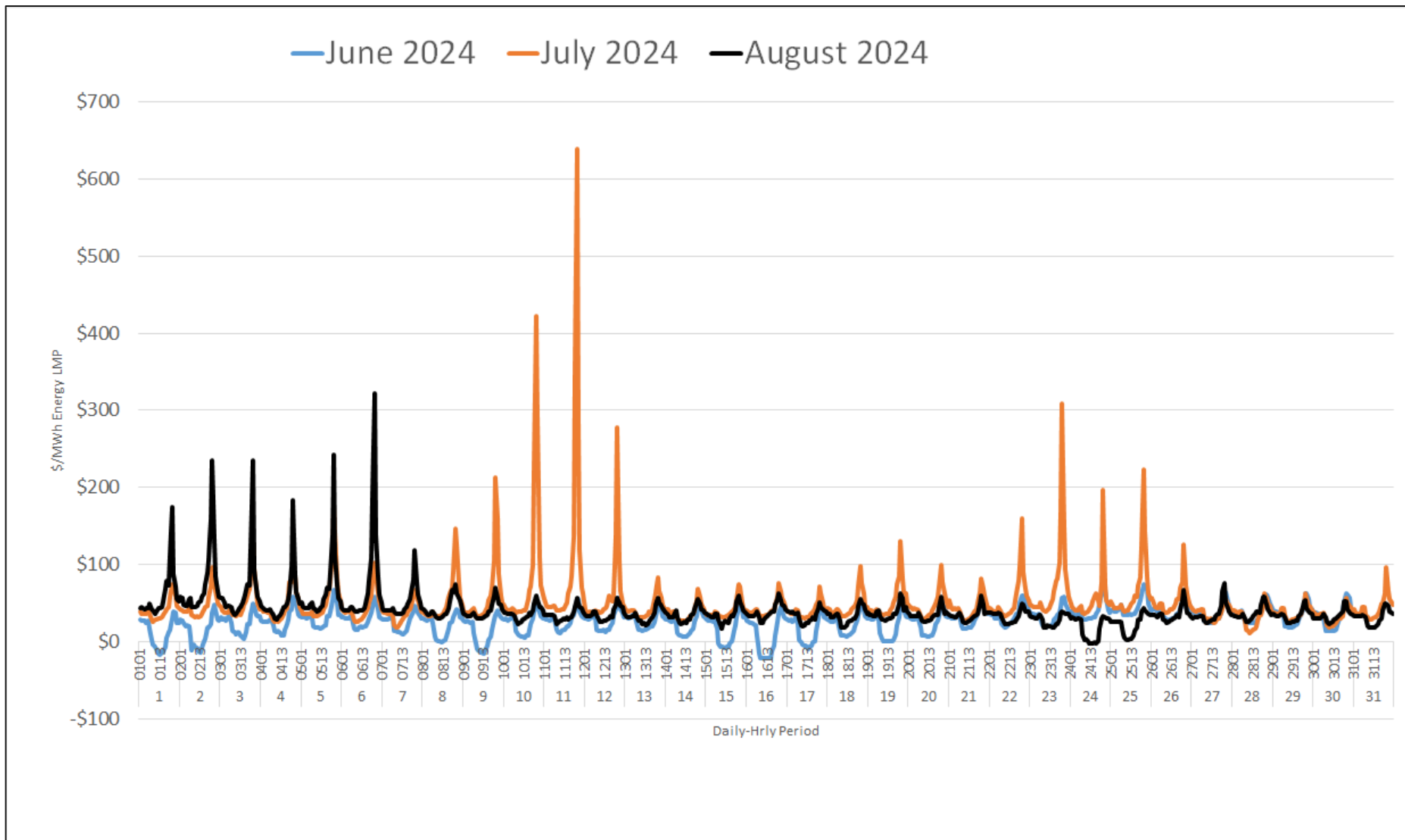
# Daily CAISO Commitment Runs for August 2024



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



# DA Energy LMP values by Month





## August 2024 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$	3,418,400	
Regulation Up Capacity	\$	400	
Regulation Down Capacity	\$	35,300	
Spinning Reserve	\$	100	
<b>Total Gross LEC Revenue</b>			<b>\$ 3,454,200</b>
LEC CAISO GMC Costs	\$	(19,900)	
CAISO Energy & Capacity Buyback Costs	\$	(73,900)	
Total Monthly LEC Fuel Cost	\$	(1,530,800)	
Total Monthly GHG Obligation	\$	(730,300)	
Variable Operations & Maintenance Cost	\$	(171,000)	
<b>Total Gross Costs</b>			<b>\$ (2,525,900)</b>
<b>Cumulative Monthly Margin</b>			<b>\$ 928,300</b>
<b>6 Days of Accrued LT Maintenance Costs</b>	\$	(91,084)	
<b>Net Cumulative Monthly Margin</b>			<b>\$ 837,216</b>
<b>Average Net Margin \$/MWh</b>	\$		<b>15.16</b>



# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

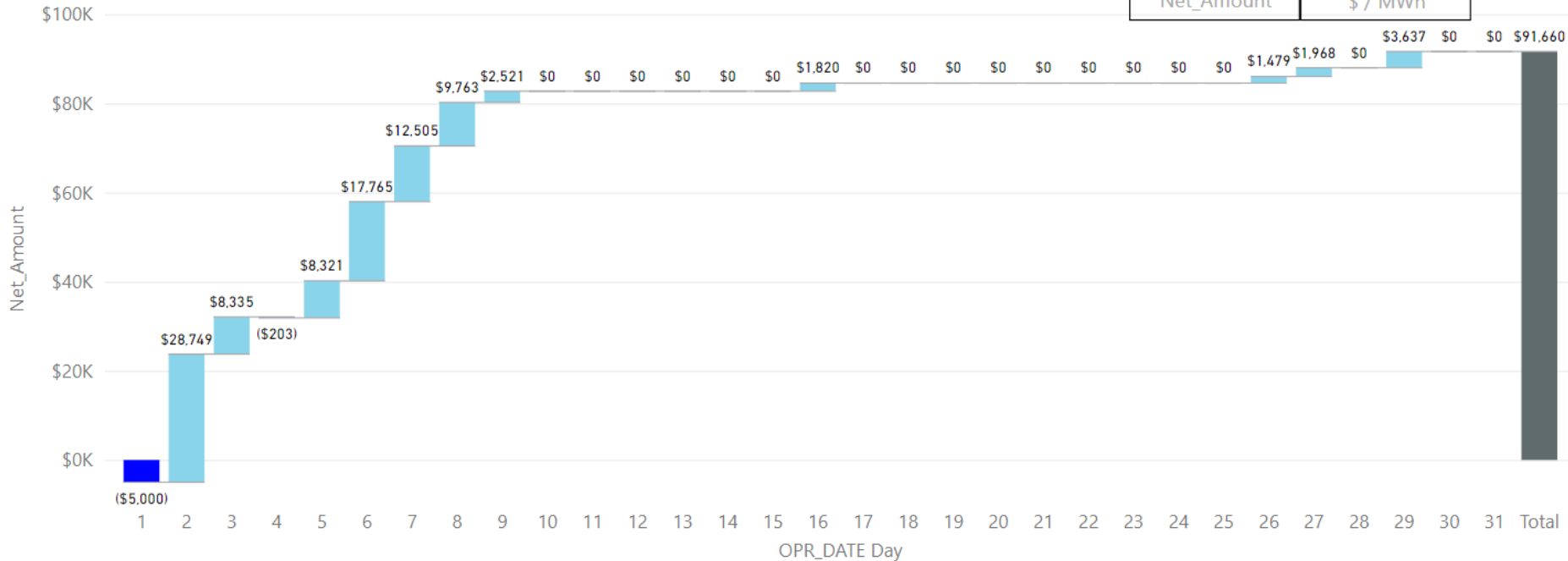
August 2024 Cost of Congestion Component

**\$91,660**

Net\_Amount

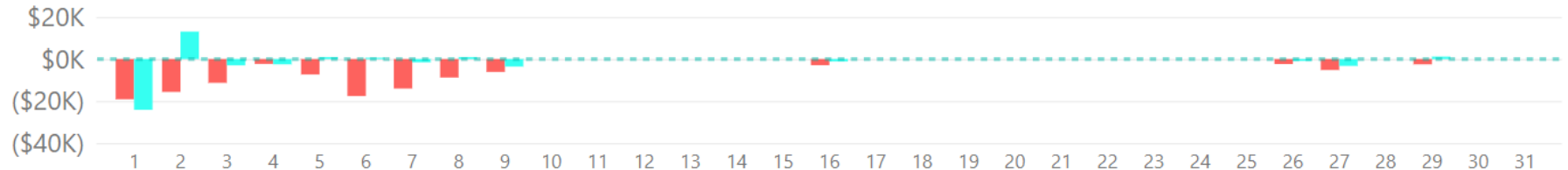
**\$1.66**

\$ / MWh



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

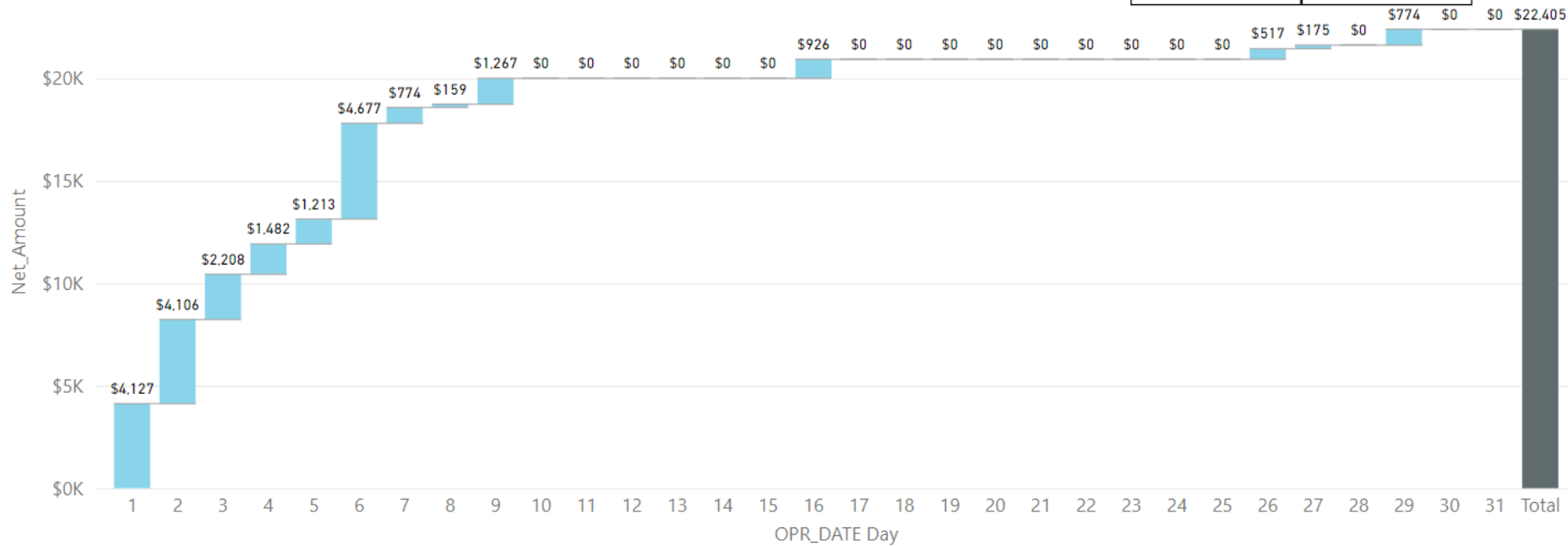
August 2024 Cost of Loss Component

\$22,405

Net\_Amount

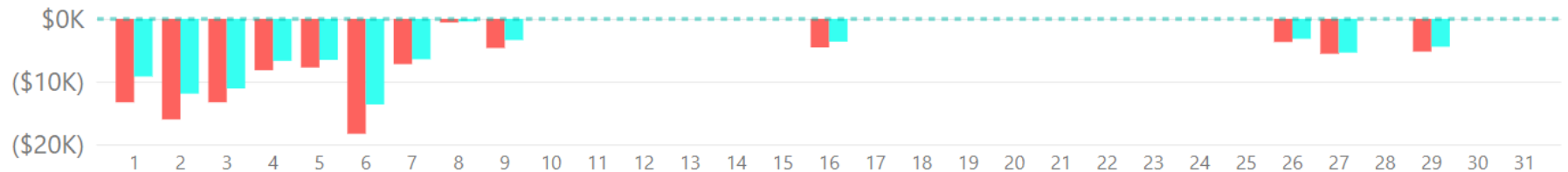
\$0.41

\$ / MWh



NP15\_Cost and LEC\_Cost by Day

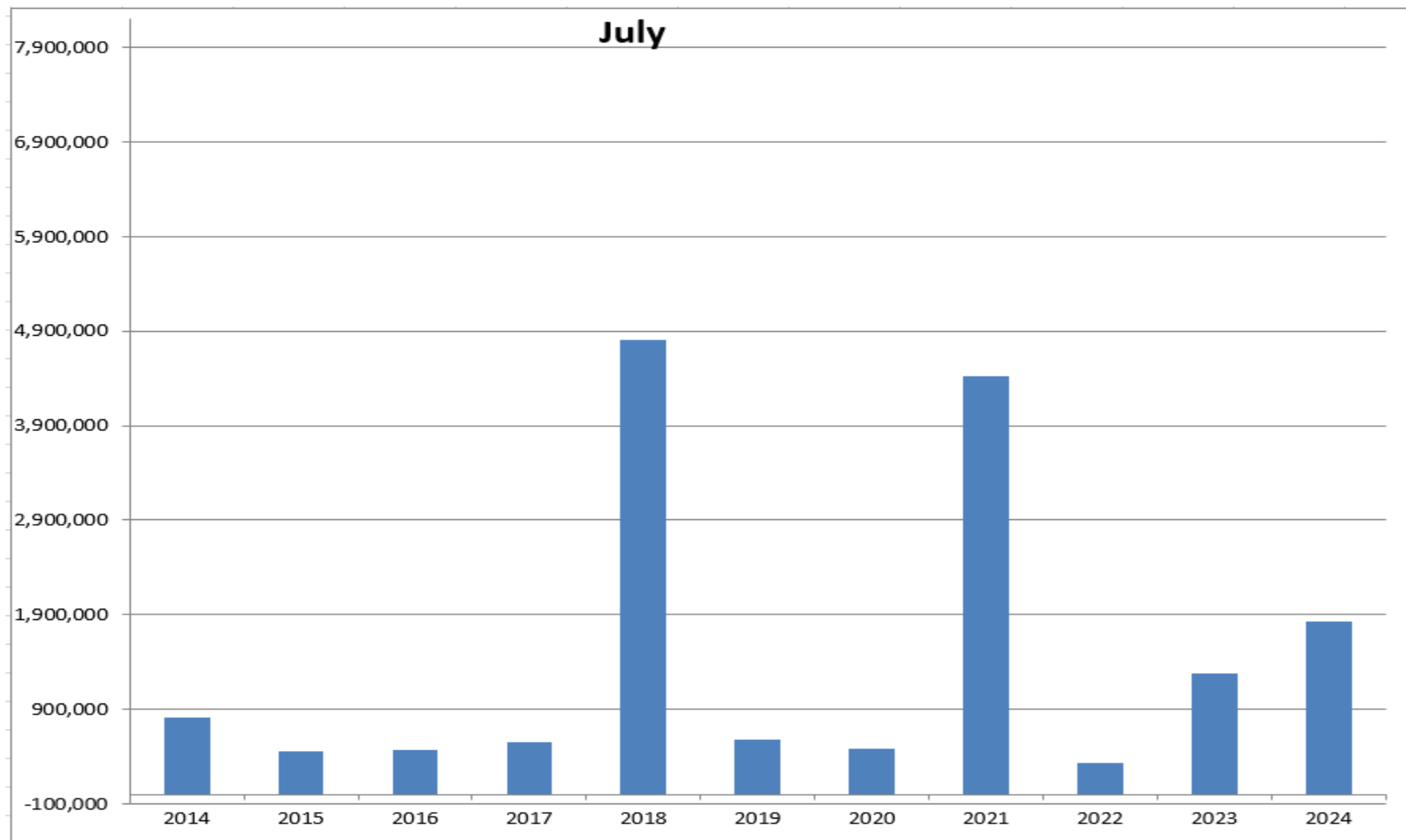
● NP15\_Cost ● LEC\_Cost



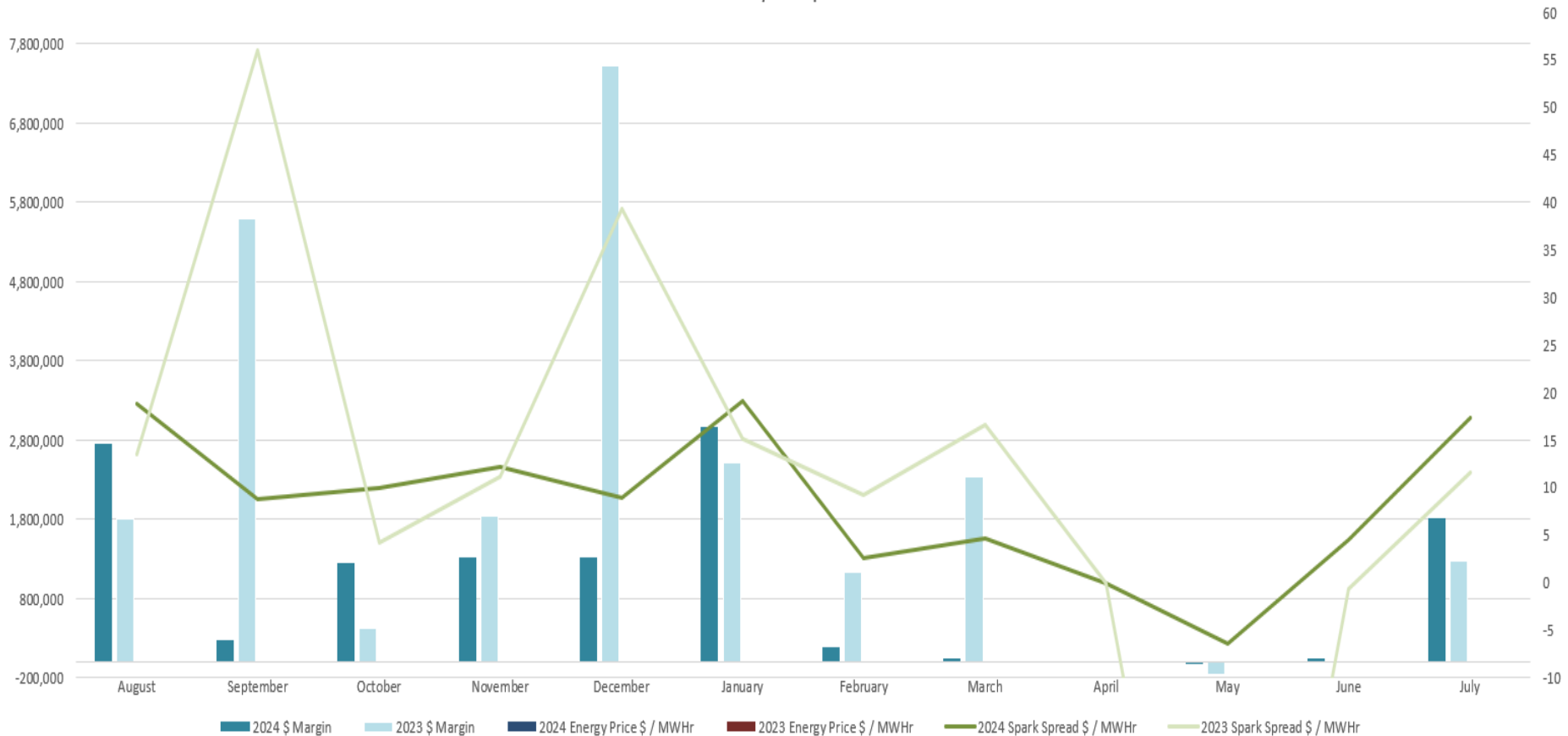
# July 2024 Asset Report

		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	7,467,852	13,990,284	11,777,010	(6,522,432)	-47%	Energy Sales lower by 46% vs. Forecast CF lower by 9% vs Forecast
VOM	5,218,814	9,478,528	9,909,107	(4,259,714)	-45%	Avg Power Prices lower by 41% vs Forecast
Fixed	1,265,968	1,178,377	1,215,877	87,591	7%	Ground Lease Payment and Operating Permit Renewal CEC/ARB)
Projects	488,408	280,333	280,333	208,075	74%	Siemens FX Study Invoice
A&G	258,568	264,873	264,873	(6,305)	-2%	
Debt	2,168,156	2,168,156	2,168,156	(0)	0.00%	
Net Cost	(1,932,062)	620,018	(2,061,336)	(2,552,079)	-412%	
Net Annual Cost		(16,215,237)	(44,498,594)	\$28,283,357		
				Below budget by 63.56%		

# Historical Margins



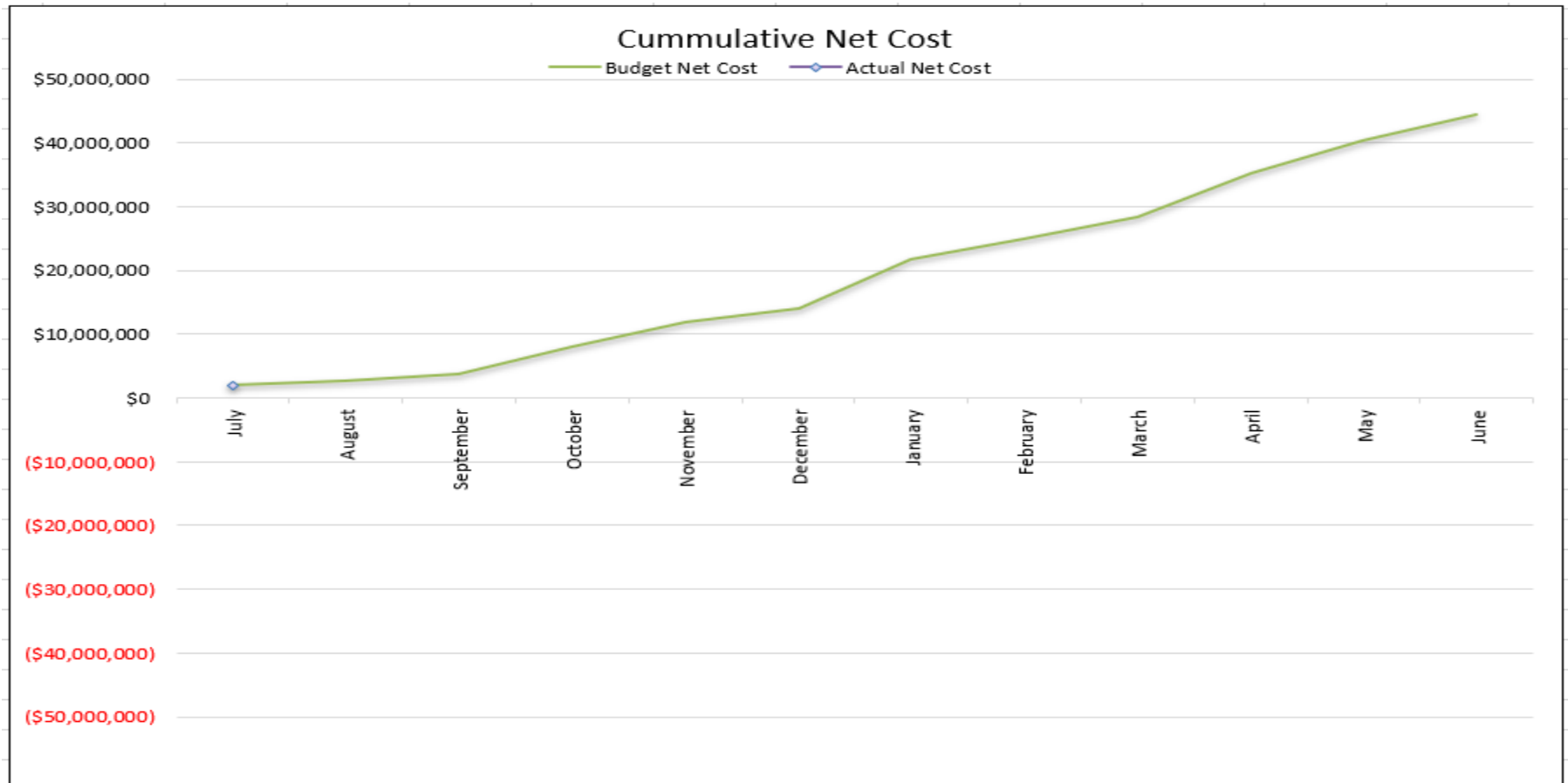
## Historical Monthly Comparison



\* Spark Spread on July 2023 @ \$11.53 \$/MWhr vs. July 2024 @ \$17.38 \$/MWhr

\* Spark Spread delta higher from July 2023 vs July 2024 @ \$5.85 \$/MWhr

\* Margin comparison from July 2023 \$1,275,228 vs July 2024 \$1,821,131



\*\* On the cumulative chart, (historical asset reports), July was a good revenue month when compared to the previous two years due to heatwave. Actual Net Cost \$1,932,062 vs Budget Net Cost \$2,061,336.

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2025 Budget	Percent Used	Comments
VOM	5,218,814	12,065,033	9,424,485	8,994,492	5,519,770	14,901,572	17,490,768	8,784,959	6,280,707	1,421,290	283,578	5,341,500	95,726,969	104,889,106	91.3%	
Capacity Factor	47%	62%	60%	47%	31%	68%	72%	52%	37%	0%	2%	26%	42%	42%	100.0%	
Fuel Consumed (mmBTU, estimated)	758,951	1,009,745	950,084	776,509	501,306	1,099,159	1,160,293	806,333	639,346	0	38,334	458,913	8,198,974	8,288,573	98.9%	
Avg Fuel Cost (\$/mmBTU)	3.81	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.35	9.34	3.8%	
Power Produced (MWhr, estimated)	104,830	139,972	130,567	105,610	66,459	153,359	160,844	109,705	83,751	0	3,995	57,321	1,116,414	1,127,248	99.0%	
Avg Power Price (\$/MWhr)	70.63	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6.63	100.57	6.6%	
Operations / Variable / LTSA	155,856	147,973	138,966	1,231,897	81,769	160,880	1,249,107	119,307	97,976	1,421,290	26,418	560,603	5,392,042	5,616,489	96.0%	
Fuel (estimated)	2,893,970	9,333,976	6,911,464	5,855,258	4,198,329	11,924,837	13,170,000	6,596,698	4,569,781	0	164,657	3,615,383	69,234,353	77,589,905	89.2%	
AB32 GHG Offset (estimated)	1,477,277	2,180,055	2,051,246	1,676,494	1,082,328	2,373,102	2,592,922	1,801,924	1,428,755	0	85,665	1,025,540	17,775,307	18,130,062	98.0%	
CA ISO Charges (estimated)	691,711	403,029	322,810	230,843	157,344	442,753	478,739	267,031	184,195	0	6,838	139,975	3,325,268	3,552,650	93.6%	
Routine O&M (Fixed)	1,265,968	1,178,366	1,290,867	1,215,866	1,471,671	1,215,864	1,215,867	1,215,865	1,215,866	1,335,821	1,471,671	1,215,858	15,309,550	15,221,959	100.6%	
Maintenance / Fixed	301,092	288,978	288,978	288,978	288,978	288,978	288,978	288,978	288,978	408,934	288,978	288,978	3,599,806	3,587,692	100.3%	Ground Lease Payment
Administration	2,201	15,695	15,695	15,695	15,695	15,695	15,695	15,695	15,695	15,695	15,695	15,700	174,851	188,345	92.8%	
Mandatory Costs	170,786	32,189	32,189	32,189	32,189	32,189	32,189	32,189	32,189	32,189	32,189	32,190	524,866	386,269	135.9%	Operating Permit Renewals (CEC/ARB/AB23 fee)
Inventory Stock	0	0	112,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	37,500	450,000	450,000	0.0%	
Labor	464,848	511,609	511,609	511,609	767,413	511,609	511,609	511,609	511,609	511,609	767,413	511,609	6,604,155	6,650,919	99.3%	
Insurance	154,128	154,128	154,128	154,128	154,127	154,127	154,127	154,127	154,127	154,127	154,127	154,127	1,849,528	1,849,532	100.0%	
Power Management & Settlements	159,413	159,413	159,413	159,413	159,413	159,413	159,413	159,413	159,413	159,413	159,413	159,413	1,912,956	1,912,958	100.0%	
Other Costs	13,500	16,354	16,355	16,354	16,356	16,353	16,356	16,354	16,355	16,354	16,356	16,341	193,388	196,244	98.5%	
Projects	488,408	280,333	280,333	280,333	280,333	480,333	5,046,999	1,005,333	280,333	1,432,504	930,333	280,334	11,065,909	10,857,834	101.9%	
Maintenance Reserve	230,783	230,782	230,782	230,782	230,782	230,782	230,782	230,782	230,782	230,782	230,782	230,788	2,769,391	2,769,390	100.0%	
Operations & Maintenance Projects	257,625	49,551	49,551	49,551	49,551	49,551	49,551	49,551	49,551	1,201,722	49,551	49,546	1,954,852	1,746,778	111.9%	Siemens FX Study Invoice
Capital Projects	0	0	0	0	0	200,000	4,766,666	725,000	0	0	650,000	0	6,341,666	6,341,666	100.0%	
A&G	258,568	264,873	264,873	264,872	264,872	264,872	264,871	264,871	264,871	264,871	264,871	264,872	3,172,157	3,178,462	99.8%	
Administrative & General (Allocated)	216,457	222,868	222,868	222,867	222,867	222,867	222,866	222,866	222,866	222,866	222,866	222,866	2,667,990	2,674,401	99.8%	
Generation Services Shared	42,111	42,005	42,005	42,005	42,005	42,005	42,005	42,005	42,005	42,005	42,005	42,006	504,167	504,061	100.0%	
Total O&M Cost	7,231,758	13,788,605	11,260,558	10,755,563	7,536,646	16,862,641	24,018,505	11,271,028	8,041,777	4,454,486	2,950,453	7,102,564	125,274,585	134,147,361	93.4%	
Debt Service	2,168,156	0	0	0	0	0	0	0	0	0	0	0	2,168,156	26,017,868	8.3%	
Revenues	7,467,852	14,970,451	16,545,517	7,165,080	4,541,134	18,841,193	19,549,541	11,178,355	8,437,844	0	7,030	2,523,508	111,227,505	115,666,635	96.2%	
ISO Energy Sales (estimated)	7,403,911	14,733,352	16,332,209	6,999,753	4,449,805	18,542,462	19,140,077	10,990,204	8,280,116	0	0	2,423,424	109,295,312	113,367,408	96.4%	
Other Income	63,941	237,098	213,308	165,328	91,330	298,731	409,463	188,152	157,727	0	7,030	100,084	1,932,193	2,299,227		
Net	(\$1,932,062)	\$1,181,846	\$5,284,959	(\$3,590,483)	(\$2,995,512)	\$1,978,552	(\$4,468,964)	(\$92,673)	\$396,066	(\$4,454,486)	(\$2,943,423)	(\$4,579,056)	(\$16,215,237)	(\$44,498,594)	Below budget by 63.56%	





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# LEC Treasurer's Report

AGENDA ITEM NO.: 8

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**Date:** September 9, 2024  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended July 31, 2024

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

Cash - At month end cash totaled \$786.

Investments - The carrying value of the LEC's investment portfolio totaled \$32,660,724 at month end. The current market value of the portfolio totaled \$31,889,154.

The overall portfolio had a combined weighted average interest rate of 3.299% with a bond equivalent yield (yield to maturity) of 3.292%. Investments with a maturity greater than one year totaled \$16,234,000. During the month \$2,546,799 was invested.

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

Interest Rates - During the month, rates on 90 day T-Bills decreased 9 basis points from 5.49% to 5.40% and rates on one year T-Bills decreased 27 basis points from 5.10% to 4.83%.

To the best of my knowledge and belief, all securities held by LEC as of July 31, 2024 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

*Monty Hanks*

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

*Sandra Ainsworth*

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**JULY 31, 2024**

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**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**July 31, 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	\$ 786	\$ 4,334,917	\$ 4,335,703	13.27%	\$ 4,335,511
Debt Service Reserve	-	11,492,759	11,492,759	35.19%	11,234,010
O & M Reserve	-	16,547,971	16,547,971	50.67%	16,034,556
	<b>786</b>	<b>32,375,647</b>	<b>32,376,433</b>	<b>99.13%</b>	<b>31,604,077</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	285,077	285,077	0.87%	285,077
Participant Deposit Account	-	-	-	-	-
	<b>\$ 786</b>	<b>\$ 32,660,724</b>	<b>\$ 32,661,510</b>	<b>100.00%</b>	<b>\$ 31,889,154</b>

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**July 31, 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	\$ -	\$ 4	\$ 61,004	\$ -	\$ (2,227,045)	\$ 2,165,925	\$ (112)
Debt Service Reserve	-	2,404	-	-	(2,404)	-	-
O & M Reserve	-	31,408	-	-	(161,191)	129,783	-
	-	33,816	61,004	-	(2,390,640)	2,295,708	(112)
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	155,562	597	-	-	(156,159)	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ 155,562</b>	<b>\$ 34,413</b>	<b>\$ 61,004</b>	<b>\$ -</b>	<b>\$ (2,546,799)</b>	<b>\$ 2,295,708</b>	<b>\$ (112)</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**  
**July 31, 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	\$ 2,227,045	\$ (61,004)	\$ 10,398	\$ -	\$ -	\$ 2,176,439
Debt Service Reserve	2,404	-	13,178	-	-	15,582
O & M Reserve	161,191	-	(453)	-	-	160,738
	<u>2,390,640</u>	<u>(61,004)</u>	<u>23,123</u>	<u>-</u>	<u>-</u>	<u>2,352,759</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	156,159	-	-	-	-	156,159
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 2,546,799</u>	<u>\$ (61,004)</u>	<u>\$ 23,123</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,508,917</u>

**Less Non- Cash Activity**

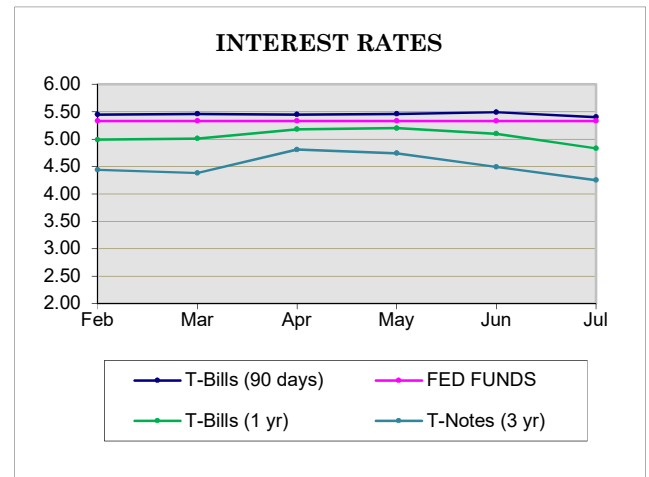
Disc/(Prem) Amortization & Gain/(Loss) on Sale	<u>(23,123)</u>
Net Change in Investment –Before Non-Cash Activity	<u>\$ 2,485,794</u>

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

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

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b><u>3.299%</u></b>	<b><u>3.292%</u></b>
Debt Service Account	<b>5.082%</b>	<b>5.257%</b>
Debt Service Reserve	<b>3.159%</b>	<b>3.122%</b>
O & M Reserve	<b>2.892%</b>	<b>2.858%</b>
GHG Cash Account	<b>5.430%</b>	<b>5.430%</b>

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>5.33%</b>	<b>5.08%</b>
T-Bills (90da.)	<b>5.40%</b>	<b>5.51%</b>
Agency Disc (90da.)	<b>5.29%</b>	<b>5.32%</b>
T-Bills (1yr.)	<b>4.83%</b>	<b>5.38%</b>
Agency Disc (1yr.)	<b>4.86%</b>	<b>5.15%</b>
T-Notes (3yr.)	<b>4.25%</b>	<b>4.52%</b>

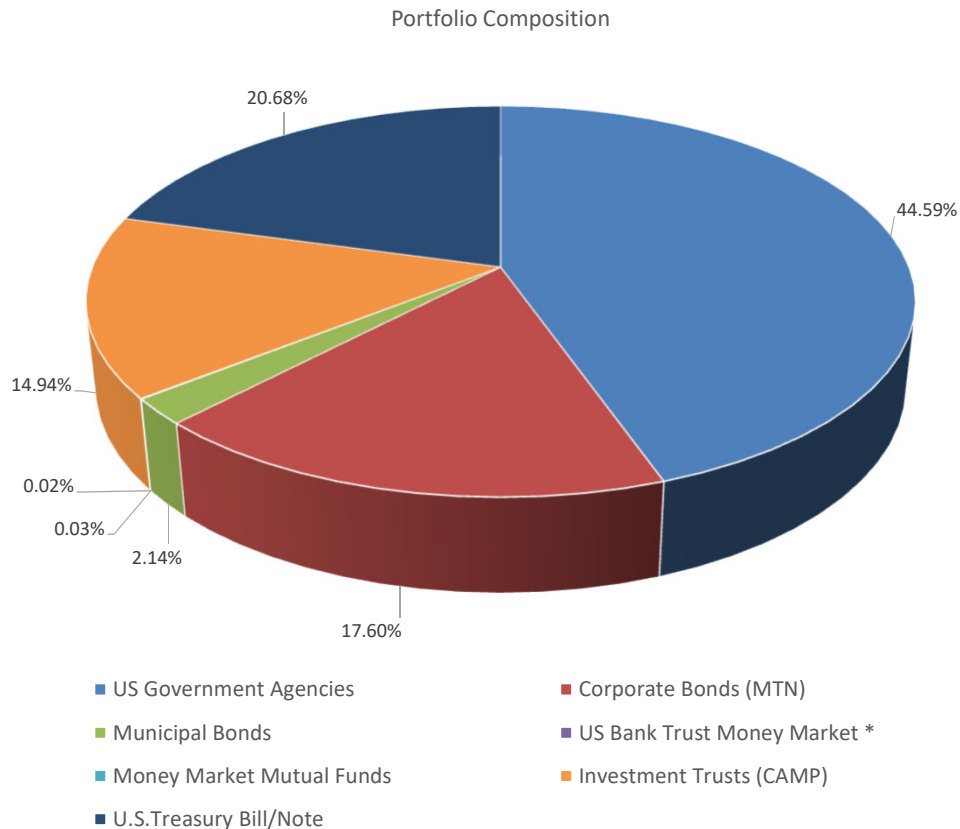


**Northern California Power Agency/Lodi Energy Center**  
**Total Portfolio**  
**Liquidity and Investment Maturities Analysis**  
**July 31, 2024**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ 2,070	\$ 4,409	\$ -	\$ 1,000	\$ 7,141	\$ -	\$ 14,620	44.59%
Corporate Bonds (MTN)	-	-	465	-	-	5,304	-	5,769	17.60%
Municipal Bonds	-	-	-	-	500	200	-	700	2.14%
US Bank Trust Money Market *	5	-	-	-	-	-	-	5	0.02%
Money Market Mutual Funds	11	-	-	-	-	-	-	11	0.03%
Investment Trusts (CAMP)	4,898	-	-	-	-	-	-	4,898	14.94%
U.S.Treasury Bill/Note	-	-	3,191	-	-	3,589	-	6,780	20.68%
<b>Total Dollars</b>	<b>\$ 4,914</b>	<b>\$ 2,070</b>	<b>\$ 8,065</b>	<b>\$ -</b>	<b>\$ 1,500</b>	<b>\$16,234</b>	<b>\$ -</b>	<b>\$ 32,783</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>14.99%</b>	<b>6.31%</b>	<b>24.60%</b>	<b>0.00%</b>	<b>4.58%</b>	<b>49.52%</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

07/31/2024

## LEC Issue #1 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	782	0.010		782		1	0.010	782	SYS79004	79004	782
Federal Home Loan Ba	USBT	674,000	5.120	06/27/2024	659,142	11/29/2024	120	5.308	662,603	313384R43	27779	662,497
Federal Home Loan Ba	USBT	796,000	5.050	07/29/2024	781,931	12/02/2024	123	5.212	782,357	313384R76	27789	782,266
Fund Total and Average		\$ 1,470,782	5.079		\$ 1,441,855		122	5.253	\$ 1,445,742			\$ 1,445,545

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	806	0.010		806		1	0.010	806	SYS79012	79012	806
Federal Home Loan Ba	USBT	787,000	5.120	06/27/2024	769,651	11/29/2024	120	5.308	773,692	313384R43	27780	773,569
Federal Home Loan Ba	USBT	792,000	5.050	07/29/2024	778,001	12/02/2024	123	5.212	778,425	313384R76	27790	778,335
Fund Total and Average		\$ 1,579,806	5.082		\$ 1,548,458		121	5.257	\$ 1,552,923			\$ 1,552,710

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	681,000	5.120	06/27/2024	665,988	11/29/2024	120	5.308	669,484	313384R43	27781	669,378
Federal Home Loan Ba	USBT	679,000	5.050	07/29/2024	666,999	12/02/2024	123	5.212	667,362	313384R76	27791	667,284
Fund Total and Average		\$ 1,360,000	5.085		\$ 1,332,987		121	5.260	\$ 1,336,846			\$ 1,336,662
GRAND TOTALS:		\$ 4,410,588	5.082		\$ 4,323,300		121	5.257	\$ 4,335,511.			\$ 4,334,917

\*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 07/31/2024



## Northern California Power Agency

## Treasurer's Report

07/31/2024

## LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	3,359	0.010		3,359		1	0.010	3,359	SYS79005	79005	3,359
Federal Home Loan Ba	USBT	20,000	4.875	04/25/2023	20,107	09/13/2024	43	4.468	19,987	3130ATVD6	27586	20,009
U.S. Treasury	USBT	38,000	5.100	06/27/2024	37,166	11/29/2024	120	5.286	37,359	912797HP5	27782	37,354
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	578	0.840	4,185,686	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	680	0.799	140,732	3130AN4T4	27270	150,205
U.S. Treasury	USBT	3,589,000	4.375	01/03/2024	3,618,020	12/15/2026	866	4.080	3,604,433	91282CJP7	27700	3,612,335
Federal Home Loan Ba	USBT	120,000	4.000	07/28/2023	118,496	06/30/2028	1,429	4.285	120,913	3130AWN63	27624	118,804
U.S. Treasury	USBT	21,000	4.375	09/28/2023	20,785	08/31/2028	1,491	4.608	21,313	91282CHX2	27647	20,822
Fund Total and Average		\$ 8,371,359	2.444		\$ 8,398,461		715	2.320	\$ 8,133,782			\$ 8,392,888

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	158	0.010		158		1	0.010	158	SYS79006	79006	158
U.S. Treasury	USBT	2,315,000	5.095	06/13/2024	2,259,629	11/29/2024	120	5.292	2,275,946	912797HP5	27774	2,275,684
Fund Total and Average		\$ 2,315,158	5.095		\$ 2,259,787		120	5.292	\$ 2,276,104			\$ 2,275,842

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	261	0.010		261		1	0.010	261	SYS79013	79013	261
U.S. Treasury	USBT	838,000	5.095	06/13/2024	817,957	11/29/2024	120	5.292	823,863	912797HP5	27775	823,768
Fund Total and Average		\$ 838,261	5.093		\$ 818,218		120	5.291	\$ 824,124			\$ 824,029
GRAND TOTALS:		\$ 11,524,778	3.159		\$ 11,476,466		554	3.122	\$ 11,234,010.			\$ 11,492,759

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Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 07/31/2024



## Northern California Power Agency

## Treasurer's Report

07/31/2024

## 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	10,619	5.200		10,619		1	5.200	10,619	SYS70041	70041	10,619
California Asset Mgm	CMP	4,612,354	5.430	09/09/2022	4,612,354		1	5.430	4,612,354	SYS70075	70075	4,612,354
Local Agency Investm		0	3.590	07/01/2024	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	43	5.217	2,049,467	3133EPVU6	27640	2,050,361
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	122	1.776	461,964	14912L6G1	26952	467,180
Nashville Met Gov	USBGC	350,000	0.610	09/18/2023	350,000	07/01/2025	334	0.609	336,634	592112XC5	27645	350,000
Nashville Met Gov	USBGC	150,000	0.610	09/18/2023	150,000	07/01/2025	334	0.609	144,119	592112XA9	27646	150,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	362	0.579	959,830	3136G4D75	27047	1,000,199
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	382	0.600	957,510	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	424	0.530	713,513	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	424	0.530	638,242	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	556	0.699	472,355	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	637	1.200	464,340	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	714	1.050	935,280	57629WDE7	27250	1,002,853
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	755	1.250	92,254	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	774	1.227	465,660	14913R2Q9	27290	499,209
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	815	1.567	796,654	872898AA9	27335	853,314
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	830	1.490	480,407	74460DAG4	27310	515,110
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	830	1.475	992,531	74460DAG4	27341	1,064,570
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,034	3.654	183,446	088006KB6	27424	188,030
Mercedes-Benz Fin. N	USBGC	275,000	3.750	06/26/2023	260,832	02/22/2028	1,300	5.003	267,377	233851DF8	27609	264,171
Fund Total and Average		\$ 16,561,973	2.892		\$ 16,576,746		361	2.858	\$ 16,034,556			\$ 16,547,970
GRAND TOTALS:		\$ 16,561,973	2.892		\$ 16,576,746		361	2.858	\$ 16,034,556.			\$ 16,547,970

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types.

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Northern California Power Agency  
Treasurer's Report  
07/31/2024

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
California Asset Mgm	CMP	285,077	5.430	09/13/2022	285,077		1	5.430	285,077	SYS70077	70077	285,077
Local Agency Investm		0	3.590	07/01/2024	0		1	3.590	0	SYS70046	70046	0
Fund Total and Average		\$ 285,077	5.430		\$ 285,077		1	5.430	\$ 285,077			\$ 285,077
GRAND TOTALS:		\$ 285,077	5.430		\$ 285,077		1	5.430	\$ 285,077.			\$ 285,077

\*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 07/31/2024



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

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**Date:** September 9, 2024

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

**Subject:** July 31, 2024 Financial Reports (Unaudited)

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

		July	
		2024	2023
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$	285,077	\$ 166,681
Interest receivable		65,285	27,124
Inventory and supplies - at average cost		2,624,680	2,351,179
Prepaid insurance		614,782	575,130
Due from (to) Agency, net		17,847,752	23,156,314
<b>TOTAL CURRENT ASSETS</b>		<b>21,437,576</b>	<b>26,276,428</b>
<b>RESTRICTED ASSETS</b>			
Cash and cash equivalents		4,629,123	5,366,878
Investments		27,747,308	26,962,781
Interest receivable		36,833	37,442
<b>TOTAL RESTRICTED ASSETS</b>		<b>32,413,264</b>	<b>32,367,101</b>
<b>ELECTRIC PLANT</b>			
Electric plant in service		447,698,040	447,461,789
Less: accumulated depreciation		(154,929,973)	(140,163,527)
<b>TOTAL ELECTRIC PLANT</b>		<b>292,768,067</b>	<b>307,298,262</b>
<b>OTHER ASSETS</b>			
Regulatory assets		28,057,348	29,079,080
<b>TOTAL OTHER ASSETS</b>		<b>28,057,348</b>	<b>29,079,080</b>
<b>TOTAL ASSETS</b>		<b>374,676,255</b>	<b>395,020,871</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Unamortized excess cost on advance refunding of debt, net		159,713	490,107
Asset retirement obligations		204,756	199,487
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>		<b>364,469</b>	<b>689,594</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	\$	<b>375,040,724</b>	\$ <b>395,710,465</b>

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

	July	
	2024	2023
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 2,894,209	\$ 4,244,239
Operating reserves	21,720,281	18,211,655
Current portion of long-term debt	14,656,591	14,239,000
Accrued interest payable	2,050,243	2,071,510
<b>TOTAL CURRENT LIABILITIES</b>	<b>41,321,324</b>	<b>38,766,404</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	284,452	165,932
Asset retirement obligations	204,756	199,487
Long-term debt, net	287,053,174	301,709,764
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>287,542,382</b>	<b>302,075,183</b>
<b>TOTAL LIABILITIES</b>	<b>328,863,706</b>	<b>340,841,587</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	37,088,390	37,726,312
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	209,767	4,793,553
Restricted	5,584,645	2,323,180
Unrestricted	3,294,216	10,025,833
<b>TOTAL NET POSITION</b>	<b>9,088,628</b>	<b>17,142,566</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$ 375,040,724</b>	<b>\$ 395,710,465</b>

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

		Month Ended July	
		2024	2023
<b>SALES FOR RESALE</b>			
Participants	\$	5,702,305	\$ 11,856,470
Other		7,406,218	7,801,035
<b>TOTAL SALES FOR RESALE</b>		<b>13,108,523</b>	<b>19,657,505</b>
<b>OPERATING EXPENSES</b>			
Operations		3,723,711	5,193,938
Depreciation & amortization		1,180,075	1,179,396
Purchased power		643,402	369,399
Maintenance		389,820	467,627
Administrative and general		971,985	508,582
Transmission		48,727	40,802
Intercompany (sales) purchases		42,111	32,736
<b>TOTAL OPERATING EXPENSES</b>		<b>6,999,831</b>	<b>7,792,480</b>
<b>NET OPERATING REVENUES</b>		<b>6,108,692</b>	<b>11,865,025</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(1,008,404)	(1,056,125)
Interest income		1,066,109	1,555,857
Other		181,064	228,144
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>238,769</b>	<b>727,876</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(128,850)</b>	<b>(64,796)</b>
<b>INCREASE IN NET POSITION</b>		<b>6,218,611</b>	<b>12,528,105</b>
<b>NET POSITION</b>			
Beginning of year		2,870,017	4,614,461
	\$	9,088,628	\$ 17,142,566



**Lodi Energy Center  
FY 2025 Operating Costs  
As of July 31, 2024**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 5,616,489	\$ 155,856	\$ 5,460,633	97%	<b>A</b>
Fuel & LDC Costs	77,589,905	2,887,475	74,702,430	96%	
GHG Allowance Costs	18,130,063	70,544	18,059,519	100%	
CA ISO Charges	675,952	48,727	627,225	93%	
CA ISO Energy Purchases	2,876,697	643,402	2,233,295	78%	
<b>Total Variable Costs</b>	104,889,106	3,806,004	101,083,102	96%	
<b>Routine O&amp;M Costs</b>					<b>B</b>
Fixed O&M	3,587,692	301,092	3,286,600	92%	
Administration	188,345	2,201	186,144	99%	
Mandatory Costs	386,269	170,786	215,483	56%	
Routine O&M Costs without Labor	4,612,306	474,079	4,138,227	90%	
Labor	6,650,919	464,848	6,186,071	93%	
<b>Total Routine O&amp;M Cost</b>	11,263,225	938,927	10,324,298	92%	
<b>Other Plant Costs</b>					<b>C</b>
Debt Service	26,017,868	2,168,156	23,849,712	92%	
Insurance	1,849,532	154,128	1,695,404	92%	
Other Costs	196,244	13,500	182,744	93%	
Generation Services Shared	504,061	42,111	461,950	92%	
Administrative & General (Allocated)	2,674,401	216,457	2,457,944	92%	
Power Management Allocated Costs	1,912,958	159,413	1,753,545	92%	
<b>Total Other Plant Costs</b>	33,155,064	2,753,765	30,401,299	92%	
<b>Total O&amp;M Costs</b>	149,307,395	7,498,696	141,808,699	95%	
<b>Projects</b>					
Operations & Maintenance	1,746,778	257,625	1,489,153	85%	
Capital	6,341,666	-	6,341,666	100%	
Maintenance Reserve	2,769,390	230,783	2,538,607	92%	
<b>Total Projects</b>	10,857,834	488,408	10,369,426	96%	
<b>Annual Cost</b>	160,165,229	7,987,104	152,178,125	95%	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	63,071	186,929	75%	
ISO Energy Sales	113,367,408	7,145,805	106,221,603	94%	
Ancillary Services Sales	2,049,227	260,413	1,788,814	87%	
Other Income	-	870	(870)	0%	
	115,666,635	7,470,159	108,196,476	94%	
<b>Net Annual Cost to Participants (without GHG Transfer Credits)</b>	<b>44,498,594</b>	<b>516,945</b>	43,981,649		
GHG Allowance Credits	17,646,370	70,544	17,575,826	100%	
<b>Net Annual Cost to Participants (with GHG Transfer Credits)</b>	<b>\$ 26,852,224</b>	<b>\$ 446,401</b>	\$ 26,405,823	98%	
<b>Total Variable Costs</b>	104,889,106	3,806,004	101,083,102		
<b>Total Fixed Costs</b>	55,276,123	4,181,100	51,095,023		
	<b>\$ 160,165,229</b>	<b>\$ 7,987,104</b>	<b>\$ 152,178,125</b>		
<b>Net Cumulative Generation (MWh)</b>	1,626,895	104,829			
<b>Total O&amp;M Cost Per MWh</b>	\$ 91.77	\$ 71.53			
<b>Net Annual Cost Per MWh</b>	\$ 16.51	\$ 4.26			
<b>Net Annual Cost Per KW Month</b>	\$ 7.41	\$ 0.12			

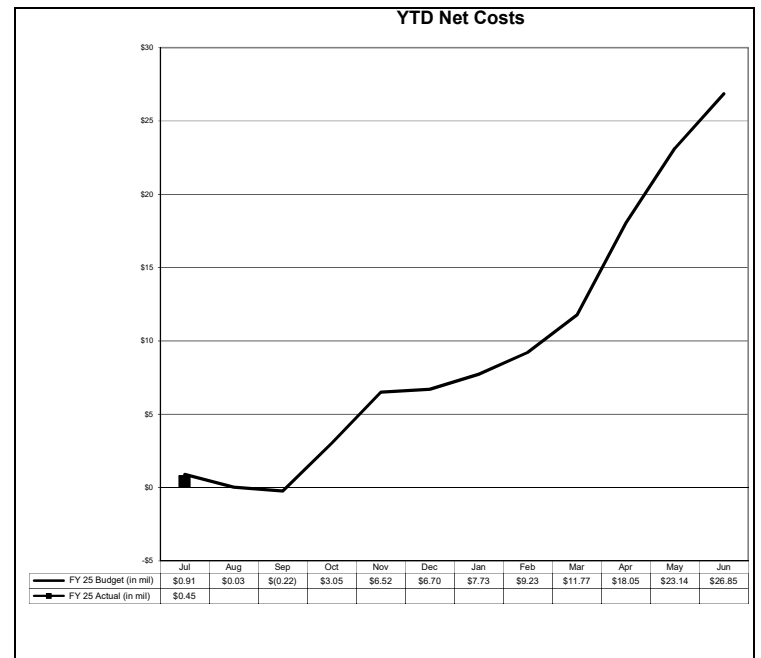
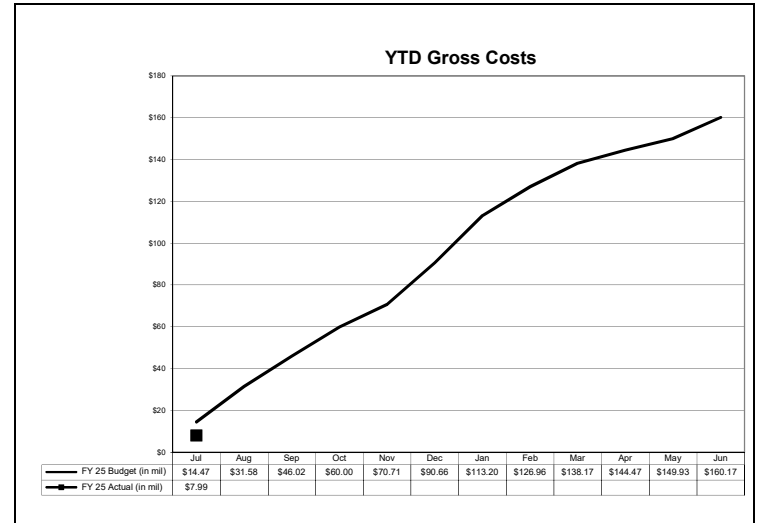
**Footnotes:**

**General** - The plant ran 27 out of 31 days during the month due to economics.

A - Higher CAISO costs due to higher prices for settlement charges during the month.

B - Expenditure for annual permit fees to Air Resources Board. Costs are expected to levelize during the year.

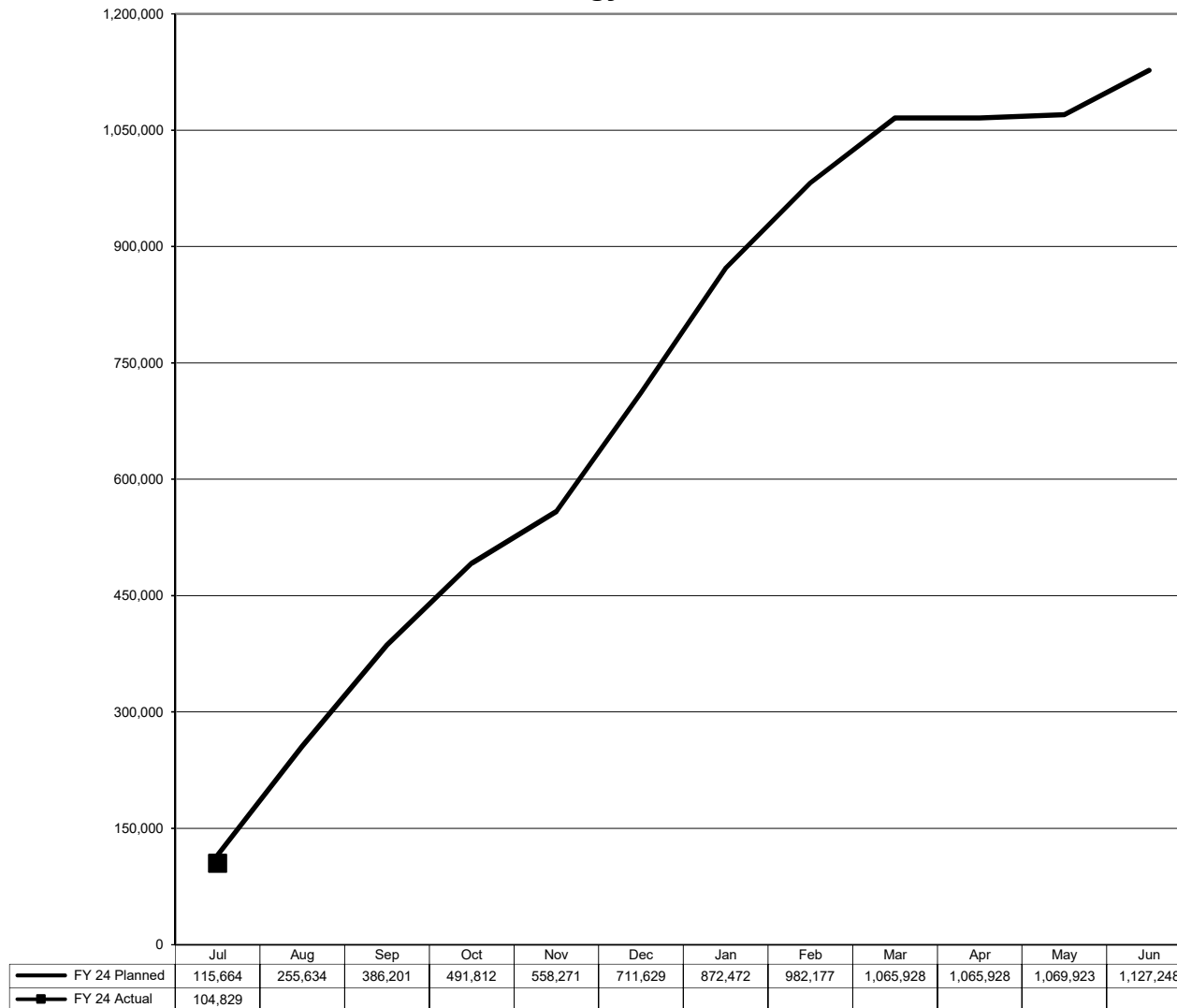
C - Expenditure for Generator FX project which is expected to be funded from encumbrance funds.



**Annual Budget  
LEC Generation Analysis  
Planned vs. Actual  
FY 2025**

In MWh

## Lodi Energy Center





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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

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**Date:** September 9, 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	8,183	104,829	56,147	65,377	100,028	67,321	88,337	736,429	13,072,226
Gas Schedule (MMBtu)	1,076,706	519,176	82,361	20,954	33,351	60,696	778,877	435,697	507,324	776,218	522,414	685,492	5,499,266	94,133,049
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	42,032	23,512	27,378	41,889	28,192	36,993	296,768	5,087,942
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	1,406,757	1,430,269	1,457,647	1,499,536	1,527,728	1,564,721	1,564,721	1,564,721
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	2,008	0	0	0	0	4,308	5,106,828
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	2,008	0	0	0	0	14,308	5,216,091
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	2,008	0	0	0	0	14,308	5,262,413
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	1,745,336	1,745,336	1,745,336	1,745,336	1,745,336	1,745,336	1,745,336
MTA Shortfall (MT)	(415,910)	(388,187)	(383,742)	(382,611)	(380,811)	(377,536)	(336,571)	(315,067)	(287,689)	(245,800)	(217,608)	(180,615)	(180,615)	(180,615)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	0	128,918	0	0	0	0	128,918
Monthly GHG Price	41.40	40.44	36.13	37.87	39.19	36.68	33.04	32.96	37.21	33.26	33.41	37.74		



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

AGENDA ITEM NO.:11

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**Meeting Date:** September 9, 2024

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

**Subject:** Brenntag Pacific, Inc. – First Amendment to Five Year Multi-Task Agreement for Purchase of Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

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### Proposal

Approve the First Amendment to the Multi-Task Agreement for Purchase of Supplies with Brenntag Pacific, Inc. for chemical purchases, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from October 14, 2024 to April 14, 2025, with the not to exceed amount to remain unchanged at \$2,500,000, for continued use at any facilities owned and/or operated by NCPA.

### Background

Chemical purchases are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five year Multi-Task Agreement for Purchase of Supplies with Brenntag Pacific, Inc. effective October 14, 2019, for use at all NCPA facilities. NCPA relies on chemicals purchased from the Supplier for ongoing operations. NCPA initiated the renewal agreement process in January 2024 and negotiations are still on-going. NCPA and Brenntag desire to amend the existing agreement expiration from October 14, 2024 to April 14, 2025 to allow for continued chemical purchases until the renewal agreement is completed. NCPA has agreements in place for similar services with Airgas Specialty Products, Hill Brothers Chemical Company, Industrial Solutions, Northstar Chemical, Thatcher Company of CA, Inc. and Univar Solutions (pending).

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement will be not to exceed \$2,500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task Agreement for Purchase of Supplies with Brenntag Pacific, Inc.
- First Amendment to Multi-Task Agreement for Purchase of Supplies with Brenntag Pacific, Inc.



**MULTI-TASK  
AGREEMENT FOR PURCHASE OF SUPPLIES  
BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
BRENNTAG PACIFIC, INC.**

This Agreement for Purchase of Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Brenntag Pacific, Inc., ("Supplier"), whose principal office is located at 10747 Patterson Place, Santa Fe Springs, CA 90670 (individually, a "Party" and together referred to as the "Parties") as of October 14, 2019 (the "Effective Date").

**Section 1. SCOPE.** In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to use commercially reasonable efforts to deliver the supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to the designated Project Site, DDP, on or before the Agency's requested delivery date. Supplier shall be responsible at its sole expense for delivering the Goods to the designated Project Site and title and risk of loss shall pass as provided in Section 9.3 of this Agreement. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

**Section 2. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency. The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP.

**Section 3. TERM AND TERMINATION OF AGREEMENT.**

- 3.1** This Agreement shall begin upon the Effective Date and shall end on the later of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A pursuant to a Purchase Order issued within five (5) years of the Effective Date.
- 3.2** If at any time either Party files a petition seeking to take the benefit of any bankruptcy or insolvency proceeding, or becomes subject to such a proceeding, the other Party shall have the right, by written notice, to immediately terminate this Agreement.
- 3.3** Either Party may terminate this Agreement upon one hundred and eighty (180) calendar days prior written notice to the other Party.

**Section 4. REQUEST FOR GOODS.** At such time that Agency determines to request Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"), may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods are requested to be delivered. Each Purchase Order is subject to Supplier's acceptance, provided, however, that Supplier shall have seven (7) calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Supplier



chooses not to provide the Requested Goods. If Supplier agrees in writing to provide the Requested Goods or does not respond within the seven day period specified, then Supplier will have agreed to provide the Requested Goods on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

**Section 5.** Any claim for shortage in quantity of the Goods that was reasonably discoverable upon visual inspection shall be deemed to be waived by Agency unless made in writing within thirty (30) days from the date of delivery; provided, however, that this Section 5 shall not be deemed to waive any other claims regarding a defect in the quality or identity of the Goods, which claims shall be governed by Section 8 (Warranty) of this Agreement. No action, regardless of form, arising out of the sale or delivery of Goods hereunder, may be commenced by Agency more than one (1) year after the occurrence and Agency discovery of the event giving rise to such cause of action.

**Section 6. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

- 6.2 Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.
- 6.3 Financial Responsibility.** If, in the reasonable judgment of Supplier, the financial responsibility of Agency shall at any time become impaired, Supplier may suspend credit, cancel any unfilled orders, and/or decline to make further deliveries under this Agreement except upon receipt, before shipment, of payment in cash or satisfactory security for such payment.
- 6.4 Timing for Submittal of Final Invoice.** Supplier shall have ninety (90) days after delivery of the Requested Goods to submit its final invoice for the Requested Goods. In the event Supplier fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Supplier is deemed to have

waived its right to collect its final payment for the Requested Goods from Agency.

**Section 7. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Supplier, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 7.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 7.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles utilized in the transport of the Goods to the Agency's Project Site.
- 7.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury, sudden and accidental release and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage required hereunder.
- 7.4 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 7.5 All Policies Requirements.**
- 7.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy including the Northern California Power Agency as an Additional Insured and declaring such insurance primary to the extent of Supplier's indemnification obligations in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.
- 7.5.2 Notice of Reduction in or Cancellation of Coverage.** With regard to any insurance policies required under this Agreement, Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation

where such policies will not be replaced with like coverage or materially adverse reduction in scope or amount of the insurance required under this Agreement.

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

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

**Section 8. WARRANTY.** Upon delivery, Supplier warrants that all Goods are free from defects in design and workmanship; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and free from defects; are not subject to any liens or encumbrances; and meet the specifications of Agency, and, if none, then the manufacturer's specifications. Supplier shall provide all Goods in accordance with all applicable engineering, construction and other applicable codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement applicable to such Goods, all within industry standards expected from purveyors engaged in the practice of providing materials and supplies of a similar nature. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS A WARRANTY WITH RESPECT TO THE RESULTS OBTAINED OR OBTAINABLE FROM THE USE OF ANY GOODS SUPPLIED BY SUPPLIER HEREUNDER. Moreover, if, during the period (i) twelve (12) months from delivery or (ii) the shelf life of the Goods, if stated in writing to be less than twelve (12) months, the Goods provided by Supplier under this Agreement fail to comply with this Section 8, Supplier shall, upon any reasonable written notice from Agency, and provided that (a) Agency's account with Supplier is current and in good standing, as provided under Section 6.2 of this Agreement (ii) Agency has properly stored the Goods in accordance with Supplier's or manufacturer's written instructions, (iii) provided Supplier a sample for testing and (iv) subject to Section 5, replace or repair the same to Agency's reasonable satisfaction.

## **Section 9. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.**

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

**9.2 Scope.** Subject to the limitations of liability set forth elsewhere herein, Supplier shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees,

agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation reasonable costs and fees of litigation), judgments and causes of action of every nature to the extent directly and proximately caused by: (i) any negligent acts or omissions or willful misconduct by Supplier, its officers, officials, agents, and employees, (ii) Supplier's violation of law, or (iii) Supplier's breach of this Agreement.

- 9.3 Transfer of Title and Risk of Loss.** Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by Agency. In the event a spill, leak, discharge or release directly and proximately caused by Supplier or results from Supplier's transfer to but excluding the integrity of Agency's storage tanks requires notification to a federal, state or local regulatory agency, Supplier shall be responsible for all such notifications. Should Supplier or Agency be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site, Supplier agrees to remediate, remove or cleanup Agency's Site to the extent the leak, spill or release was directly and proximately caused by Supplier or resulted from the Supplier's transfer operation to Agency storage tanks to the standard required by and may include receiving a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

**Section 10. LIMITATION OF LIABILITY.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, MULTIPLE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

**Section 11. FORCE MAJEURE.** Neither Party shall be liable in damages or otherwise, for delay or impairment or failure of performance (other than a failure to pay any monies due) by reason of causes beyond that Party's reasonable control. Notwithstanding anything contained or implied in this Agreement, neither Party shall be required to perform at an economic loss to overcome a force majeure or settle a labor dispute against its will in the performance of its obligations hereunder. If any force majeure event continues for more than thirty (30) days, then either Party may terminate this Agreement upon written notice to the other Party.

**Section 12. MISCELLANEOUS PROVISIONS.**

- 12.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein. No provision of any Purchase Order or other document issued by either Party will alter or add to the terms of this Agreement (other than general commercial terms that vary from Purchase Order to Purchase Order such as

quantity, price, desired delivery date and delivery location), and any such provision or modification will be void and of no effect. No modification of this Agreement shall be effected by the Parties' course of dealing, usage, or trade custom.

- 12.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 12.3 Compliance with Applicable Law.** Both Parties shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 12.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 12.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 12.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld, conditioned or delayed. Agency may not assign this Agreement without Supplier's prior credit approval, which approval shall not be unreasonably withheld, conditioned or delayed.
- 12.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California, without reference to its conflict of laws rules, and venue shall lie in the state or federal courts or both located in Placer County or in the county to which the Goods are delivered.
- 12.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 12.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 12.10 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement. No waiver shall be effective unless it is in writing and signed by the Party against whom the waiver is sought to be enforced.



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

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

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

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

**12.14 Notices.** Any notices required or given in connection with this Agreement shall be sent or delivered in writing and be made by (i) certified or registered mail, return receipt requested, (ii) nationally recognized overnight delivery service, or (iii) personal delivery. For any notice relating to a breach or termination hereof to be effective against Supplier, a copy of such notice shall be sent to Brenntag North America, Inc., 5083 Pottsville Pike, Reading, PA 19605, Attention: General Counsel. Notice shall be effective on the date on which it is actually received or refused by the addressee. Notices shall be sent to the addresses specified below, which the Parties agree to promptly update as necessary.

Any written notice to Supplier shall be sent to:

Brenntag Pacific, Inc.  
10747 Patterson Place  
Santa Fe Springs, CA 90670

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

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

- 12.15.1** Each party shall designate a senior management or executive level representative to negotiate any dispute.
- 12.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 12.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails after thirty (30) days of legal counsel's involvement, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 12.15.4** The mediation process shall provide for the selection by both Parties within fifteen (15) days of the failure of resolution by legal counsel of a disinterested third person as mediator, shall be commenced within thirty (30) days of selection of a mediator and shall be concluded within fifteen (15) days from the commencement of the mediation. The mediator shall be knowledgeable in either the chemical or distribution industry and knowledgeable regarding public agencies. Mediation shall take place in Placer County, California or such other location as the Parties mutually agree.
- 12.15.5** Each Party shall bear its own costs relating to the mediation irrespective of its outcome, provided, however that the Parties shall equally bear all other costs of mediation, including the costs of any third party mediator.
- 12.15.6** The mediator shall be empowered to award money damages, but shall not be empowered to award any damages precluded by this Agreement, or injunctive or any other equitable relief. Nothing in this Agreement shall preclude either Party from seeking injunctive or equitable relief in accordance with applicable law or seeking redress from the courts for any dispute involving a third party.
- 12.15.7** 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.*

- 12.16 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 12.17 Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 12.18 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 12.19 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the Parties hereto, with no intent to benefit any non-signator third parties.
- 12.20 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.


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

NORTHERN CALIFORNIA POWER AGENCY

BRENNTAG PACIFIC, INC.

Date: 10/14/19

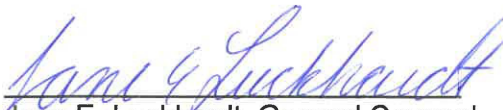
Date: 8/30/2019

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

  
\_\_\_\_\_  
**TIM DEAL,**  
Vice President

Attest:   
\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

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



## EXHIBIT A

### PURCHASE LIST

As requested by Agency, Supplier shall provide supplies ("Goods") including, but not limited to the following:

Anhydrous Ammonia (R Grade)	No Quote
Aqueous Ammonia 19%	\$ 0.49 / Lb
Hydrated Lime 90%	\$ 420.00 / Ton
MagOx 93	\$ 672.00 / Ton
Magnesium Sulfate 30%	No Quote
Sodium Bisulfite 40%	\$ 0.37 / Lb
Sodium Hydroxide 15% (Caustic Soda)	No Quote
Sodium Hypochlorite 12.5% (Bleach)	\$ 0.136 / Lb
Sulfuric Acid 93%	No Quote

All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any and all jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change every six to twelve (6 -12) months. NCPA shall compensate Supplier in accordance with such price list revisions, provided, however, that (1) Supplier shall provide NCPA with written notice of such bi-annual revisions thirty (30) days in advance; and (2) regardless of such price list revisions, total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount set forth in Section 6 (Compensation) of this Agreement.

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

**EXHIBIT B**

**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, Tim Deal V.P. Southern Region

(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

BRENNTAG PACIFIC, 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.

Tim Deal

(Signature of officer or agent)

Dated this 30th day of Aug., 2019.

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 C

CERTIFICATION

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

I, Tim Deal V.P. Southern Region,

(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,

BRENNTAG PACIFIC, INC.

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

Tim Deal  
(Signature of officer or agent)

Dated this 30th day of Aug., 2019

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 AGREEMENT FOR PURCHASE OF SUPPLIES  
BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND BRENNTAG PACIFIC, INC.**

This First Amendment (“Amendment”) to the Multi-Task Agreement for Purchase of Supplies is entered into by and between the Northern California Power Agency (“Agency”) and Brenntag Pacific, Inc. (“Supplier”) (collectively referred to as “the Parties”) as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task Agreement for Purchase of Supplies dated effective October 14, 2019, (the “Agreement”) for Supplier to provide chemicals at any of the NCPA Facilities; and

WHEREAS, the Agency relies on chemicals purchased from the Supplier for ongoing operations; and

WHEREAS, negotiations for a renewal contract are taking longer than anticipated, and a new agreement is not likely to be executed prior to expiration of the current contract; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement for an additional 6-month period from the original expiration date of October 14, 2024 to a new expiration date of April 14, 2025; and

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

WHEREAS, in accordance with Section 12.20 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 3—Term and Termination of Agreement** of the Agreement is amended and restated to read in full as follows:

This Agreement shall begin on the Effective Date and shall end no later than April 14, 2025, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.

///

///

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

BRENNTAG PACIFIC, INC.

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

\_\_\_\_\_  
**TOM CRAIN, 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.:12

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**Meeting Date:** September 9, 2024

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

**Subject:** Hill Brothers Chemical Company – First Amendment to Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

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### Proposal

Approve the First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Hill Brothers Chemical Company for chemical purchases, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from October 25, 2024 to April 25, 2025, with the not to exceed amount to remain unchanged at \$2,500,000, for continued use at any facilities owned and/or operated by NCPA.

### Background

Chemical purchases are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Hill Brothers Chemical Company effective October 25, 2019, for use at all NCPA facilities. NCPA relies on chemicals purchased from the Supplier for ongoing operations. NCPA initiated the renewal agreement process in January 2024 and negotiations are still on-going. NCPA and Hill Brothers desire to amend the existing agreement expiration from October 25, 2024 to April 25, 2025 to allow for continued chemical purchases until the renewal agreement is completed. NCPA has agreements in place for similar services with Airgas Specialty Products, Brenntag Pacific, Inc., Industrial Solutions, Northstar Chemical, Thatcher Company of CA, Inc. and Univar Solutions (pending).

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement will be not to exceed \$2,500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Hill Brothers Chemical Company
- First Amendment to Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Hill Brothers Chemical Company



**MULTI-TASK  
AGREEMENT FOR PURCHASE OF  
EQUIPMENT, MATERIALS AND SUPPLIES  
BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
HILL BROTHERS CHEMICAL COMPANY**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Hill Brothers Chemical Company, ("Supplier"), whose principal office is located at 3000 E. Birch Street, Suite 108, Brea, CA 92821 (together sometimes referred to as the "Parties") as of October 25, 2019 (the "Effective Date").

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

**Section 2. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency. The "designated Project Site," as that term is used herein, shall mean the site for delivery, DDP.

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

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

**Section 5. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.



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

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

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

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

- 6.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 6.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

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

**6.5 All Policies Requirements.**

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

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

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

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

**6.5.5 Additional Certificates and Endorsements.** Not Applicable.

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

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

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

**Section 8. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.**

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

discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

## **Section 9. MISCELLANEOUS PROVISIONS.**

- 9.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 9.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 9.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 9.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 9.10 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

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

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

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

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

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

Hill Brothers Chemical Company  
Attention: Frank Alari  
3000 E. Birch Street, Suite 108  
Brea, CA 92821

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

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

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



- 9.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 9.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 9.15.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 9.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 9.15.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 9.16** **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 9.17** **Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 9.18** **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19** **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 9.20** **Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

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

NORTHERN CALIFORNIA POWER AGENCY

HILL BROTHERS CHEMICAL COMPANY

Date: 10/25/19  
Randy S. Howard

**RANDY S. HOWARD,**  
General Manager

Date: 11/07/19  
Frank Alari

**FRANK ALARI,**  
Regional Sales Manager

Attest:

[Signature]

Assistant Secretary of the Commission

Approved as to Form:

[Signature]  
Jane E. Luckhardt, General Counsel

**EXHIBIT A**

**PURCHASE LIST**

As requested by Agency, Supplier shall provide supplies ("Goods") including, but not limited to the following:

<u>Product</u>	<u>Pricing</u>
Anhydrous Ammonia (R Grade)	\$540/ton + \$525.60 delivery charge
Aqueous Ammonia 19%	\$0.38/Lb delivered
Hydrated Lime 90%	
MagOx 93 HR 325	\$708/ton FOB Gabs, NV PPA \$41.86/ton + 30% fuel surcharge
Magnesium Sulfate 30%	
Sodium Bisulfite 40%	
Sodium Hydroxide 15% (Caustic Soda)	
Sodium Hypochlorite 12.5% (Bleach)	
Sulfuric Acid 93%	

All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any and all jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change every six to twelve (6 -12) months. NCPA shall compensate Supplier in accordance with such price list revisions, provided, however, that (1) Supplier shall provide NCPA with written notice of such bi-annual revisions thirty (30) days in advance; and (2) regardless of such price list revisions, total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount set forth in Section 5 (Compensation) of this Agreement.



**EXHIBIT B**  
**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, Frank Alari, Regional Sales Manager,

(Name of person signing affidavit)(Title)

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

HILL BROTHERS CHEMICAL COMPANY

(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 7 day of OCTOBER, 2019.

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 C**  
**CERTIFICATION**

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

I, Frank Alari, Regional Sales Manager,

(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,

HILL BROTHERS CHEMICAL COMPANY

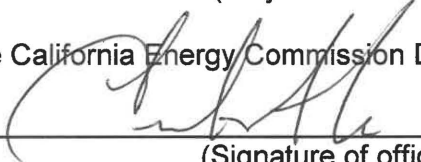
(Company name)

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 7 day of OCTOBER, 2019.

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 AGREEMENT FOR PURCHASE OF EQUIPMENT,  
MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND HILL BROTHERS CHEMICAL  
COMPANY**

This First Amendment ("Amendment") to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Hill Brothers Chemical Company ("Supplier") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies dated effective October 25, 2019, (the "Agreement") for Supplier to provide chemicals at any of the NCPA Facilities; and

WHEREAS, the Agency relies on chemicals purchased from the Supplier for ongoing operations; and

WHEREAS, negotiations for a renewal contract are taking longer than anticipated, and a new agreement is not likely to be executed prior to expiration of the current contract; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement for an additional 6-month period from the original expiration date of October 25, 2024 to a new date of April 25, 2025; and

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

WHEREAS, in accordance with Section 9.20 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 3—Term of Agreement** of the Agreement is amended and restated to read in full as follows:

This Agreement shall begin upon Effective Date and shall end no later than April 25, 2025, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.

///

///

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

HILL BROTHERS CHEMICAL COMPANY

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

\_\_\_\_\_  
**PATRICIA SANTANA, Corporate Secretary**

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.:13

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**Meeting Date:** September 9, 2024

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

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

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### Proposal

Approve the First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Thatcher Company of California, Inc. for chemical purchases, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from November 25, 2024 to May 25, 2025, with the not to exceed amount to remain unchanged at \$2,500,000, for continued use at any facilities owned and/or operated by NCPA.

### Background

Chemical purchases are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Thatcher Company of California, Inc. effective November 25, 2019, for use at all NCPA facilities. NCPA relies on chemicals purchased from the Supplier for ongoing operations. NCPA initiated the renewal agreement process in January 2024 and negotiations are still on-going. NCPA and Thatcher desire to amend the existing agreement expiration from November 25, 2024 to May 25, 2025 to allow for continued chemical purchases until the renewal agreement is completed. NCPA has agreements in place for similar services with Airgas Specialty Products, Brenntag Pacific, Inc., Hill Brothers Chemical Company, Industrial Solutions, Northstar Chemical and Univar Solutions (pending).

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement will be not to exceed \$2,500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Thatcher Company of California, Inc.
- First Amendment to Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Thatcher Company of California, Inc.



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

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Thatcher Company of California, Inc. ("Supplier"), whose principal office is located at 8625 Unsworth Avenue, Sacramento, CA 95828 (together sometimes referred to as the "Parties") as of November 25, 2019 (the "Effective Date").

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

**Section 2. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency. The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP.

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

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



**Section 5. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

- 5.2 Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.

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

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

- 6.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering



all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.

- 6.3 Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.
- 6.4 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 6.5 All Policies Requirements.**
- 6.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.
- 6.5.2 Notice of Reduction in or Cancellation of Coverage.** Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.
- 6.5.3 Waiver of Subrogation.** Supplier agrees to waive subrogation which any insurer of Supplier may acquire from Supplier by virtue of the payment of any loss. Supplier agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.
- 6.5.4 Self-Insured Retention.** Supplier shall declare the amount of the self-insured retention to the Agency; the amount shall be not more than \$100,000.
- 6.6 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand

dollars (\$250,000) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

**Section 7. SELLER'S LIMITED WARRANTY: SUBJECT TO THE LIMITATIONS LISTED BELOW.**

Seller warrants that at the time of delivery the goods will conform to the attached specifications, that Seller will convey good title thereto, and that the goods will be delivered free from any lawful security interest, lien or encumbrance.

EXCLUSION AND DISCLAIMER OF ALL OTHER WARRANTIES : THE LIMITED WARRANTIES LISTED ABOVE ARE SELLERS SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO THE GOODS. SELLER MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED , WHETHER WITH RESPECT TO ITS RECOMMENDATIONS , INSTRUCTIONS, GOODS , APPARATUS , PROCESS OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY , SUITABILITY , FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.

**LIMITATIONS OF REMEDIES AND SELLER'S LIABILITY:**

- (a) BUYER'S EXCLUSIVE REMEDY AND SELLER'S TOTAL LIABILITY TO BUYER FOR CLAIMS , AS DEFINED IN SUBPARAGRAPHS (b) BELOW, IS EXPRESSLY LIMITED AS FOLLOWS: BUYER HAS THE OPTION OF REPAYMENT OF THE PURCHASE PRICE PAID OR REPLACEMENT OF THE GOODS SUPPLIED HEREUNDER WITH RESPECT TO WHICH DAMAGES ARE CLAIMED. BUYER WAIVES ALL OTHER CLAIMS BY BUYER AGAINST SELLER AND SELLER SHALL NOT BE LIABLE TO BUYER FOR ANY INCIDENTAL , CONSEQUENTIAL, SPECIAL , EXEMPLARY OR PUNITIVE DAMAGES, EXCEPT IN CASES OF GROSS NEGLIGENCE. THE PRICE STATED FOR THE GOODS IS A CONSIDERATION IN LIMITING SELLERS AND ITS AFFILIATES' LIABILITY .

- (b) "CLAIMS" MEANS ALL ASSERTIONS OF ANY LEGAL, EQUITABLE, AND/OR ADMIRALTY CAUSES OF ACTION, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE; STRICT LIABILITY; OTHER TORT; EXPRESS OR IMPLIED WARRANTIES, INDEMNITY OR CONTRACT; CONTRIBUTION; OR SUBROGATION RELATED TO OR ARISING OUT OF THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT.

ALL LIMITATIONS ON BUYER'S REMEDIES AND SELLER'S LIABILITY SHALL SURVIVE THE EXPIRATION, TERMINATION OR CANCELLATION OF THIS CONTRACT.

NOTICE OF CLAIMS: All product claims by Buyer shall be deemed waived unless made by Buyer in writing and received by Seller within thirty (30) days of receipt of the goods; provided that for any claim which is not readily discoverable within such 30 day period such claim shall be deemed waived unless made by Buyer in writing and received by Seller within 90 days after receipt of the goods or within 30 days after Buyer learns or should have been reasonably aware of facts which should have given rise to such claim, whichever first occurs.

## **Section 8. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.**

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

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

## **Section 9. MISCELLANEOUS PROVISIONS.**

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

- 9.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 9.10 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 9.11 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 9.12 Conflict of Interest.** Supplier may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Supplier in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Supplier shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 9.13 Contract Administrator.** This Agreement shall be administered by 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.
- 9.14 Notices.** Any written notice to Supplier shall be sent to:

Thatcher Company of California, Inc.  
Attention: Craig N. Thatcher, President  
P.O. Box 27407  
Salt Lake City, Utah 84127-0407

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

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

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

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

- 9.17 Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 9.18 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 9.20 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.
- 9.21 Force Majeure.**
- a) Performance of any obligation under this contract may be suspended by the party so affected without liability in the event of an Act of God; war; fire; flood; strike; explosion; labor trouble; mechanical breakdown; accident, riot, governmental action, laws, regulations or orders (including, but not limited to, pollution, health, ecology or environmental matters); Seller's inability to obtain fuel, power, raw materials, or equipment used in connection therewith on terms it deems practicable; or any other cause beyond the reasonable control of either party interfering with the production, supply, transportation or consumption practice of the party at the time which delays, prevents, restricts, limits or renders commercially infeasible, the performance of this contract or the consumption, sale or use of the goods, except as to the goods already in transit.
  - b) The affected party may invoke subparagraph (a) or (b) by promptly notifying the other party in writing of the nature and the estimated duration of the suspension or cancellation of the party's performance. The total quantity hereunder shall be reduced by the quantity not delivered during the term of the suspension or cancellation without liability, and the contract shall otherwise remain unaffected. In no event shall Seller be required to ship the goods from Seller's or, if applicable, its affiliates' other locations or to purchase the goods or components thereof from other sources to fulfill the contract requirements. Seller may, without liability, allocate its supply of such goods or raw materials among its own uses, or distribute it among its customers upon such basis and in such manner as Seller deems fair and reasonable, provided that any goods or raw materials obtained by Seller from a third party solely for Seller's internal use are not subject to allocation.



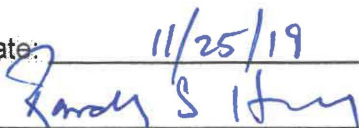
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY  
INC.

THATCHER COMPANY OF CALIFORNIA,

Date:


11/25/19

  
RANDY S. HOWARD,  
General Manager


Date: October 10, 2019

  
CRAIG THATCHER, President

Attest:

  
Assistant Secretary of the Commission

Approved as to Form:

  
Jane E. Luckhardt, General Counsel



**EXHIBIT A**  
**PURCHASE LIST**

As requested by Agency, Supplier shall provide supplies ("Goods") including, but not limited to the following:

Anhydrous Ammonia (R Grade)	No Quote
Aqueous Ammonia 19%	No Quote
Hydrated Lime 90%	No Quote
MagOx 93 HR 325	No Quote
Magnesium Sulfate 30%	No Quote
Sodium Bisulfite 40%	\$ 0.425 / lb
Sodium Hydroxide 15% (Caustic Soda)	\$ 0.72 / lb
Sodium Hypochlorite 12.5% (Bleach)	\$ 0.878 / GL
Sulfuric Acid 93%	\$ 0.09 / lb

All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any and all jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change every six to twelve (6 -12) months. NCPA shall compensate Supplier in accordance with such price list revisions, provided, however, that (1) Supplier shall provide NCPA with written notice of such bi-annual revisions thirty (30) days in advance; and (2) regardless of such price list revisions, total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount set forth in Section 5 (Compensation) of this Agreement.

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

**EXHIBIT B**  
**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, Craig Thatcher, President

(Name of person signing affidavit)(Title)

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

THATCHER COMPANY OF CALIFORNIA, 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 10th day of October, 20 19.

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

**EXHIBIT C**  
**CERTIFICATION**

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

I, Craig Thatcher, President

(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,

THATCHER COMPANY OF CALIFORNIA, INC.

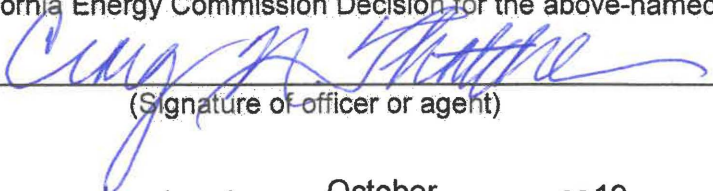
(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

  
(Signature of officer or agent)

Dated this 10th day of October, 2019.

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 AGREEMENT FOR PURCHASE OF EQUIPMENT,  
MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND THATCHER COMPANY OF  
CALIFORNIA, INC.**

This First Amendment ("Amendment") to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Thatcher Company of California, Inc. ("Supplier") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies dated effective November 25, 2019, (the "Agreement") for Supplier to provide chemicals at any of the NCPA Facilities; and

WHEREAS, the Agency relies on chemicals purchased from the Supplier for ongoing operations; and

WHEREAS, negotiations for a renewal contract are taking longer than anticipated, and a new agreement is not likely to be executed prior to expiration of the current contract; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement for an additional 6-month period from the original expiration date of November 25, 2024 to a new date of May 25, 2025; and

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

WHEREAS, in accordance with Section 9.20 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 3—Term of Agreement** of the Agreement is amended and restated to read in full as follows:

This Agreement shall begin upon Effective Date and shall end no later than May 25, 2025, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.

///

///

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

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

NORTHERN CALIFORNIA POWER AGENCY  
INC.

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

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

THATCHER COMPANY OF CALIFORNIA,

\_\_\_\_\_  
**MICHAEL MITCHELL, 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.:14

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**Meeting Date:** September 9, 2024

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

**Subject:** Matheson Tri-Gas, Inc. – First Amendment to Five Year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

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### Proposal

Approve the First Amendment to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Matheson Tri-Gas, Inc. for gases purchases, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from October 24, 2024 to April 24, 2025 and amending the self-insured retention amount from not more than \$500,000 to not more than \$2,000,000, with the not to exceed amount to remain unchanged at \$1,000,000, for continued use at any facilities owned and/or operated by NCPA.

### Background

CEMS gases are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five year Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Matheson Tri-Gas, Inc. effective October 24, 2019, for use at all NCPA facilities. NCPA relies on CEMS gases from the Supplier for ongoing operations. NCPA initiated the renewal agreement process in March 2024 and negotiations are still on-going. NCPA and Matheson desire to amend the existing agreement expiration from October 24, 2024 to April 24, 2025 to allow for continued CEMS gases purchases until the renewal agreement is completed. Matheson also desires to amend the self-insured retention amount from not more than \$500,000 to not more than \$2,000,000. NCPA has agreements in place for similar services with Airgas USA, LLC (GEO only) and North Bay Gas.

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Matheson Tri-Gas, Inc.
- First Amendment to Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Matheson Tri-Gas, Inc.





**MULTI-TASK  
AGREEMENT FOR PURCHASE OF  
EQUIPMENT, MATERIALS AND SUPPLIES  
BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
MATHESON TRI-GAS, INC.**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Matheson Tri-Gas, Inc., ("Supplier"), whose principal office is located at 3080 North State Street, Ukiah, CA 95482 (together sometimes referred to as the "Parties") as of October 24, 2019 (the "Effective Date").

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

**Section 2. PROJECT SITE.** Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement.

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

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

**Section 5. COMPENSATION.** Agency hereby agrees to pay Supplier for the Goods an amount not to exceed ONE MILLION dollars (\$1,000,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable), insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.



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

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

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

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

- 6.1 **Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 **Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.
- 6.3 **Commercial General Liability (CGL).** Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

- 6.4 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 6.5 All Policies Requirements.**
- 6.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.
- 6.5.2 Notice of Reduction in or Cancellation of Coverage.** Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.
- 6.5.3 Waiver of Subrogation.** Supplier agrees to waive subrogation which any insurer of Supplier may acquire from Supplier by virtue of the payment of any loss. Supplier agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.
- 6.5.4 Self-Insured Retention.** Supplier shall declare the amount of the self-insured retention to the Agency; the amount shall be not more than \$500,000.
- 6.5.5 Additional Certificates and Endorsements.** Not Applicable
- 6.6 Pollution Insurance** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).
- "Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed, or controlled pursuant to any national, state, or local law, statute, ordinance, directive, regulation, or other legal requirement of the United States.

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

**Section 8. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.**

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

discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

## **Section 9. MISCELLANEOUS PROVISIONS.**

- 9.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 9.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 9.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 9.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 9.10 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.



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

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

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

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

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

Elijah Smolen  
Regional General Manager  
Matheson Tri-Gas, Inc.  
3080 North State 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

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

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

- 9.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 9.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 9.15.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 9.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 9.15.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 9.16** **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 9.17** **Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.
- 9.18** **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19** **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 9.20** **Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

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

NORTHERN CALIFORNIA POWER AGENCY

MATHESON TRI-GAS, INC.

Date: 11/20/19

Date: 10/24/19

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

Eljah Smolen  
**ELIJAH SMOLEN, General Manager**

Attest:

[Signature]  
Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt  
Jane E. Luckhardt, General Counsel

## EXHIBIT A

### PURCHASE LIST

Supplier shall provide Goods as requested by the Northern California Power Agency ("Agency"), at any facility locations owned and/or operated by Agency.

Lodi Energy Center (LEC)								
EPA Protocols	Product Description	Cylinder Size	Purity	Cylinder Price \$	Quantity needed on Hand at Site	Frequency Month / Quarter / Yearly	Notes	Rental Cylinder Specialty Codes
Certified Mixes	8.5ppm NH3/bal Air	150A(141 cf)	Cert	\$ 400.00	1	Every 2-3 years	HX G2690175	
	2.5ppm NO/bal N2	150A(141 cf)	EPA	\$ 198.00	1	Every 2-3 years	HX G2678039	HEI
	5.5ppm NO/bal N2	150A(141 cf)	EPA	\$ 198.00	2	1 Every 2 months	HX G2671789	HEI
	90ppm NO/bal N2	150A(141 cf)	EPA	\$ 198.00	2	1 Every 2-3 years	HX G2673459	HEI
	2.5ppm NO/2.5ppm CO/bal N2	150A(141 cf)	EPA	\$ 302.00	1	Every 2-3 years	HX G2676615	HEI
	5.5ppm NO/5.5ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2680595	HEI
	25ppm NO/800ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2696151	
	55ppm NO/1700ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2696152	
	9ppm NO/9ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	2	1 Every 2 months	HX G2680537	HEI
	90ppm NO/2500ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	2	1 Every 2-3 years	HX G2696153	
	18% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	2	1 Every 2 months	HX G2673287	HEI
	5.5% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	1	Every 2-3 years	HX G2672426	HEI
	11% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	1	Every 2-3 years	HX G2673286	HEI
	25ppm NO/bal N2	150A(141 cf)		\$ 198.00	1	Every 2-3 years	HX G2672865	HEI
	54ppm NO/bal N2	150A(141 cf)		\$ 198.00	1	Every 2-3 years	HX G2675481	HEI
	Chromatograph Cal Gas	150A(141 cf)		\$ 684.00	1	Every 2-3 years	HX G2173101	
	Helium, Ultra High Purity 5.0	300 cf		\$ 300.00	2	1 Every 2 months	HE UHP1L	SGL
	Nitrogen CEMS (99.9999%) Grade	255 cf	CEMS	\$ 405.00	2	1 Every 2 months	HX G2173101	SGL
STIG (CT2)								
EPA Protocols	Product Description	Cylinder Size	Purity	Cylinder Price \$	Quantity needed on Hand at Site	Frequency Month / Quarter / Yearly	Notes	Rental Cylinder Specialty Codes
Certified Mixes	22.5% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	2	1 Every 2 months	HX G2676491	HEI
	13.75% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	1	Every 2-3 years	HX G2672880	HEI
	6.25% O2/bal N2	150A(141 cf)	EPA	\$ 176.00	1	Every 2-3 years	HX G2672829	HEI
	9ppm NO/bal N2	150A(141 cf)	EPA	\$ 198.00	2	1 Every 2 months	HX G2673071	HEI
	5.5ppm NO/bal N2	150A(141 cf)	EPA	\$ 198.00	1	Every 2-3 years	HX G2671789	HEI
	2.5ppm NO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2678039	HEI
	90ppm NO/45ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	2	1 Every 2 months	HX G2696145	HEI
	55ppm NO/27.5ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2696146	HEI
	25ppm NO/12.5ppm CO/bal N2	150A(141 cf)	EPA	\$ 220.00	1	Every 2-3 years	HX G2696147	HEI



Shared Gases								
Industrial	Product Description	Cylinder Size	Purity	Cylinder Price \$	Quantity needed on Hand at Site	Frequency Month / Quarter / Yearly	Notes	Rental Cylinder Specialty Codes
	Argon - Industrial	60 Ind		\$ 40.00			AR 60	HPS
	Propylene	30 Ind		\$ 62.48			FG 30	PR
	Liquid N2	180 Liters	Ind	\$ 125.00	2	1 Every 2 months	NI 180	LC
	Nitrogen	250 Ind		\$ 30.00	2	1 Every 2 months	NI 250	HPL
	Oxygen - Industrial	250 Ind		\$ 25.00	2	1 Every 2 months	OX 250	HPL
	Acetylene	Size 4	Ind	\$ 75.00			AC SM	ACL
	Argon - Industrial	300 Ind		\$ 80.00			AR 300	HPL
	Sulfur Hexafluoride	200 CP		\$ 2,371.00	1	Every 2-3 years	HG G1186101	HEI

All EPA protocol and certified gas mixes will be supplied in aluminum 150A size cylinders unless otherwise specified.

Monthly Cylinder Rentals: \$5.50 Per Month (Per Cylinder), \$1.50 Per Day for Liquid Nitrogen (per Cylinder) If Applicable

Delivery Charges: \$25.00 Per Delivery, If Applicable

Hazmat Fee: \$7.50 Per Delivery, If Applicable

Miscellaneous Material Purchases: Discounts generally range from 10-30%, can vary depending on product.

Additional products not listed above will be quoted at the time of request.

**EXHIBIT B**

**CERTIFICATION**

**Affidavit of Compliance for Suppliers**

I, Elijah Smolen

(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

Matheson Tri Gas

(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.

E Smolen

(Signature of officer or agent)

Dated this 14 day of November, 2019.

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 C**

**CERTIFICATION**

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

I, Elijah Smolen

(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,

Matheson Tri-Gas

(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.

E Smolen  
(Signature of officer or agent)

Dated this 14 day of November, 20 19

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



**FIRST AMENDMENT TO MULTI-TASK AGREEMENT FOR PURCHASE OF EQUIPMENT,  
MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND MATHESON TRI-GAS, INC.**

This First Amendment ("Amendment") to the Multi-Task Agreement for Purchase of Equipment, Materials and Supplies is entered into by and between the Northern California Power Agency ("Agency") and Matheson Tri-Gas, Inc. ("Supplier") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies dated effective October 24, 2019, (the "Agreement") for Supplier to provide CEMS gases, supplies and associated materials at any of the NCPA Facilities; and

WHEREAS, the Agency relies on the products purchased from the Supplier for ongoing operations; and

WHEREAS, negotiations for a renewal contract are taking longer than anticipated, and a new agreement is not likely to be executed prior to expiration of the current agreement; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement for an additional 6-month period from the original expiration date of October 24, 2024 to a new date of April 24, 2025; and

WHEREAS, the Supplier now desires to amend the self-insured retention amount from not more than \$500,000 to not more than \$2,000,000; and

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

WHEREAS, in accordance with Section 9.20 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 3 - Term of Agreement** of the Agreement is amended and restated to read in full as follows:

This Agreement shall begin upon Effective Date and shall end no later than April 24, 2025, unless the term of the Agreement is otherwise terminated or modified, as provided for herein.

2. **Section 6.5.4 – Self-Insured Retention** of the Agreement is amended and restated to read in full as follows:

Supplier shall declare the amount of self-insured retention to the Agency; the amount shall be not more than \$2,000,000.

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

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

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

MATHESON TRI-GAS, INC.

\_\_\_\_\_  
**CHRISTOPHER T. GEISER, Zone  
Vice 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:** September 9, 2024

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

**Subject:** Southern Counties Lubricants, LLC – Five Year Multi-Task General Services Agreement and Purchase of Equipment, Materials and Supplies; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

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### Proposal

Approve the Multi-Task General Services and Purchase of Equipment, Materials and Supplies with Southern Counties Lubricants, LLC for oil analysis and related supplies, on-site and off-site oil filtration services, and purchase of miscellaneous lubricants, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years for use at all facilities owned and/or operated by NCPA.

### Background

Oil analysis and related supplies, on-site and off-site oil filtration services, and purchase of miscellaneous lubricants are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA currently has an agreement in place with Southern Counties Lubricants, LLC, which is expiring. NCPA has utilized this vendor in the past, and has a good working relationship with the vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future projects. NCPA has agreements in place for similar services with Westgate Petroleum Company, Inc, Nick Barbieri Trucking LLC dba Redwood Coast Fuels, and Valley Pacific Petroleum Service, 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 \$1,500,000 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 and Purchase of Equipment, Materials and Supplies with Southern Counties Lubricants, LLC



**MULTI-TASK GENERAL SERVICES AGREEMENT AND PURCHASE OF  
EQUIPMENT, MATERIALS AND SUPPLIES BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
SOUTHERN COUNTIES LUBRICANTS, LLC**

This agreement for general services and purchase of equipment, materials, and supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Southern Counties Lubricants, LLC, a limited liability company with its office located at Payment Address: P.O. Box 5765, Orange, CA 92863; Physical Address: 992 Hensley Street, Richmond, CA 94801 ("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 equipment, materials, and supplies ("Goods") described in the Scope of Work attached hereto as Exhibit A and incorporated herein (both services and Goods collectively referred to as "Work" herein). Contractor shall be responsible at its sole expense for delivering the Goods, as further specified herein, to the specified Project Site, DDP, and title shall not pass until the Agency accepts delivery at the Site. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 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 consistent with the terms of this Agreement.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be



completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** ONE MILLION FIVE-HUNDRED THOUSAND dollars (\$1,500,000) 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.

For Goods: Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for Goods delivered prior to the invoice date. Contractor shall include the number of the Purchase Order which authorized the Goods for which Contractor is seeking payment.

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 left blank.

**4.4 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

**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.** Not Applicable.

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

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

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

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

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

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

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

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

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

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

Contractor shall 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.

### **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 Generation 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:

Southern Counties Lubricants, LLC  
992 Hensley Street  
Richmond, CA 94801

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.

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

NORTHERN CALIFORNIA POWER AGENCY

SOUTHERN COUNTIES LUBRICANTS,  
LLC

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**BRETT LEGGITT, Division Manager**

Attest:

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

Approved as to Form:

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



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

Southern Counties Lubricants, LLC ("Contractor") shall provide, but not limited to oil analysis and related supplies, on-site and off-site oil filtration services , and purchase of miscellaneous lubricants as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency:

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

- Lubricant Purchases
- Hydraulic Fluids
- Turbine Oils
- Solvents / Thinners
- Vacuum Dehydration Services
- Vanish Removal
- On & Off-Site Training Services for Operators, Oil Handling Equipment, etc.

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:

SCL Daily Labor Rates Covers - Wage, Overtime

Project Manager - \$1,800 per day/ per 12 Hr. day

Technician Time- \$1,500 per day/ per 12 Hr. day

NOTE: Personnel required for 24 hours projects require a minimum 1 Project Manager and 2 Technicians to be onsite, some projects may require more depending on scope of work.)

Mobilization Fee: \$1,650 – Standard Rate

Demobilization Fee: \$1,650 - Standard Rate

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

---

(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.

**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:** September 9, 2024

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

**Subject:** MP Environmental Services, Inc. – First Amendment to Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities

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### Proposal

Approve the First Amendment to the Multi-Task General Services Agreement with MP Environmental Services, Inc. for general maintenance services, including removal and disposal of sulfur bins, hazardous material, phase separators, and vacuum truck services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$3,000,000 to \$4,000,000, with no change to the contract term, for continued use at any facilities owned and/or operated by NCPA.

### Background

General maintenance services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA entered into a five-year Multi-Task General Services Agreement with MP Environmental Services, Inc., effective November 19, 2020, for an amount not to exceed \$3,000,000, for use at any facilities owned and/or operated by NCPA.

This agreement has been primarily used by the Geothermal Facility for sulfur hauling and bin rental services, and is now running low on funds. NCPA desires to enter into a First Amendment to the current Multi-Task General Services Agreement, increasing the not to exceed amount from \$3,000,000 to \$4,000,000 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 has an agreement in place for similar services with Gifford's Backhoe Services, Ancon Marine dba Ancon, Republic Services, Inc. dba Advanced Chemical Transport, LLC dba ACTenviro.

### 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 \$3,000,000 to \$4,000,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with MP Environmental Services, Inc.
- First Amendment to Multi-Task General Services Agreement with MP Environmental Services, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
MP ENVIRONMENTAL SERVICES, INC**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and MP Environmental Services, Inc., a California corporation with its office located at 3400 Manor Street, Bakersfield, CA 93308 ("Contractor") (together sometimes referred to as the "Parties") as of November 19, 2020 ("Effective Date") in Roseville, California.

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

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency.
- 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 THREE MILLION** dollars (\$3,000,000) 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 based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Not Applicable

- 4.4 Pollution Insurance.** If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

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

**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.** Not Applicable

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

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

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

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
- 5.3 Transfer of Title.** 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 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 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. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. 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 shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or

other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

- 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.

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

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

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

Gina Blankenship  
Facility Manager  
MP Environmental Services, Inc.  
3400 Manor Street  
Bakersfield, CA 93308

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.

#### **SIGNATURES ON FLOWING PAGE**

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

NORTHERN CALIFORNIA POWER AGENCY

MP ENVIRONMENTAL SERVICES, INC.

Date 11/19/20

Date OCT 13, 2020

  
RANDY S. HOWARD, General Manager

  
GINA BLANKENSHIP, Facility Manager

Attest:

  
Assistant Secretary of the Commission

Approved as to Form:

  
Jane E. Luckhardt, General Counsel



## **EXHIBIT A**

### **SCOPE OF WORK**

MP Environmental Service, Inc. ("Contractor") shall provide miscellaneous maintenance services which include labor, tools and vehicles to perform services as requested by Northern California Power Agency ("Agency") at any facilities owned and/or operated by Agency.

Services include but not limited to the following:

- Removal and replacement of sulfur bins
- Phase separators
- Vacuum truck services
- Provide, remove and disposal of debris/garbage bins (roll-top)
- Removal and disposal of hazardous material
- As requested, and on an occasional basis, provide labor for outages such as cleaning cooling tower basins and mercury tank rollover of media

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:



### RATE SCHEDULE for Northern California Power Agency October 2020

#### General Terms and Conditions

- Rates based upon current General Prevailing Wage Determinations as published by California DIR. MP reserves the right to adjust rates based upon changes to applicable DIR Wage Determinations
- All rates are portal to portal from facility which dispatches equipment unless otherwise specified
- Rates not listed on this schedule will be furnished upon request
- All transportation services, field labor and equipment are subject to a 4-hour minimum charge
- Daily equipment rates are based upon 8-hours per day
- A variable Environmental & Energy Surcharge will apply to all charges
- Any disposal and/or laboratory analysis will be billed at cost plus 15%.
- Any subcontract services, equipment or materials not listed will be billed at cost plus 15%.
- Decontamination Requirements: Due to federal requirements, MP equipment must be decontaminated after every customer or waste stream usage. This may be performed at the disposal site, customer's location or an off-site facility. If performed at the customer location, the charges will be per MP's time and materials rate. If MP must go to an off-site facility, the charges will be billed at cost, plus 15% for the wash plus MP's time and materials rate.
- Only MP Environmental Service's personnel are authorized to deliver, pick up, operate or transfer MP equipment.



## MP Environmental Services – Rate Schedule

### Labor – California Prevailing Wage

Labor Classifications	ST	OT	PT
Project Manager	\$105.00	\$130.00	\$155.00
Supervisor	\$95.00	\$120.00	\$145.00
Health & Safety Coordinator	\$95.00	\$120.00	\$145.00
Equipment Operator	\$95.00	\$120.00	\$145.00
Technicians	\$75.00	\$95.00	\$105.00

#### Definitions:

Straight Time (ST)	First eight (8) hours in a work day, Monday through Friday
Over Time (OT)	Any time over eight (8) hours in a workday, the first eight (8) hours on a Saturday.
Premium Time (PT)	Any time over twelve (12) consecutive hours in a workday. All day on Sunday and the following holidays: <div><div>New Year's Day Memorial Day Independence Day Labor Day</div><div>Thanksgiving Day Day after Thanksgiving Christmas Day</div></div>
Emergency Response	Rates will be established at 1.50 times the appropriate rate for labor and equipment.
Per Diem	When applicable, will be at standard government rate based on work location



## MP Environmental Services – Rate Schedule

### Personal Protective Equipment

Protection Levels/PPE:	Rate	UOM
Level A (Composite Suit + Supplied Air)	\$450.00	Day/Person
Level B (Supplied Air)	\$225.00	Day/Person
Level B (Modified)	\$100.00	Day/Person
Level C	\$75.00	Day/Person
Level C (Modified)	\$65.00	Day/Person
Level D	\$35.00	Day/Person

### Transportation Services

Transportation Equipment (Operated)	Rate – ST	Rate – OT	Rate - PT	UOM
Roll Off Truck– Single or Double	\$ 98.00	\$ 115.00	\$ 135.00	Hour
Vacuum Tank – 120 to 140 bbl, Mild or Stainless	\$ 98.00	\$ 115.00	\$ 135.00	Hour
Vacuum Tank – On Site Services	\$ 135.00	\$155.00	\$175.00	Hour
(FRP) Vacuum Tank – Strong Corrosives	\$ 205.00	\$222.00	\$ 242.00	Hour
Vacuum Truck – 50 to 60 bbl	\$ 98.00	\$ 115.00	\$ 135.00	Hour
End Dump	\$ 98.00	\$ 115.00	\$ 135.00	Hour
End Dump – High Side	\$ 115.00	\$ 132.00	\$ 152.00	Hour
Flatbed or Van – 45' to 53'	\$ 98.00	\$ 115.00	\$ 135.00	Hour
Low Bed (Equipment Transporter Permits Not Incl)	\$ 125.00	\$ 142.00	\$ 162.00	Hour
<b>Transportation – Load Rates</b>				
Roll-Off Transportation - Switch out loaded bins to HB Ag, Bakersfield, CA			\$2,200.00	Load
Roll Off Transportation – Switch out loaded bins to Kettleman, CA			\$1,880.00	Load
Roll Off Transportation – Switch out loaded bins to Waste Mgt, Arlington, OR			\$3,150.00	Load
Demurrage – After 1 hour loading/1 hour unloading			\$ 98.00	Hour

Additional load rates available upon request.



## Roll-Off Containers & Consumables

	<b>Rate</b>	<b>UOM</b>
Roll Off Bin 20 Yard	\$12.00	Day
Roll Off Bin 30 Yard	\$12.00	Day
Roll Off Bin 40 Yard	\$12.00	Day
Vacuum Bin	\$50.00	Day
Dewatering Bin	\$55.00	Day
Intermodal Bin	\$60.00	Day
Bin Liners, Poly – 3 mil	\$35.00	Each
Bin Liners, Poly – 8 mil	\$85.00	Each
Bin Liners, Filter Cloth, 130 micron	\$150.00	Each

## Demolition Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
CAT 330 With A Genesis GXP500R Shear	\$2,000.00	Day
CAT 330 With A Genesis GXP660R Shear	\$2,000.00	Day
Genesis 410R Concrete Processor	\$700.00	Day
Hydraulic Hammer (4,000lb Class)	\$500.00	Day
Hydraulic Hammer (8,000lb Class)	\$700.00	Day
Hydraulic Magnets (36" to 54")	\$300.00	Day
Grapple (Excavator Mounted)	\$200.00	Day

## Excavation Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
CAT 303CR Mini Excavator With Hydraulic Thumb	\$250.00	Day
CAT 307 Excavator With Knuckle Boom	\$300.00	Day
CAT 322 Excavator With Hydraulic Thumb	\$850.00	Day
CAT 325 Excavator With Hydraulic Thumb	\$875.00	Day
CAT 328 Zero Clearance Excavator With Hydraulic Thumb	\$900.00	Day
CAT 336E Excavator With Hydraulic Thumb	\$1,300.00	Day
Long Reach Excavator (Quote As Needed)		
CAT 420F Backhoe With Hydraulic Thumb	\$350.00	Day

## Loading Equipment

Equipment (Un Operated)	Rate	UOM
CAT 930H (IT) Wheel Loader	\$600.00	Day
CAT 962H (IT) Wheel Loader	\$850.00	Day
CAT 962H Wheel Loader	\$800.00	Day
CAT 966G Wheel Loader	\$975.00	Day
CAT Skid Steer (Rubber Tired)	\$250.00	Day
CAT Skid Steer (Tracked)	\$300.00	Day

## Other Equipment

Equipment (Un Operated)	Rate	UOM
Water Truck (2600 gal. Two Axle)	\$400.00	Day
Water Truck (4000 gal. Three Axle)	\$550.00	Day
Water Buffalo (300 Gallon Towable)	\$200.00	Day
CAT Telehandler	\$550.00	Day
CAT 140H Motor Grader	\$750.00	Day
Articulating Haul Truck (30 Ton Capacity)	\$1,200.00	Day
Fork Lift – up to 5,000 lb.	\$400.00	Day
Dump Truck, 2 axle, 5 yard	\$300.00	Day
Pick Up Truck (un-operated)	\$150.00	Day
One Ton Truck w/ lift gate (un-operated)	\$25.00	Hour
Two Ton Truck (un-operated)	\$50.00	Hour
Emergency Response Trailer	\$200.00	Day
Light Tower, portable	\$155.00	Day
Pressure Washer, trailer mounted	\$300.00	Day
Drum Crusher	\$500.00	Day
Air Compressor – up to 185 CFM	\$250.00	Day

## Hydro Excavation Equipment

Equipment (Un Operated)	Rate	UOM
Super Vac GAP-VAX HV 44 Series	\$150.00	Hour
Disposable Suction Hose – 4 Inch	\$2.00	Foot
Disposable Suction Hose – 6 Inch	\$4.00	Foot
Filter Socks (Requires 44 Socks Per Change)	\$12.65	Each

## Solids Reduction & Tank Cleaning Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
Centrisys 21 Inch Two Phase Centrifuge (Un-Operated)	\$112.50	Hour
Centrisys 21 Inch Three Phase Centrifuge (Un-Operated)	\$137.50	Hour
400 KW Mobile Generator	\$105.00	Hour
Manway/ ROV Tank Cleaning Unit (Un-Operated)	\$125.00	Hour
Hydro Blaster 10,000 psi To 20,000 psi (Un-Operated) Includes One Gun, Pedal And a 100' Of hose.	\$145.00	Hour
Any additional hydro-blasting equipment, including consumables, not listed above would be billed at cost plus 15%		

## Misc. Equipment

<b>On Site Equipment</b>	<b>Rate</b>	<b>UOM</b>
Hand Tools	\$50.00	Day
Small Power Tools, up to 2.5 HP	\$45.00	Day
Generator – up to 10 kw	\$125.00	Day
Trash Pump (2 Or 3 Inch)	\$45.00	Day
Wet/Dry Vacuum (5 gal.)	\$20.00	Day
Diaphragm Pump – up to 3" (Pneumatic)	\$85.00	Day
Cutting Torch	\$300.00	Day
Hepa Vac	\$40.00	Day

## Safety Equipment

<b>Safety Equipment</b>	<b>Rate</b>	<b>UOM</b>
Confined Space Entry Equipment (per person	\$75.00	Day
Copus Blower (Intrinsically Safe)	\$125.00	Day
Intrinsically Safe Light	\$40.00	Day
Drum Pump	\$50.00	Day
LEL, O2, H2S Meter	\$85.00	Day
H2S Monitor	\$10.00	Day



## Materials/Supplies

Description	Rate	UOM
End Dump Liners, floor only	\$45.00	Each
End Dump Liners, full	\$85.00	Each
Visqueen, 6mil, 10' x 100'	\$50.00	Roll
Visqueen, 6 mil 20' x 100'	\$150.00	Roll
Visqueen, 6 mil 40' x 100'	\$200.00	Roll
Drum Liners	\$3.00	Each
Clay based oil absorbent, 50 lb bag	\$10.00	Bag
Vemeculite	\$25.00	Bag
Degreaser (Simple Green, Monster, etc.)	\$20.00	Gal
Plastic pump, disposable	\$20.00	Each
Hazardous Waste Labels	\$2.00	Each
Colorimetric Tests	\$20.00	Each
pH Strips	\$8.50	Box
Duct Tape	\$4.00	Roll
Rags	\$45.00	Box
Drum Thieves	\$1.50	Each
Sample Jars	\$10.00	Each
Containers	New	Recon
Drum – 55 gal, metal, open head	\$80.00	\$ 60.00
Drum – 55 gal, metal, closed head	\$60.00	\$ 50.00
Drum – 55 gal, poly, open head	\$105.00	\$ 50.00
Drum – 55 gal, poly, closed hear	\$95.00	\$ 40.00
Drum – 30 gal, poly, open head	\$80.00	\$ 50.00
Drum – 30 gal, poly, closed head	\$70.00	\$ 40.00
Drum – 14 gal, poly, open head	\$60.00	\$ 40.00
Pail – 5 gal, poly with removable lid	\$20.00	
Over pack – 85 gal, poly	\$300.00	
Over pack – 85 gal, metal	\$240.00	
Cubic yard box	\$80.00	
Light tube box – 4 foot	\$70.00	
Light tube box – 8 foot	\$75.00	





## Energy and Environmental Surcharge (EES)

MP Environmental Services, Inc. is committed to offering our customers a safe, environmentally compliant resource for their waste management needs at the best possible value. As such, we continually strive to control costs and minimize passing along frequent price increases to our customers.

Since implementing our current Fuel Surcharge in 2008, we have seen many operating costs increase significantly above other non-environmental industries. In addition to the volatility of diesel fuel and lubricants, we have seen increased costs in insurance premiums, permitting, and regulatory related issues; as well as the growing cost of maintaining EPA/DOT compliant equipment, including implementation of electronic logging.

To better address all the on-going changes in our industry, effective July 1, 2016 MP will replace its Fuel Surcharge with an Energy and Environmental Surcharge (EES).

### Surcharge Calculation

The EES contains two main components, Energy Costs and Environmental Compliance costs.

#### **Energy Costs**

This component is tied to the US Department of Energy West Coast Monthly On Highway Diesel Price Index and will adjust monthly, based on the previous month's West Coast Monthly On Highway Diesel price published by EIA.

Price Per Gallon	Surcharge %
\$2.00 and below	1%
\$2.10 to \$2.19	2%
\$2.20 to \$2.29	3%
\$2.30 to \$2.39	4%
\$2.40 to \$2.49	5%
\$2.50 to \$2.59	6%
\$2.60 to \$2.69	7%
\$2.70 to \$2.79	8%

Price Per Gallon	Surcharge %
\$2.80 to \$2.89	9%
\$2.90 to \$2.99	10%
\$3.00 to \$3.09	11%
\$3.10 to \$3.19	12%
\$3.20 to \$3.29	13%
\$3.30 to \$3.39	14%
\$3.40 to \$3.49	15%
\$3.50 to \$3.59	16%

Note – surcharge will continue to increase at the rate of 1% per \$ .10 per gallon above the cost of \$3.60 per gallon

#### **Environmental Compliance**

This component is designed to recover costs MP incurs on a nationwide basis associated with operating our business in an environmentally compliant manner and is currently set at 5.7%. The Environmental Compliance component is not specifically tied to any direct or indirect costs but rather is designed to maintain acceptable operating margins as we maintain regulatory compliance. The Environmental Compliance component of the surcharge will be reviewed annually and adjusted as needed.

The Energy Cost component and Environmental Compliance component will be added together to determine the total Energy and Environmental Surcharge (EES).

#### **Applicability**

The EES will apply to all charges, excluding sales tax, on an invoice and will be shown as a separate line item.

The EES is not a tax or surcharge imposed by or remitted to any government or regulatory agency. The EES will minimize the need for frequent price increases and enable MP to continue providing the quality service and professionalism our clients deserve.

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,

GINA BLANKENSHIP

(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

MP ENVIRONMENTAL SERVICES INC.

(Company name)

for contract work at:

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

(Project name and location)

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

Anna Blenkinship

(Signature of officer or agent)

Dated this 13th day of Oct, 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.

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, GINA BLANKENSHIP

(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,

MP ENVIRONMENTAL SERVICES, INC.


(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

  
(Signature of officer or agent)

Dated this 13<sup>TH</sup> day of OCT, 2020

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)  
\_\_\_\_\_

**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
MP ENVIRONMENTAL SERVICES, INC**

This First Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and MP Environmental Services, Inc. ("Contractor") (collectively referred to as "the Parties") as of \_\_\_\_\_, 2024.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective November 19, 2020, (the "Agreement") for MP Environmental Services, Inc to provide miscellaneous maintenance services which include labor, tools and vehicles to perform services at any facilities owned and/or operated by Agency; 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 \$3,000,000 to a NOT TO EXCEED amount of \$4,000,000; and

WHEREAS, the Agency now desires to amend Exhibit B entitled "Compensation Schedule and Hourly Fees" to reflect updated rates for the 2024 calendar year; 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, as of the Amendment Effective Date, 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** FOUR MILLION dollars (\$4,000,000) 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.

The remainder of Section 2 of the Agreement is unchanged.

2. Section 13.7 Contract Administrator is replaced in its entirety as follows:

**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.

3. **Exhibit B – COMPENSATION SCHEDULE** is amended and restated to read in full as set forth in the Attached Exhibit B.
4. 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: \_\_\_\_\_

MP ENVIRONMENTAL SERVICES, INC.

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

\_\_\_\_\_  
**GINA BLANKENSHIP, Facility Manager**

Attest:

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

Approved as to Form:

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

## 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:



### **RATE SCHEDULE for Northern California Power Agency June 17, 2024**

#### **General Terms and Conditions**

- Rates based upon current General Prevailing Wage Determinations as published by California DIR. MP reserves the right to adjust rates based upon changes to applicable DIR Wage Determinations
- All rates are portal to portal from facility which dispatches equipment unless otherwise specified
- Rates not listed on this schedule will be furnished upon request
- All transportation services, field labor and equipment are subject to a 4-hour minimum charge
- Daily equipment rates are based upon 8-hours per day
- A variable Environmental & Energy Surcharge will apply to all charges
- Any disposal and/or laboratory analysis will be billed at cost plus 12%.
- Any subcontract services, equipment or materials not listed will be billed at cost plus 12%.
- Decontamination Requirements: Due to federal requirements, MP equipment must be decontaminated after every customer or waste stream usage. This may be performed at the disposal site, customer's location or an off-site facility. If performed at the customer location, the charges will be per MP's time and materials rate. If MP must go to an off-site facility, the charges will be billed at cost, plus 15% for the wash plus MP's time and materials rate.
- Only MP Environmental Service's personnel are authorized to deliver, pick up, operate or transfer MP equipment.





## MP Environmental Services – Rate Schedule

### Labor – California Prevailing Wage

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Labor Classifications	ST	OT	PT
Project Manager	\$110.00	\$140.00	\$165.00
Supervisor	\$100.00	\$125.00	\$145.00
Health & Safety Coordinator	\$100.00	\$125.00	\$145.00
Equipment Operator/Driver	\$110.00	\$140.00	\$165.00
Technicians	\$ 98.00	\$118.00	\$138.00

#### Definitions:

Straight Time (ST)	First eight (8) hours in a work day, Monday through Friday	
Over Time (OT)	Any time over eight (8) hours in a workday, the first eight (8) hours on a Saturday.	
Premium Time (PT)	Any time over twelve (12) consecutive hours in a workday. All day on Sunday and the following holidays:	
	New Year's Day Memorial Day Independence Day Labor Day	Thanksgiving Day Day after Thanksgiving Christmas Day
Emergency Response	Rates will be established at 1.50 times the appropriate rate for labor and equipment.	
Per Diem	\$250 per person, per day	





## MP Environmental Services – Rate Schedule

### Personal Protective Equipment

Protection Levels/PPE:	Rate	UOM
Level A (Composite Suit + Supplied Air)	\$450.00	Day/Person
Level B (Supplied Air)	\$250.00	Day/Person
Level C	\$140.00	Day/Person
Level C (Modified)	\$75.00	Day/Person
Level D	\$55.00	Day/Person

### Transportation Services

Transportation Equipment (Operated)	Rate – ST	Rate – OT	Rate - PT	UOM
Roll Off Truck– Single or Double	\$ 108.00	\$128.00	\$ 148.00	Hour
Vacuum Tank – 120 to 140 bbl, Mild or Stainless	\$ 108.00	\$128.00	\$ 148.00	Hour
Vacuum Tank – On Site Services (unoperated)	\$ 75.00	\$ 75.00	\$ 75.00	Hour
(FRP) Vacuum Tank – Strong Corrosives	\$ 225.00	\$245.00	\$ 265.00	Hour
Vacuum Truck – 50 to 60 bbl	\$ 108.00	\$ 128.00	\$ 148.00	Hour
End Dump	\$ 108.00	\$ 128.00	\$ 148.00	Hour
End Dump – High Side	\$ 120.00	\$ 140.00	\$ 160.00	Hour
Flatbed or Van – 45' to 53'	\$ 108.00	\$ 128.00	\$ 148.00	Hour
Low Bed (Equipment Transporter Permits Not Incl)	\$ 155.00	\$ 175.00	\$ 195.00	Hour
<b>Transportation – Load Rates</b>				
Roll-Off Transportation - Switch out loaded bins to HB Ag, Bakersfield, CA			\$2,310.00	Load
Roll Off Transportation – Switch out loaded bins to Kettleman, CA			\$1,975.00	Load
Roll Off Transportation – Switch out loaded bins to Waste Mgt, Arlington, OR			\$3,700.00	Load
Demurrage – After 1 hour loading/1 hour unloading			\$ 100.00	Hour

Additional load rates available upon request.

## Roll-Off Containers & Consumables

	<b>Rate</b>	<b>UOM</b>
Roll Off Bin 20 Yard	\$12.00	Day
Roll Off Bin 30 Yard	\$12.00	Day
Roll Off Bin 40 Yard	\$12.00	Day
Vacuum Bin	\$50.00	Day
Dewatering Bin	\$55.00	Day
Intermodal Bin	\$60.00	Day
Bin Liners, Poly – 3 mil	\$35.00	Each
Bin Liners, Poly – 8 mil	\$85.00	Each
Bin Liners, Filter Cloth, 130 micron	\$150.00	Each

## Demolition Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
CAT 330 With A Genesis GXP500R Shear	\$2,000.00	Day
CAT 330 With A Genesis GXP660R Shear	\$2,000.00	Day
Genesis 410R Concrete Processor	\$700.00	Day
Hydraulic Hammer (4,000lb Class)	\$500.00	Day
Hydraulic Hammer (8,000lb Class)	\$700.00	Day
Hydraulic Magnets (36" to 54")	\$300.00	Day
Grapple (Excavator Mounted)	\$200.00	Day

## Excavation Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
CAT 303CR Mini Excavator With Hydraulic Thumb	\$250.00	Day
CAT 307 Excavator With Knuckle Boom	\$300.00	Day
CAT 322 Excavator With Hydraulic Thumb	\$850.00	Day
CAT 325 Excavator With Hydraulic Thumb	\$875.00	Day
CAT 328 Zero Clearance Excavator With Hydraulic Thumb	\$900.00	Day
CAT 336E Excavator With Hydraulic Thumb	\$1,300.00	Day
Long Reach Excavator (Quote As Needed)		
CAT 420F Backhoe With Hydraulic Thumb	\$450.00	Day

## Loading Equipment

Equipment (Un Operated)	Rate	UOM
CAT 930H (IT) Wheel Loader	\$600.00	Day
CAT 962H (IT) Wheel Loader	\$850.00	Day
CAT 962H Wheel Loader	\$800.00	Day
CAT 966G Wheel Loader	\$975.00	Day
CAT Skid Steer (Rubber Tired)	\$250.00	Day
CAT Skid Steer (Tracked)	\$300.00	Day

## Other Equipment

Equipment (Un Operated)	Rate	UOM
Water Truck (2600 gal. Two Axle)	\$400.00	Day
Water Truck (4000 gal. Three Axle)	\$550.00	Day
Water Buffalo (300 Gallon Towable)	\$200.00	Day
CAT Telehandler	\$550.00	Day
CAT 140H Motor Grader	\$750.00	Day
Articulating Haul Truck (30 Ton Capacity)	\$1,200.00	Day
Fork Lift – up to 5,000 lb.	\$400.00	Day
Dump Truck, 2 axle, 5 yard	\$350.00	Day
Pick Up Truck (un-operated)	\$165.00	Day
One Ton Truck w/ lift gate (un-operated)	\$25.00	Hour
Two Ton Truck (un-operated)	\$50.00	Hour
Emergency Response Trailer	\$200.00	Day
Light Tower, portable	\$155.00	Day
Pressure Washer, trailer mounted	\$300.00	Day
Drum Crusher	\$500.00	Day
Air Compressor – up to 185 CFM	\$250.00	Day

## Hydro Excavation Equipment

Equipment (Un Operated)	Rate	UOM
Super Vac GAP-VAX HV 44 Series	\$205.00	Hour
Disposable Suction Hose – 4 Inch	\$4.50	Foot
Disposable Suction Hose – 6 Inch	\$6.75	Foot
Filter Socks (Requires 44 Socks Per Change)	\$20.00	Each

## Solids Reduction & Tank Cleaning Equipment

<b>Equipment (Un Operated)</b>	<b>Rate</b>	<b>UOM</b>
Centrisys 21 Inch Two Phase Centrifuge (Un-Operated)	\$425.00	Hour
Loading Conveyor	\$125.00	Hour
Mix Tank	\$150.00	Day
Mini Storage Tank – 8,000 gallon	\$50.00	Day
Water Tank	\$125.00	Day
400 KW Mobile Generator	\$175.00	Hour
Digester Booster Pump	\$250.00	Day
Grinder – 6"	\$500.00	Day
Submersible Pump – 6"	\$250.00	Day
Manway/ ROV Tank Cleaning Unit (Un-Operated)	\$1,500.00	Day
Hydro Blaster 10,000 psi To 20,000 psi (Un-Operated) Includes One Gun, Pedal and 100' hose.	\$245.00	Hour
Any additional hydro-blasting equipment, including consumables, not listed above would be billed at cost plus 15%		

## Misc. Equipment

<b>On Site Equipment</b>	<b>Rate</b>	<b>UOM</b>
Hand Tools – Brooms, Shovels, Squeegees	\$25.00	Day/Person
Small Power Tools, up to 2.5 HP	\$50.00	Day
Generator – up to 10 kw	\$125.00	Day
Trash Pump (2 Or 3 Inch)	\$45.00	Day
Wet/Dry Vacuum (5 gal.)	\$20.00	Day
Diaphragm Pump – up to 3" (Pneumatic)	\$85.00	Day
Cutting Torch	\$300.00	Day
Hepa Vac	\$40.00	Day

## Safety Equipment

<b>Safety Equipment</b>	<b>Rate</b>	<b>UOM</b>
Confined Space Entry Equipment (per person)	\$75.00	Day
Confined Space Tripod	\$125.00	Day
Copos Blower (Intrinsically Safe)	\$125.00	Day
Intrinsically Safe Light	\$150.00	Day

Drum Pump	\$50.00	Day
LEL, O2, H2S Meter	\$85.00	Day
H2S Monitor	\$10.00	Day

## Materials/Supplies

Description	Rate	UOM
End Dump Liners, floor only	\$45.00	Each
End Dump Liners, full	\$85.00	Each
Visqueen, 6mil, 10' x 100'	\$75.00	Roll
Visqueen, 6 mil 20' x 100'	\$150.00	Roll
Visqueen, 6 mil 40' x 100'	\$200.00	Roll
Drum Liners	\$5.00	Each
Clay based oil absorbent, 50 lb bag	\$20.00	Bag
Verneclite	\$55.00	Bag
Degreaser (Simple Green, Monster, etc.)	\$25.00	Gal
Cutter – Chemical	\$95.00	Gal
Plastic pump, disposable	\$25.00	Each
Hazardous Waste Labels	\$2.50	Each
Colorimetric Tests	\$20.00	Each
pH Strips	\$10.00	Box
Duct Tape	\$10.00	Roll
Rags – 25lb	\$95.00	Box
Drum Thieves	\$1.50	Each
Sample Jars	\$10.00	Each
Containers	New	Recon
Drum – 55 gal, metal, open head	\$145.00	\$ 80.00
Drum – 55 gal, metal, closed head	\$130.00	\$ 105.00
Drum – 55 gal, poly, open head	\$135.00	\$ 75.00
Drum – 55 gal, poly, closed head	\$110.00	\$ 60.00
Drum – 30 gal, poly, open head	\$90.00	\$ 55.00
Drum – 30 gal, poly, closed head	\$80.00	\$ 45.00
Pail – 5 gal, poly with removable lid	\$40.00	
Over pack – 85 gal, poly	\$405.00	
Over pack – 85 gal, metal	\$365.00	
Cubic yard box	\$100.00	
Light tube box – 4 foot	\$85.00	
Light tube box – 8 foot	\$85.00	





## Energy and Environmental Surcharge (EES)

MP Environmental Services, Inc. is committed to offering our customers a safe, environmentally compliant resource for their waste management needs at the best possible value. As such, we continually strive to control costs and minimize passing along frequent price increases to our customers.

Since implementing our current Fuel Surcharge in 2008, we have seen many operating costs increase significantly above other non-environmental industries. In addition to the volatility of diesel fuel and lubricants, we have seen increased costs in insurance premiums, permitting, and regulatory related issues; as well as the growing cost of maintaining EPA/DOT compliant equipment, including implementation of electronic logging.

To better address all the on-going changes in our industry, effective July 1, 2016 MP will replace its Fuel Surcharge with an Energy and Environmental Surcharge (EES).

### Surcharge Calculation

The EES contains two main components, Energy Costs and Environmental Compliance costs.

#### **Energy Costs**

This component is tied to the US Department of Energy West Coast Monthly On Highway Diesel Price Index and will adjust monthly, based on the previous month's West Coast Monthly On Highway Diesel price published by EIA.

Price Per Gallon	Surcharge %
\$2.00 and below	1%
\$2.10 to \$2.19	2%
\$2.20 to \$2.29	3%
\$2.30 to \$2.39	4%
\$2.40 to \$2.49	5%
\$2.50 to \$2.59	6%
\$2.60 to \$2.69	7%
\$2.70 to \$2.79	8%

Price Per Gallon	Surcharge %
\$2.80 to \$2.89	9%
\$2.90 to \$2.99	10%
\$3.00 to \$3.09	11%
\$3.10 to \$3.19	12%
\$3.20 to \$3.29	13%
\$3.30 to \$3.39	14%
\$3.40 to \$3.49	15%
\$3.50 to \$3.59	16%

Note – surcharge will continue to increase at the rate of 1% per \$ .10 per gallon above the cost of \$3.60 per gallon

#### **Environmental Compliance**

This component is designed to recover costs MP incurs on a nationwide basis associated with operating our business in an environmentally compliant manner and is currently set at 6.07%. The Environmental Compliance component is not specifically tied to any direct or indirect costs but rather is designed to maintain acceptable operating margins as we maintain regulatory compliance. The Environmental Compliance component of the surcharge will be reviewed annually and adjusted as needed.

The Energy Cost component and Environmental Compliance component will be added together to determine the total Energy and Environmental Surcharge (EES).

### Applicability

**The EES will apply to all charges, excluding sales tax, on an invoice and will be shown as a separate line item.**

The EES is not a tax or surcharge imposed by or remitted to any government or regulatory agency. The EES will minimize the need for frequent price increases and enable MP to continue providing the quality service and professionalism our clients deserve.

Upon 30 days' advance notice and no more than once each calendar year, MP Environmental Services, Inc. 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.



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

### **Staff Report**

AGENDA ITEM NO.: 17

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**Date:** September 9, 2024  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** Hometown Connections, 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 Multi-Task Consulting Services Agreement with Hometown Connections, Inc. for various consulting-related tasks including utility operations, cybersecurity, and business strategy, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

#### Background

Hometown Connections, Inc. (HCI) is a national, non-profit utility services organization specializing in the unique challenges of community-owned utilities. Their team of consultants and vendor partners who help utilities streamline business processes, enhance customer service, improve security, and develop plans for the future. Serving community-owned utilities of every size and type, HCI provides products and services to develop all areas of the utility business, including operations, cybersecurity, business strategy, customer care, finance, workforce, and technology. The services offered can be used at facilities owned and/or operated by NCPA, NCPA Members, SCPPA, or SCPPA Members.

#### Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. When services are required, NCPA will bid on the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place (other enabling agreements) for similar services and seeks bids from as many qualified providers as possible. NCPA will issue purchase orders based on the cost and availability of the services needed at the time the service is required.

#### Fiscal Impact

Upon execution, the total cost of the agreement shall not exceed \$1,000,000. 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:

MONTY HANKS  
Assistant General Manager, Admin Services / CFO  
Administrative Services

Attachment:

- Multi-Task Consulting Services Agreement with Hometown Connections, Inc.





## **MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND HOMETOWN CONNECTIONS, 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 Hometown Connections, Inc., a Delaware charitable nonstock corporation created by its Members, with its office located at 12081 W. Alameda Parkway, #464, Lakewood, CO. 80228-2701 ("HCI" or "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) 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 ONE MILLION DOLLARS (\$1,000,000)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

**2.5 Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice 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 \$3,000,000 per occurrence/\$4,000,000 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 \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and

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

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

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

**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, SCPPA or SCPPA 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 obtain prior written approval of the Agency whenever using a subcontractor to perform any portion of the Services. 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. This agreement is not intended for use at NCPA's Lodi Energy Center.

**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 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 Monty Hanks, Chief Financial Officer and 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:

Marc Gerken, President & CEO  
Hometown Connections, Inc.  
12081 W. Alameda Parkway, #464  
Lakewood, CO 80228-2701

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

HOMETOWN CONNECTIONS, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**MARC GERKEN, President & CEO**

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Hometown Connections, Inc. ("Consultant") shall provide the following consulting services based on public power best practices as requested by the Northern California Power Agency ("Agency") at any facilities\* owned or operated by the Agency, its Members, SCPPA, or SCPPA members, including but not limited to:

- Organization assessment
- Strategic planning
- Customer services
- Market research
- Compensation studies
- Management consulting
- Training and Workshop services
  - Leadership Development
  - Governance Facilitation
- Other services as requested

\*This agreement is not intended for use at NCPA's Lodi Energy Center facility.

## **EXHIBIT B**

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

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 of this Agreement.

The hourly rates and or compensation break down and an estimated amount of expenses 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.



# LEC CT Expansion Joint Replacement Project

Rafael Santana  
September 9, 2024



## **LEC –Project Scope of Work**

### **CT Expansion Joint Replacement**

- Order new Expansion Joint thru Siemens as sole source.
- Installation of new Expansion Joint during LEC upcoming spring outage.
- Lead time 8-10 weeks.

**This project was presented during the FY25 budget approval process.**

# FY 2025 –CT Expansion Joint Replacement

Project	Notes	Total Cost	FY 2026	FY 2027	FY 2028
CT Expansion Replacement	D	\$725,000			

- CT Exhaust Expansion Joint is reaching end of life and started to show cracks and discoloration.
- CT Exhaust Expansion joint was last replaced in Feb 2019. Lead time is 8-10 weeks.
- The new expansion joint will allow LEC to continue to operate reliably.
- Life expectancy 5yrs

## Notes:

D	Discretionary
M	Mandatory
CR	Annual deposit to the Capital Reserve



## **Selection Process**

- The CT expansion joint replacement project will be awarded to Siemens, as it falls under the LTP agreement between Siemens and NCPA

## Fiscal Impact

- The LEC CT Expansion Joint Project is anticipated not to exceed \$725,000.
- Funds for the project were included in the approved FY25 LEC Budget.
- Estimated cost of the project is shown in the table below:

DESCRIPTION	COST
Expansion Joint	\$331,229
Field Services	\$300,000
Contingency	\$93,771
TOTAL:	\$725,000

## **Environmental Analysis**

- The LEC CT Expansion Joint Replacement Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (a), (b), (d), 15302 (c) of the CEQA Guidelines (Classes 1, 2) which exempts public owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacement of the expansion joint at NCPA's LEC Project. This project will not change the function, size, or operation of the Plant. 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. Thus, this project conforms to these exemptions.

## **Recommendation**

- Staff is seeking a recommendation for approval of the LEC CT Expansion Joint Replacement Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the Project in accordance with NCPA Purchasing Policies and Procedures, for a total cost not to exceed \$725,000.



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

### **Staff Report**

AGENDA ITEM NO.: 19

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**Meeting Date:** September 9, 2024

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

**Subject:** LEC CT Expansion Joint Replacement Project; Applicable to the LEC PPC Members.

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#### Proposal

Approve the Lodi Energy Center CT Expansion Joint Replacement 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, for a total cost not exceed \$725,000, to be funded from the approved FY25 Lodi Energy Center budget.

#### Background

The CT expansion joint is reaching end of life and has started to show cracks and discoloration. The expansion joint was last replaced in February of 2019. The new expansion joint will allow LEC to continue to operate reliably.

#### Selection Process

The CT expansion joint replacement project will be awarded to Siemens, as it falls under the LTP agreement between Siemens and NCPA.

#### Fiscal Impact

Total cost of the project is \$725,000. This project was included in the previously approved FY25 Lodi Energy Center budget.

#### Environmental Analysis

The CT expansion joint replacement project is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15301 (a), (b), (d), 15302 (c) of the CEQA Guidelines (Classes 1, 2) which exempts public owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacement of the expansion joint at NCPA's LEC Project. This project will not change the function, size, or operation of the Plant. 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. Thus, this project conforms to these exemptions.

Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: 0



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

AGENDA ITEM NO.: 20

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**Meeting Date:** September 9, 2024

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

**Subject:** LEC CT Inlet Platform Structure Project; Applicable to the LEC PPC Members.

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### Proposal

Approve the Lodi Energy Center CT Inlet Platform Structure 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, for a total cost not exceed \$650,000, to be funded from the approved FY25 Lodi Energy Center budget.

### Background

The current CT inlet structure platform has only one entry way on the west side to access all three levels. The new platform will provide personnel a means of egress in the event of an emergency on a lower level of the inlet structure.

### Selection Process

In accordance with NCPA's procurement policies and procedures, NCPA LEC Staff will follow the Public Works bid process for this project. NCPA is currently preparing to solicit competitive bids to perform the work required for this project. The Request for Proposal (RFP) will be issued by the end of September 2024. NCPA will award the project to the lowest responsive bidder and will issue purchase orders based on cost and availability of the services needed at the time the service is required.

### Fiscal Impact

Total cost of the project is \$650,000. This project was included in the FY2025 Lodi Energy Center budget.

### Environmental Analysis

The CT inlet platform structure project is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15301 (a), (b), (d), (e), 15302 (c) of the CEQA Guidelines (Classes 1, 2) which exempts public owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of replacement of the expansion joint at NCPA's LEC Project. This project will not change the function, size, or operation of the Plant. 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. Thus, this project conforms to these exemptions.



Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: 0



# LEC CT Inlet Platform Structure Project

Rafael Santana  
September 9, 2024

## **LEC –Project Scope of Work**

### **CT Inlet Platform Structure**

- Engineering, design, CEC permitting and material procurement.
- Installation during the spring and finalized during LEC spring outage.
- RFP will be issued end of September.

**This project was presented during the FY25 budget approval process.**

## FY 2025 – Civil/Structural

Project	Notes	Total Cost	FY 2026	FY 2027	FY 2028
CT Inlet Platform/Structure	S	\$650,000	\$80,000	\$100,000	\$155,000

- CT Inlet structure engineering & project cost study has commenced.
- Study completion in June 2024.
- Access to this platform has only one entry way on the west side to access all three levels.
- The new platform will provide personnel a means of egress in case of an emergency on the lower and upper level of the inlet structure.
- RFP will be issued by the end of September.
- Installation Planned during April 2025 outage.

### Notes:

D	Discretionary
M	Mandatory
S	Safety



## Fiscal Impact

- The LEC CT Inlet Platform Structure Project is anticipated not to exceed \$650,000.
- Funds for the project were included in the approved FY25 LEC Budget.
- Estimated cost of the project is shown in the table below:

DESCRIPTION	COST
Engineering	\$155,400
Material/Equipment	\$286,400
CEC/Inspections	\$46,000
Contingency	\$162,200
<b>TOTAL:</b>	<b>\$650,000</b>

## **Selection Process**

- In accordance with NCPA's procurement policies and procedures, NCPA LEC staff will follow the Public Works bid process for this Project.
- NCPA is currently preparing to solicit competitive bids to perform the work required for this project. The Request for Proposal (RFP) will be issued by the end of September.
- NCPA will award the Project to the lowest responsive bidder and will issue purchase orders based on cost and availability of the services needed at the time the service is required.

## Environmental Analysis

- The LEC CT Inlet Platform Structure Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (a), (b), (d), (e), 15302 (c) of the CEQA Guidelines (Classes 1, 2) which exempts public owned electric utilities from the provisions of the California Environmental Quality Act. This project consists of adding an additional door and corresponding platform to the inlet structure at the LEC CT plant. This project will not change the function, size, or operation of the Plant. 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. Thus, this project conforms to these exemptions.

## **Recommendation**

- Staff is seeking a recommendation for approval of the LEC CT Inlet Platform Structure Project and delegating authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA Purchasing Policies and Procedures, for a total cost not to exceed \$650,000.