



12745 N. Thornton Road  
Lodi, CA 95242

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## LEC PPC Agenda

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**Subject: September 12, 2022 Lodi Energy Center Project Participant Committee Meeting**

**Location: via Teleconference**

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

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**\*\*\*This meeting is being held in accordance with the Brown Act, Governor Gavin Newsom's Emergency Declaration related to COVID-19 adopted pursuant to the California Emergency Services Act, and Assembly Bill 361, that allow attendance by LEC PPC Committee Members, staff and the public to participate and conduct the meeting by teleconference.**

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**You may participate in the meeting via teleconference hosted by:**

<https://meet.goto.com/GenServicesAdmin>

**Dial: 1-872-240-3412**

**Access Code: 439-093-085**

*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 8, 2022 Regular Meeting Minutes and August 30, 2022 Special Meeting Minutes.

**MONTHLY REPORTS**

**4. Operational Report for August 2022**

**5. Bidding Strategies Report**

**6. Market Data Report for August 2022**

**7. Monthly Asset Report for July 2022**

**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 2022** – Accept by all Participants

**9. Financial Report for July 2022** – Approve by all Participants

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

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

- 11. Resolution of the Lodi Energy Center Project Participant Committee Proclaiming a Local Emergency, Re-Ratifying the Proclamation of a State of Emergency Issued by Governor Gavin Newsom, and Authorizing Remote Teleconference Meetings of the LEC PPC** – The Committee will discuss whether Governor Gavin Newsom’s Proclamation of a State of Emergency due to COVID-19 remains in force, whether as a result of the emergency and the conditions where Committee members are located (local conditions) are such that meeting in person would present imminent risks to the health or safety of attendees and thus, in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act, for a thirty-day period of September 12, 2022, through October 12, 2022, the LEC PPC should meet remotely.
- 12. Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. for motor maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 13. Nooter/Eriksen, Inc. 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 Nooter/Eriksen, Inc. for heat recovery steam generator (HRSG) support services and parts, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA.
- 14. Unique Scaffold MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Unique Scaffold for scaffolding related services, with a not to exceed amount of \$4,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 15. Casualty Insurance Program Extension** – Staff is seeking a recommendation for approval authorizing the General Manager to extend the expiration of the Agency’s Casualty insurance coverage from December 31, 2022 to February 28, 2023, at a not-to-exceed premium of \$347,000.

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

### **BUSINESS ACTION ITEMS**

- 16. Appointment of a New Secretary for LEC PPC** – Election of a new Secretary for the LEC PPC.

### **INFORMATIONAL/ DISCUSSION ITEMS**

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

### **ADJOURNMENT**

Next Regular Meeting: Monday, October 10, 2022 at 10:00 a.m. Pacific Standard Time.

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



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# LEC PPC Meeting Minutes

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**Date:** Monday, August 8, 2022

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

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

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

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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

The PPC meeting was called to order at 10:00 a.m. by Chairman Burk. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Robledo	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Shepherd	Present	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Present	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Absent	2.0357%
MID – Constalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah -	Absent	1.7857%
Summary		
Present	8	87.1501%
Absent	5	12.8499%
Quorum by #:	Yes	
Quorum by GES:	Yes	

Meeting Date:

August 8, 2022

**Public Forum**

Chairman Burk 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 11, 2022 Regular Meeting were considered. The LEC PPC considered the following motion:

**Date:** 8/8/2022

**Motion:** The PPC approves the minutes from the July 11, 2022 Regular Meeting.

**Moved by:** MID

**Seconded by:** SVP

**Discussion:** There was no further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Abstain	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	86.8822%
Total Noes	0	0.0000%
Total Abstain	1	0.2679%
Total Absent	5	12.8499%
Result:	Motion Passes	

## **MONTHLY REPORTS**

### **4. Operational Report for August 2022**

Ryan Johnson presented the Operational Report for August. There were no OSHA recordable accidents, no NERC/WECC or permit violations. There were 6 forced outages in the month. Outages were reviewed with the Committee. There are no changes to the 2022 outage schedule.

The operational report reflected monthly production of 50,616 MWH, 241 service hours, and equivalent operating availability of 70.5%. The report set for the Capacity Factor @ 302MW Pmax of 22.5%. There were 0 hot starts, 15 warm starts, and 2 cold starts during the month.

Ryan noted that staff updated the starting reliability threshold in response to updated operating parameters. In addition, staff added a section to the Generating Unit Statistics table which documents the monthly percentage of load above 240MW, which was requested by Committee members in the previous meeting.

### **5. Bidding Strategies Report**

Jesse Shields presented the Bidding Strategies Report for July 2022. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee. Jesse also reviewed the new data and tables added at the request of the Committee, related to the current 240MW soft operational limit.

### **6. Market Data Report for August 2022**

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 20 out of 22 available days. Most startups were for mid-term runs, with 3 24-hour runs in the month of July.

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

Rafael Santana presented the monthly asset report for June 2022. Rafael reviewed the actual vs budget costs. Rafael reviewed the monthly historical comparisons as well as the 12-month history.

## **Consent Calendar (Items 8-13)**

The consent calendar was considered. Chairman Burk 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:** 8/8/2022

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for June 2022; **9.** Financial Report for June 2022;

**10.** GHG Reports (excerpted from the Monthly ARB); **11.** Resolution 2022-11 to proclaim that a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi Energy Center Project Participant Committee for a period of August 8, 2022, through September 7, 2022, pursuant to the Ralph M. Brown Act (Brown Act); **12.** EN Engineering, LLC First Amendment to MTPSA for engineering and testing services, modifying the Scope of Work to broaden services and include root cause analysis, for continued use at all NCPA facilities; **13.** Fremouw Environmental Services, Inc. First Amendment to MTGSA for waste cleanup services, accepting assignment to Advanced Chemical Transport, Inc. dba ACTEnviro and modifying Exhibit B pricing, for continued use at all NCPA facilities.

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

**Lodi**  
**Santa Clara**

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	84.4822%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	15.5178%
Result:	Motion Passes	

## **BUSINESS ACTION ITEMS**

### **14. NCPA 2023 Plant Outage Schedule**

Jeremy Lawson reviewed the NCPA 2023 Plant Outage Schedule with the Committee. He noted that there were no changes from the draft schedule which was presented in the July LEC PPC Meeting. The Committee asked whether the gearbox replacement would happen during the planned April 2023 Outage, or sooner. Rafael stated that the part should arrive in mid-November. Staff are still reviewing replacement options, but it is anticipated that replacement will likely happen before the April 2023 planned outage. There were no further questions or comments regarding the outage schedule. The LEC PPC considered the following motion:

**Date:** 8/8/2022

**Motion:** The PPC approves the 2023 Plant Outage Schedule with no requested changes or modifications.

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

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

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	84.4822%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	15.5178%
Result:	Motion Passes	



**15. Appointment of a New Secretary for LEC PPC**

Mike DeBortoli gave background regarding the Secretary role for the LEC PPC. It has been many years since a Secretary was elected. Currently, the administrative support for the Committee is provided by NCPA administrative staff. NCPA asked the Committee whether they would prefer to elect a new Secretary to the LEC PPC or just leave the role vacation for now. There was a discussion surrounding elimination of the role from the governing documents, however, Jane Luckhardt advised against doing that due to the complicated nature of amending those documents. Committee Members requested additional time to think about the decision. This item will be brought back to the LEC PPC for consideration in the September meeting.

**INFORMATIONAL ITEMS**

**16. Additional Operational Updates**

Rafael gave an update on the gearbox. Siemens conducted a full inspection, and found no detriment to the gearbox. New monitoring equipment has been installed, but so far has shown no additional issues with the gearbox.

Mike reviewed the temporary operating threshold protocol that the PPC approved, and also discussed the operating protocol NCPA has been using.

Rafael reviewed recent vibration issues in the HP turbine. These issues seem most prevalent when the steam turbine operates above 20 MW. NCPA is currently operating in "Alarm Mode" as recommended by Siemens. Siemens reviewed data sent to them by NCPA and has recommended a borescope inspection of the HP Turbine. Siemens is also drafting a contingency plan for operation, depending on the results of the borescope. There were no additional vibration issues over the weekend. NCPA will continue to update project participants once additional information becomes available.

**17. Schedule Special LEC PPC Meetings in August 2022 and November 2022**

Michelle Schellentrager explained to the Committee that two additional Special Meetings would be needed this year in order to continue the Emergency Declaration allowing the LEC PPC to continue with remote teleconference meetings. Michelle presented dates for the Special Meetings to the Committee Members. There were no objections to the dates given. Michelle will send out meeting notices for the dates selected.

**Adjournment**

The next regular meeting of the PPC is scheduled for Monday, September 12, 2022 at 10:00 a.m. Pacific Standard Time.

The meeting was adjourned at 11:09 a.m.

Submitted by: DANIELLE KING



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# LEC PPC Meeting Minutes

**Date:** Tuesday, August 30, 2022

**Time:** 3:00 p.m. Pacific Standard Time

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

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

## 1. Review Safety Procedures

None.

## 2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 3:00 p.m. by Chairman Burk. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Schmidt	Present	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Present	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Absent	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Apolinario	Present	25.7500%
Ukiah - Sauers	Absent	1.7857%
<b>Summary</b>		
Present	6	81.6965%
Absent	7	18.3035%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	August 30, 2022	

## **Public Forum**

Chairman Burk 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. Resolution of the Lodi Energy Center Project Participant Committee Proclaiming a Local Emergency. Re-Ratifying the Proclamation of a State of Emergency Issued by Governor Gavin Newsom, and Authorizing Remote Teleconference Meetings of the LEC PPC.**

**Date:** 8/30/2022

**Motion:** The LEC PPC approves Resolution 2022-12 to proclaim that a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi Energy Center Project Participant Committee for a period of August 30, 2022, through September 29, 2022, pursuant to the Ralph M. Brown Act (Brown Act).

**Moved by:**

**Gridley**

**Seconded by:**

**CDWR**

Discussion: No further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Absent	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	6	81.6965%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	18.3035%
Result:	Motion Passes	

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**Adjournment**

The next regular meeting of the PPC is scheduled for Monday, September 12, 2022 at 10:00 a.m.

The meeting was adjourned at 3:05 p.m. Pacific Standard Time

Submitted by: Danielle King

DRAFT

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 4**

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**Date:** 9/2/2022

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

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### **Safety**

- OSHA Recordable: 0 Accidents.

### **Notice of Violations**

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

### **Outage Summaries:**

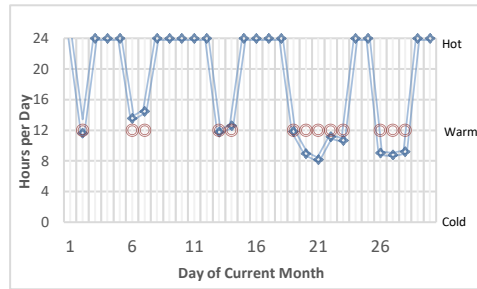
- 8/16 @ 16:54-18:38; Steam Turbine ONLY - High Vibration Trip

### **Planned Outage Summaries:**

- April 1-30, 2023; Annual Maintenance Outage

**Generating Unit Statistics:****Date:** 8/1/2022

1. Monthly Production 133,587 MWh
2. Productivity Factor
- a. Service Hours 574 Hours
- b. Service Factor 77.1 %
- c. Capacity Factor @ 302MW Pmax 59.5 %
- d. Hours/days load > 240 MW 5/2 h/d
3. Equivalent Operating Availability (EOA) 100.0 %
4. Forced Outage Rate (FOR) 0.0 %



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

MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	0	0.00%	0	\$0
Seg. 3 275 - 284	6971	7,062	1.31%	723	\$264
Seg. 4 250 - 275	7081	7,088	0.10%	5,988	\$172
Seg. 5 225 - 250	7130	7,170	0.56%	117,216	\$18,585
Seg. 6 200 - 225	7200	7,297	1.35%	4,542	\$1,769
Seg. 7 175 - 225	7450	7,546	1.29%	1,402	\$540
Seg. 8 165 - 175	7760	7,979	2.82%	546	\$477
	7,164	7,357	1.24%	130,417	\$21,806

## 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	-1	1	\$16
Seg. 4 250 - 275	0	0	0	\$2
Seg. 5 225 - 250	0	0	0	\$6
Seg. 6 200 - 225	0	0	0	\$3
Seg. 7 175 - 225	0	0	0	\$0
Seg. 8 165 - 175	0	0	0	\$0
	0	-1	1	\$27

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	0	13	0
Start Time Benchmark (Minutes)	30		
Start Time Actual (Average Minute)	0	26	0
Start Time Deviation (%)	0%	-14%	0%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	0	164	0
Fuel Deviation (%)	0%	-35%	0%
Costs of Fuel Deviations (\$)	\$0	-\$4,496	\$0



# **LEC PPC Meeting**

## **September 12, 2022**

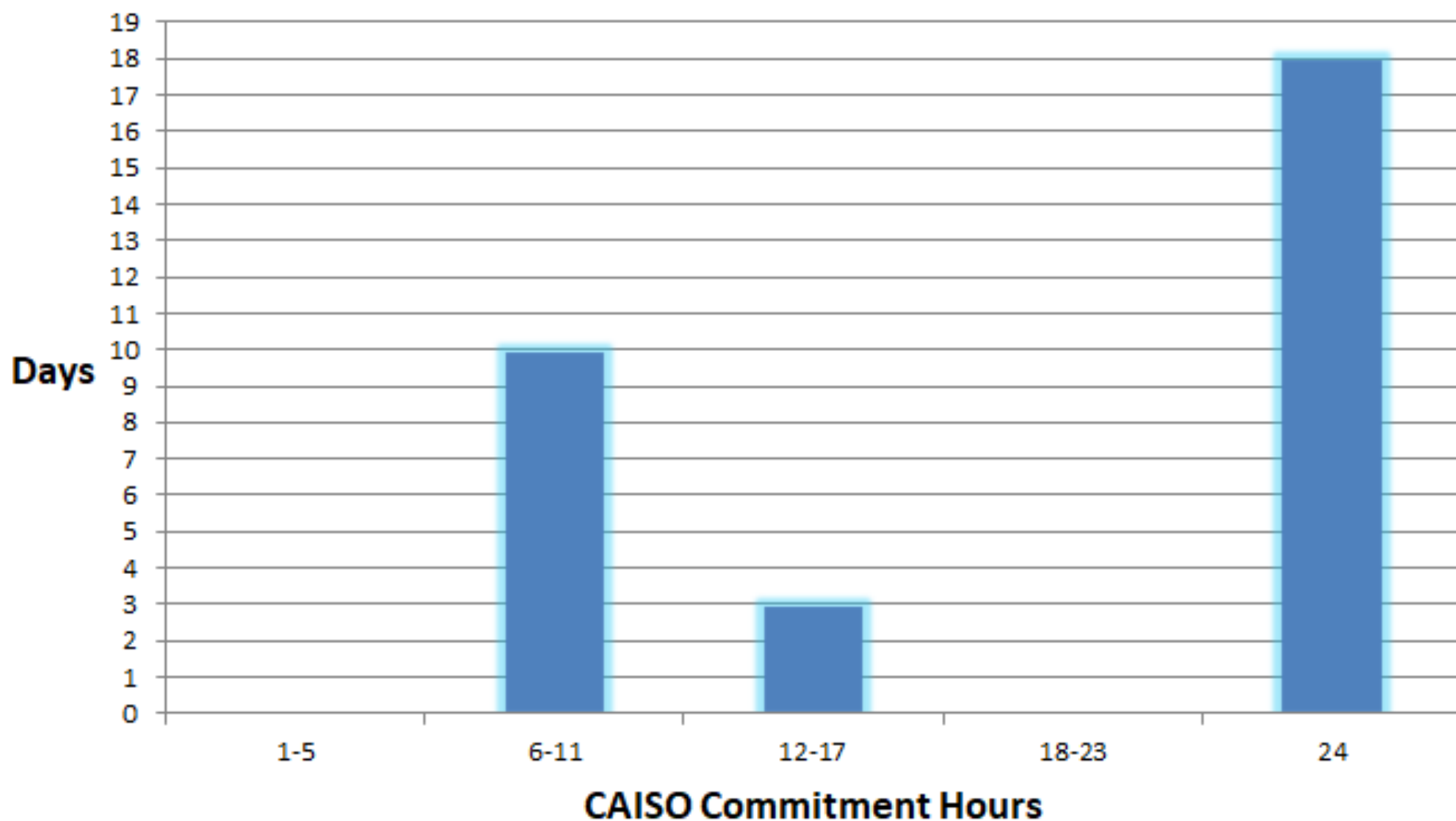
### **August 2022 Market Financial Results**

## LEC Operational Results for August 2022

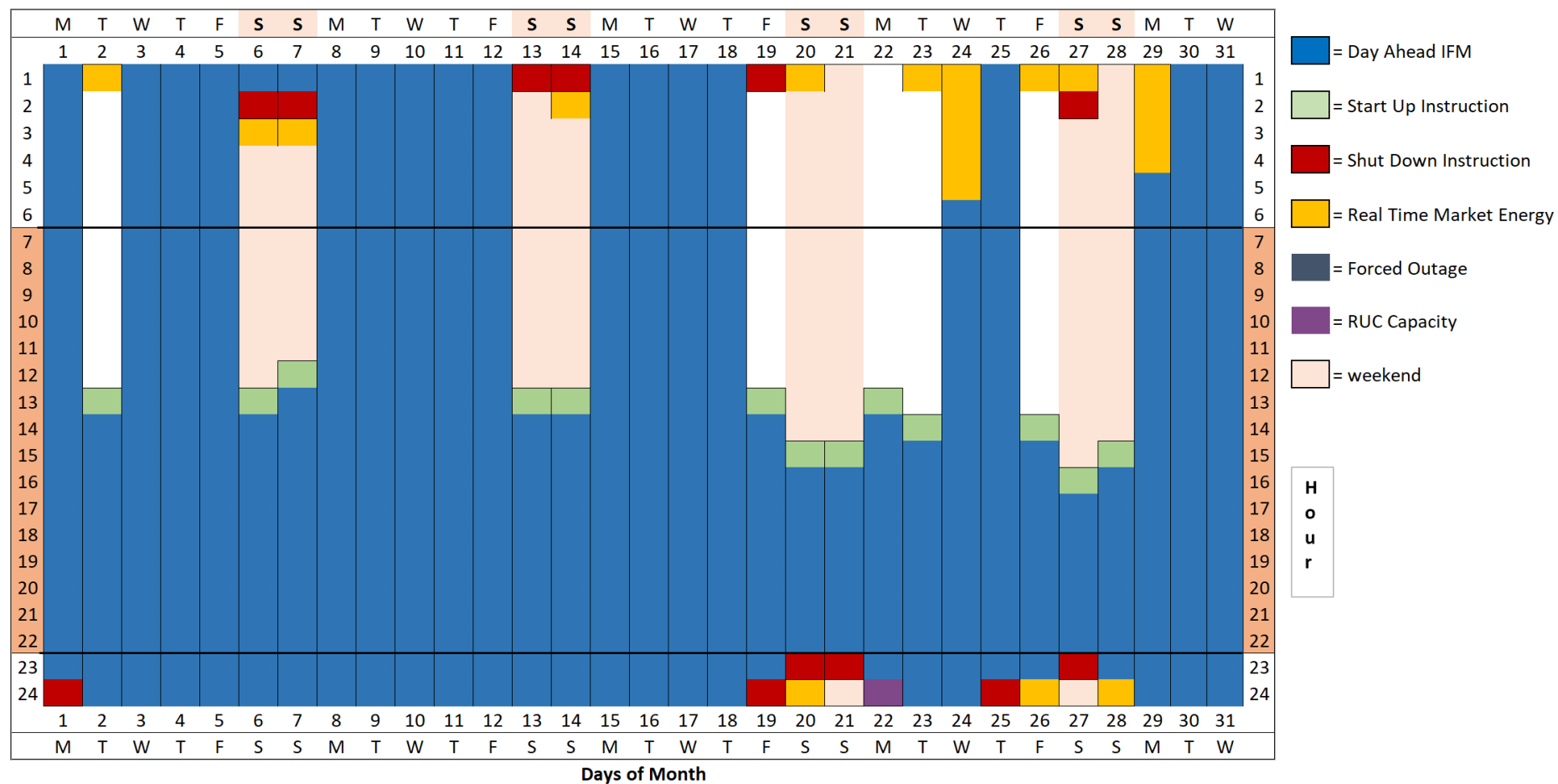
- Resource Adequacy Availability Metrics:
  - 99.9% - Monthly Assessment Generic Performance
  - 94.8% - Monthly Assessment Flexible Performance Vs
  - 96.5% Availability Standard
- Estimated RAAIM Incentive Payment:
  - \$2.6k for Generic RA based on claimed 48.12 MW
  - \$0k for Flexible RA based on claimed 92.18 MW
- LEC was committed by CAISO for Market energy 31 days of 31 available days
  - Thirteen (13) starts during the month



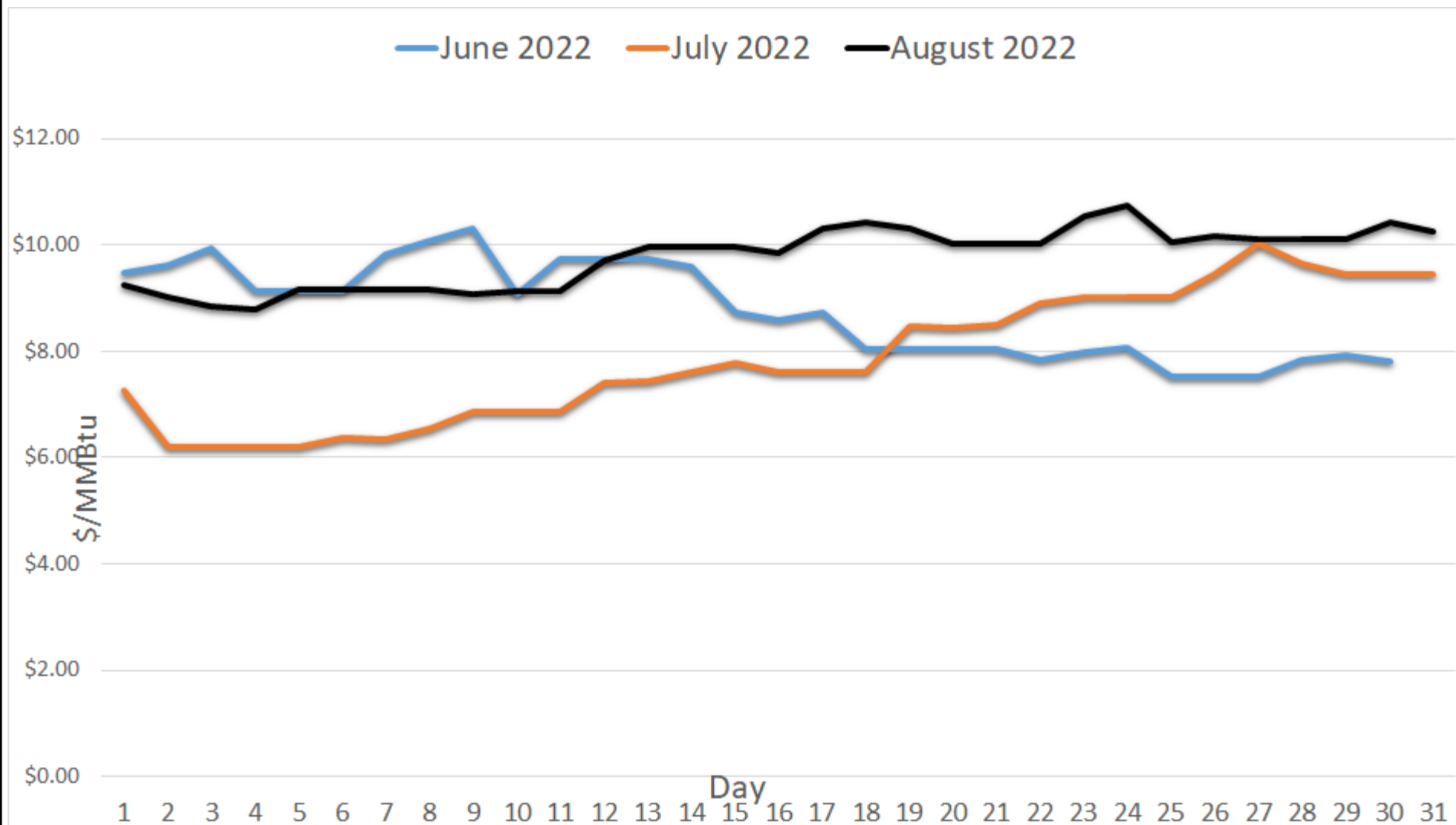
## Frequency Tabulation of Daily CAISO commitment hours for August 2022



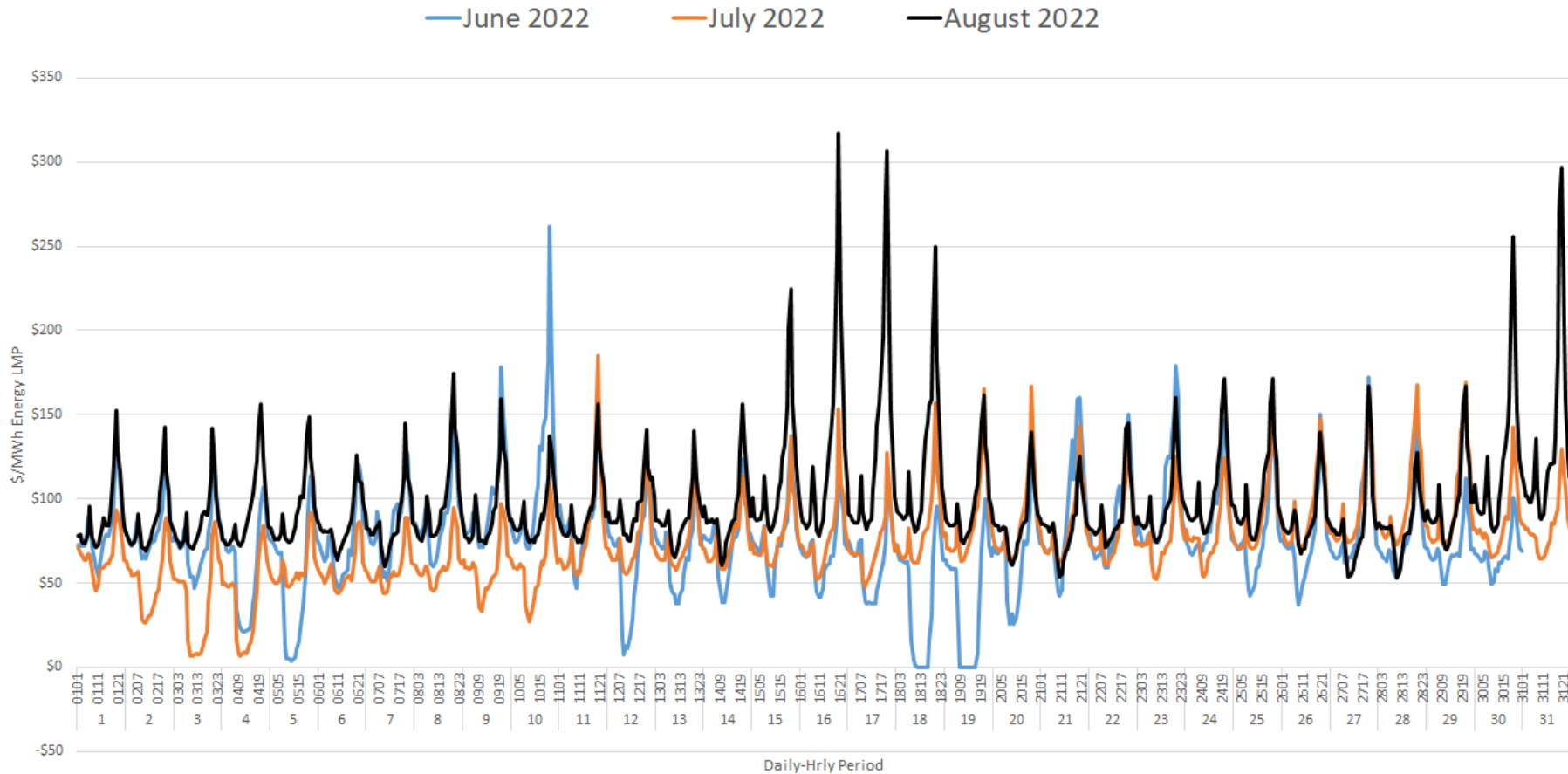
# Daily CAISO Commitment Runs for August 2022



# August 2022 Daily PG&E City Gate Gas Index



# DA Energy LMP values by Month





## August 2022 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$	14,412,700	
Regulation Up Capacity	\$	-	
Regulation Down Capacity	\$	58,900	
Spinning Reserve	\$	5,000	
<b>Total Gross LEC Revenue</b>			<b>\$ 14,476,600</b>
LEC CAISO GMC Costs	\$	(45,600)	
CAISO Energy & Capacity Buyback Costs	\$	(474,300)	
Total Monthly LEC Fuel Cost	\$	(9,961,400)	
Total Monthly GHG Obligation	\$	(1,598,500)	
Variable Operations & Maintenance Cost	\$	(311,300)	
<b>Total Gross Costs</b>			<b>\$ (12,391,100)</b>
<b>Cumulative Monthly Margin</b>			<b>\$ 2,085,500</b>
<b>18 Days of Accrued LT Maintenance Costs</b>	\$	(273,253)	
<b>Net Cumulative Monthly Margin</b>			<b>\$ 1,812,247</b>
<b>Average Net Margin \$/MWh</b>	\$		<b>13.6</b>

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

August 2022 Cost of Congestion Component

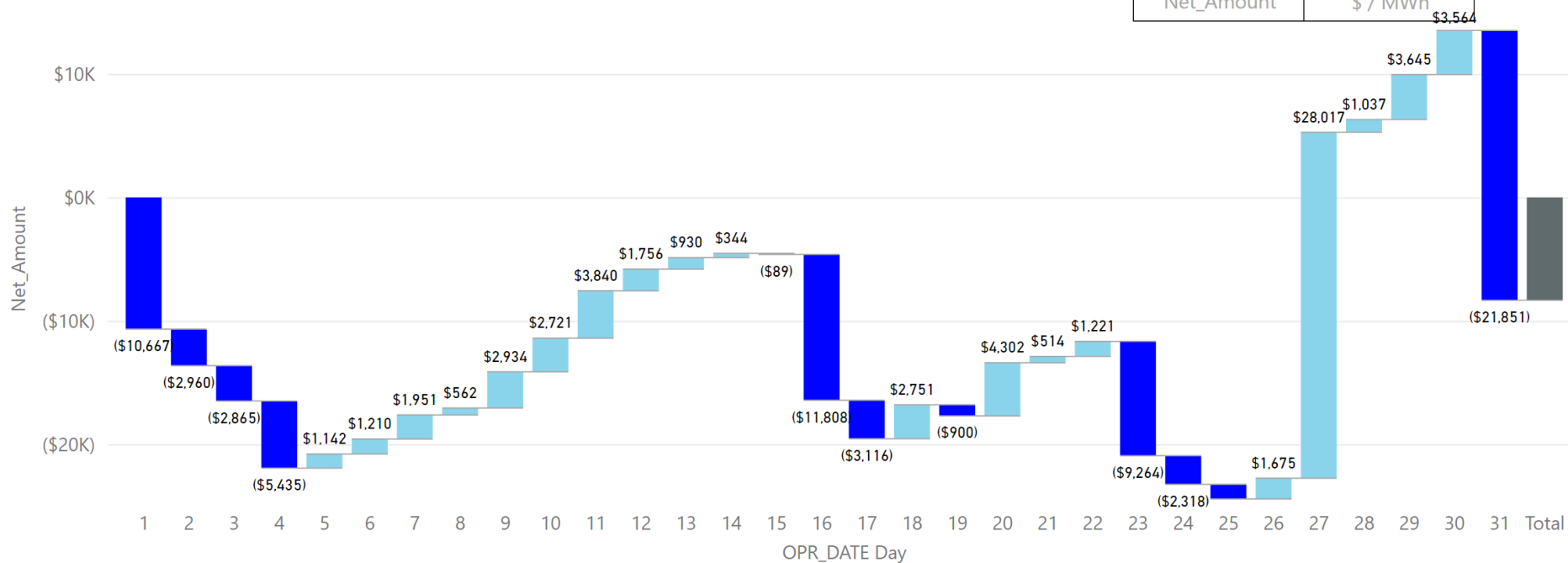
● Increase ● Decrease ● Total

(\$8,335)

Net\_Amount

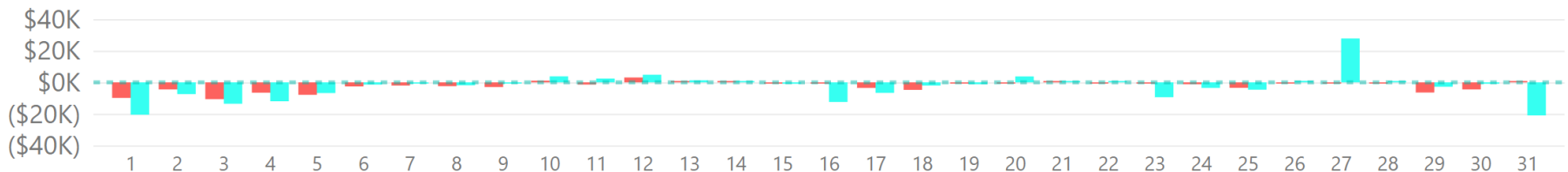
(\$0.06)

\$ / 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

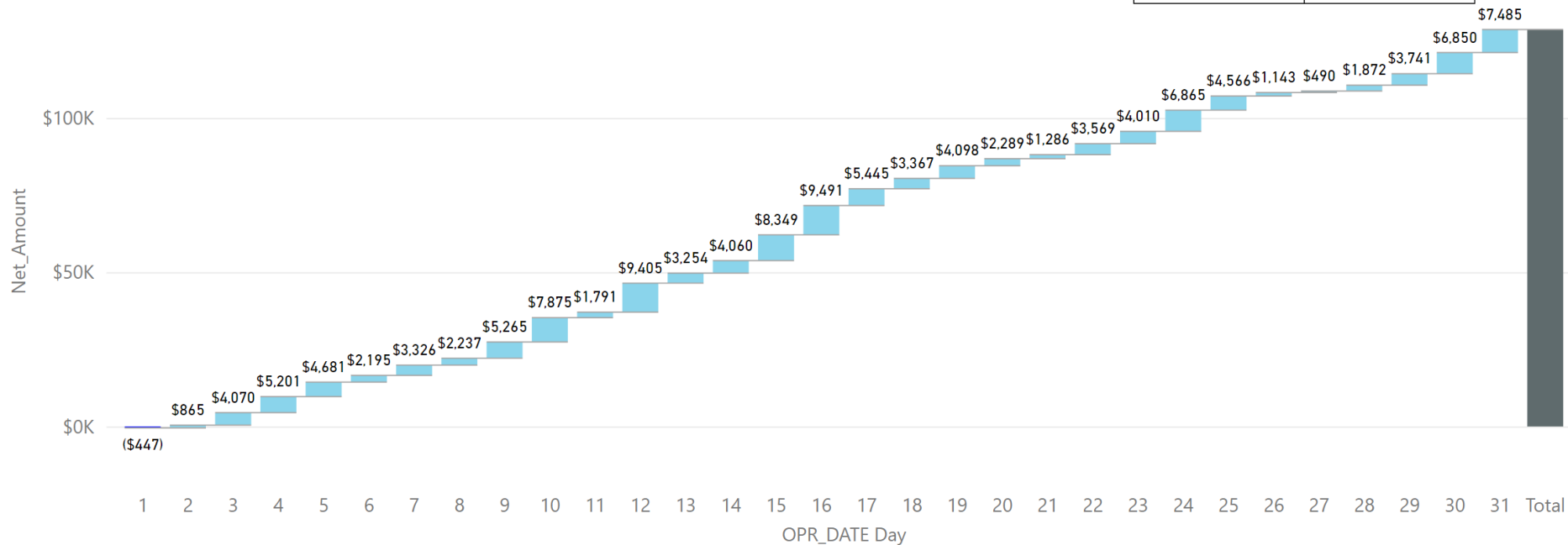
August 2022 Cost of Loss Component

\$128,696

Net\_Amount

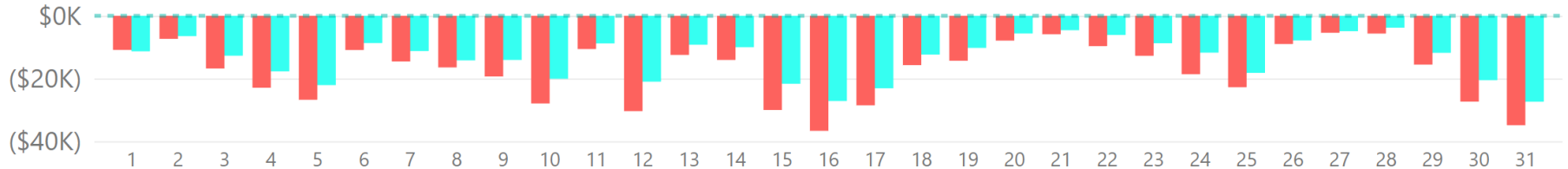
\$0.96

\$ / MWh



NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost

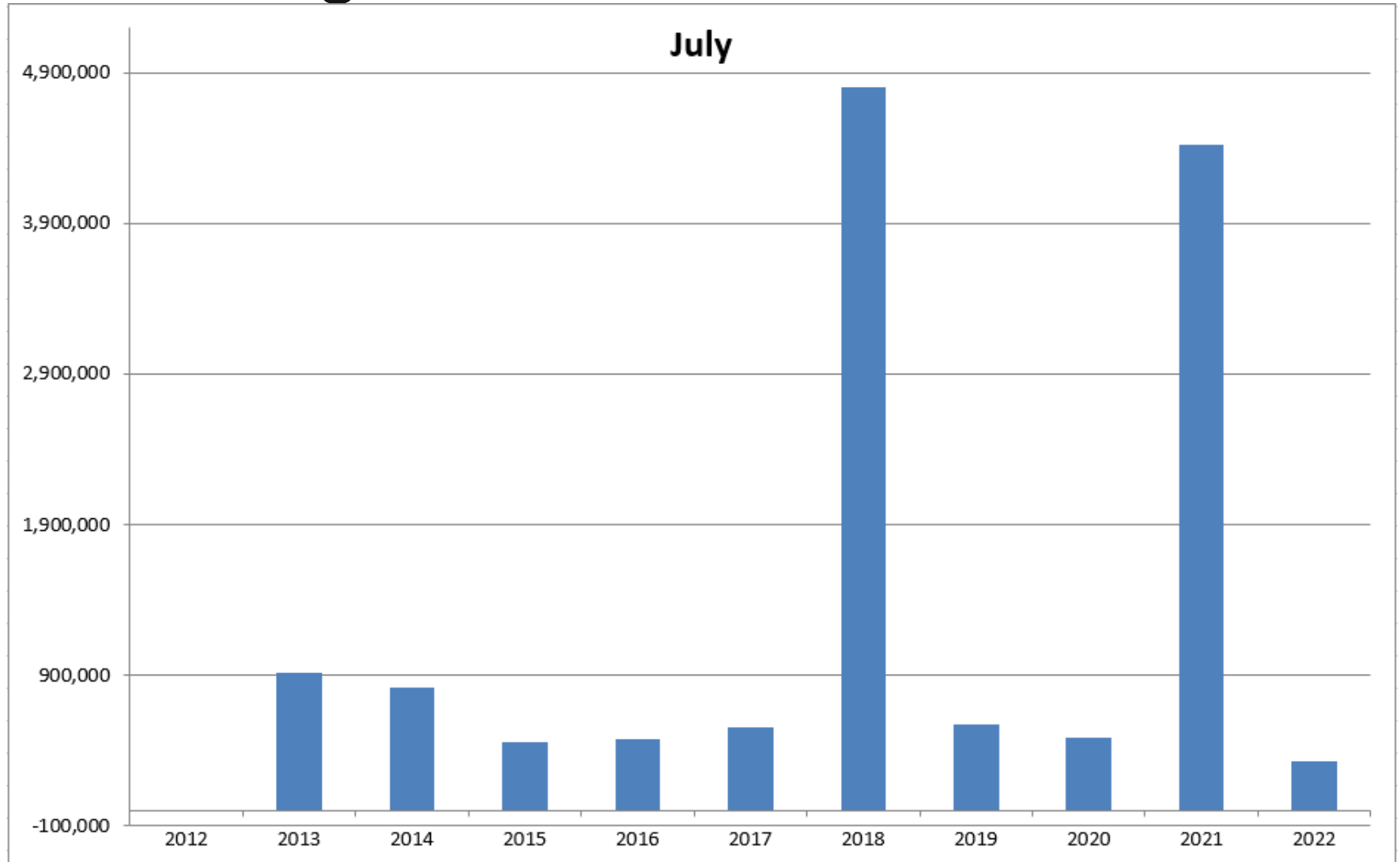




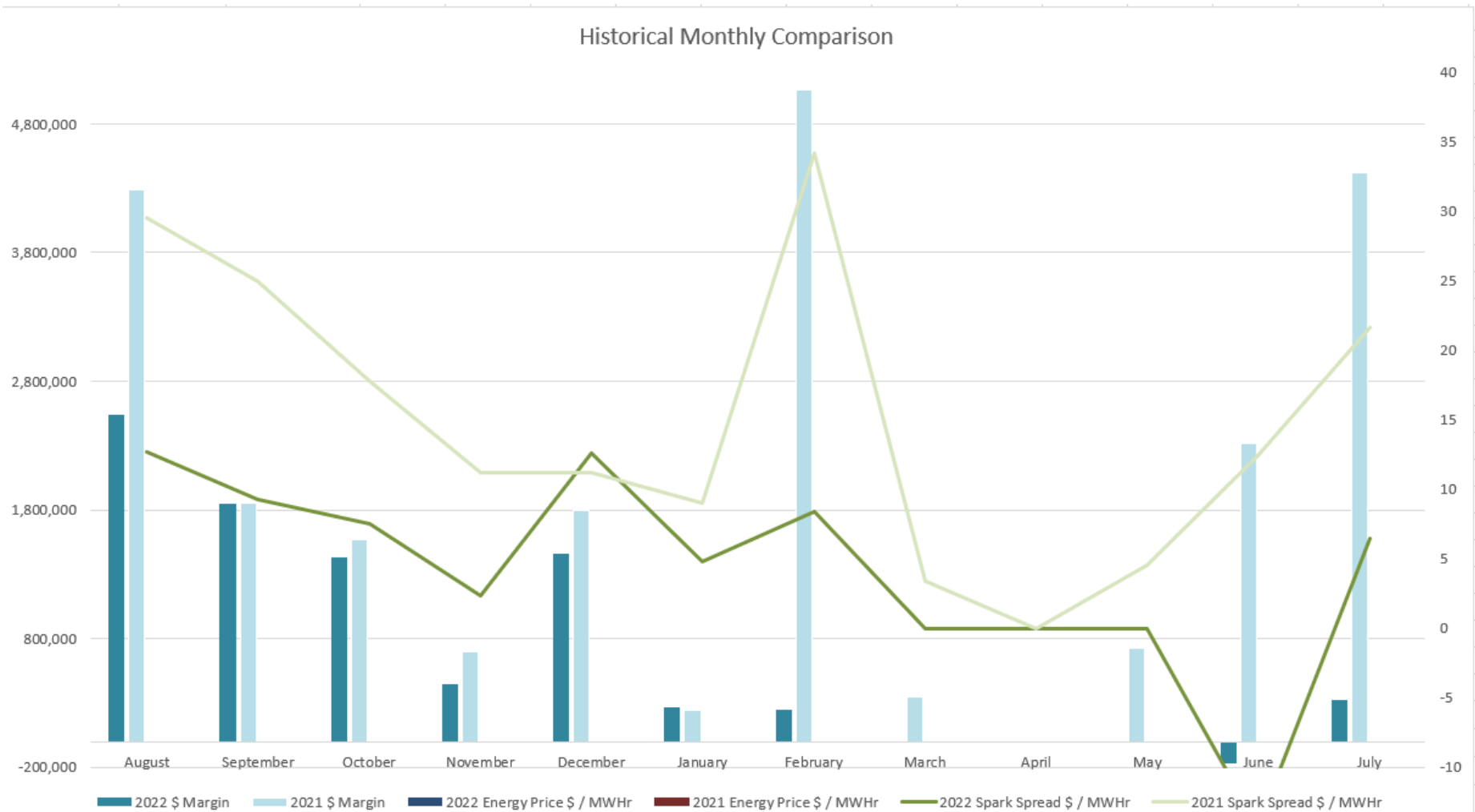
# July Asset Report

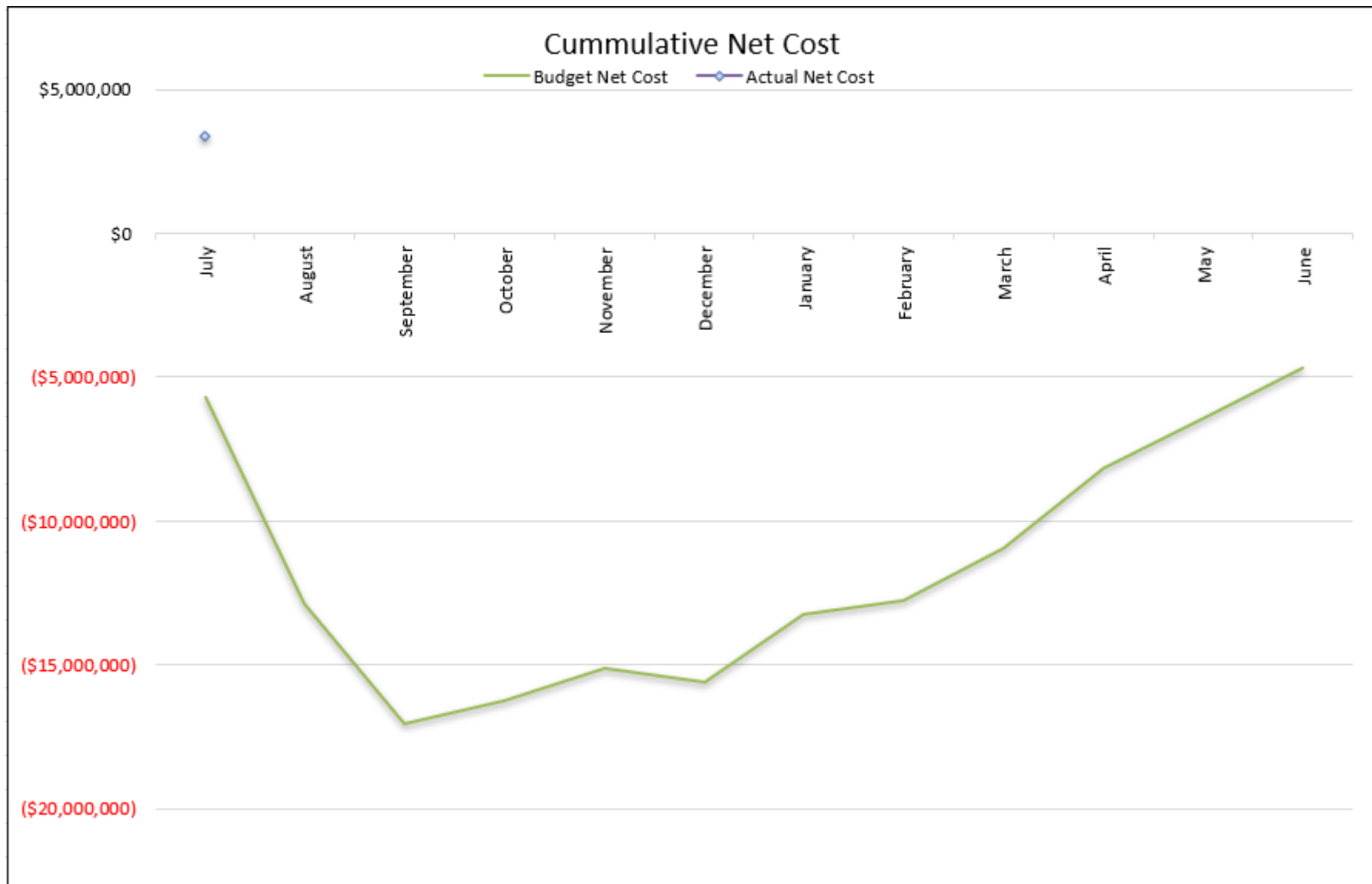
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	4,796,596	20,286,350	20,286,350	(15,489,754)	-76%	Market Weakness
VOM	4,095,484	10,941,032	10,941,032	(6,845,548)	-63%	Fuel cost ^43%, power pricing ^3% and ST Vibrations
Fixed	1,488,545	957,526	957,526	531,019	55%	ST Outage
Projects	192,549	279,280	279,280	(86,731)	-31%	
A&G	244,210	224,217	224,217	(7)	0%	
Debt	2,166,350	2,166,350	2,166,350	(0)	0%	
Net Cost	(3,370,542)	5,717,944	5,717,944	(9,088,486)	-159%	
Net Annual Cost		(22,181,016)	4,709,224	(\$26,890,240)		
				Above budget by 571.01%		

# Historical Margins



## Historical Monthly Comparison





	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2023 Budget	Percent Used	Comments
VOM																
Capacity Factor	4,095,484	11,219,757	10,416,195	6,341,087	8,221,422	16,458,283	16,883,246	11,292,644	7,030,963	0	6,189,639	12,225,412	110,374,132	94,127,609	117.3%	
Fuel Consumed (mmBTU, estimated)	383,556	1,439,740	1,347,121	400,951	601,019	1,199,785	1,150,915	838,476	581,698	0	609,000	1,125,040	9,677,301	11,557,251	50%	Weak Market and ST Vibration
Avg Fuel Cost (\$/mmBTU)	8.02	5.62	5.57	11.34	11.56	11.59	11.74	11.31	9.92	0.00	8.01	8.06	8.97	5.61	83.7%	
Power Produced (MWHr, estimated)	50,612	207,267	192,174	53,032	78,078	166,514	158,561	112,059	75,761	0	77,151	156,630	1,327,838	1,627,093	159.9%	Fuel cost was 43% higher vs. forecast
Avg Power Price (\$/MWHr)	94.27	56.29	69.29	103.11	104.76	105.19	106.30	115.53	91.31	0.00	76.06	74.09	86.69	74.75	81.6%	
Operations / Variable / LTSA	61,202	207,965	186,471	998,799	86,307	161,166	1,028,039	113,472	85,105	0	85,739	861,918	3,876,183	6,088,236	116.0%	Power Prices rose by 3% vs. forecast
Fuel (estimated)	3,077,263	8,093,314	7,509,238	4,548,077	6,947,191	13,906,286	13,513,489	9,479,471	5,770,293	0	4,877,114	9,071,441	86,793,178	64,819,215	133.9%	
AB32 GHG Offset (estimated)	608,065	2,540,215	2,369,768	697,427	1,045,432	2,086,944	2,052,345	1,495,194	1,037,301	0	1,085,985	2,006,203	17,024,880	20,249,959	84.1%	
CA ISO Charges (estimated)	348,954	378,262	350,717	96,783	142,492	303,887	289,373	204,508	138,264	0	140,801	285,850	2,679,891	2,970,199	90.2%	
Routine O&M (Fixed)	1,488,545	1,044,526	939,526	1,158,364	1,103,663	947,526	1,185,364	936,026	991,663	1,193,663	1,029,532	1,254,406	13,272,803	12,741,784	104.2%	
Maintenance / Fixed	511,311	240,863	240,863	240,863	350,000	240,863	240,863	240,863	275,000	325,000	275,000	240,863	3,422,350	3,151,902	108.6%	ST Forced Outage
Administration	8,661	10,000	10,000	10,000	35,000	10,000	35,000	10,000	10,000	10,000	35,869	10,000	194,530	195,869	99.3%	
Mandatory Costs	57,504	117,000	12,000	14,000	17,000	20,000	16,000	8,500	30,000	32,000	42,000	26,880	392,884	365,380	107.5%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	680,683	433,677	433,677	650,515	458,677	433,677	650,515	433,677	433,677	583,677	433,677	733,677	6,359,802	6,112,796	104.0%	
Insurance	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	1,313,901	1,313,901	100.0%	
Power Management & Settlements	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	1,450,728	1,450,728	100.0%	
Other Costs	0	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	138,607	151,208	91.7%	
Projects																
Maintenance Reserve	192,549	279,280	279,280	279,280	529,280	279,280	279,280	309,280	279,280	279,280	279,280	279,280	3,544,631	3,631,362	97.6%	
Operations & Maintenance Projects	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	2,008,392	2,008,392	100.0%	
Capital Projects	25,183	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	1,256,239	1,342,970	93.5%	
	0	0	0	0	250,000	0	0	30,000	0	0	0	0	280,000	280,000	100.0%	
A&G																
Administrative & General (Allocated)	224,210	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	2,690,601	2,690,608	100.0%	
Generation Services Shared	189,197	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	2,270,374	2,270,375	100.0%	
	35,013	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	420,227	420,233	100.0%	
Total O&M Cost	6,000,788	12,767,780	11,859,218	8,002,948	10,078,583	17,909,306	18,572,107	12,762,168	8,526,124	1,697,161	7,722,669	13,983,315	129,882,167	113,191,363	114.7%	
Debt Service	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	25,996,203	25,996,203	100.0%	
Revenues																
ISO Energy Sales (estimated)	4,796,596	13,522,571	15,172,505	7,324,722	10,035,538	19,371,989	18,710,923	14,802,086	8,774,021	0	7,724,856	13,461,547	133,697,353	143,896,790	92.9%	
Other Income	4,771,209	11,666,131	13,316,065	5,468,282	8,179,098	17,515,550	16,854,484	12,945,647	6,917,581	0	5,868,417	11,605,107	115,107,571	121,619,515	94.6%	
	25,387	1,856,440	1,856,440	1,856,440	1,856,440	1,856,440	1,856,440	1,856,440	1,856,440	0	1,856,440	1,856,440	18,589,783	22,277,275		
Net	(\$3,370,542)	(\$1,411,559)	\$1,146,936	(\$2,844,577)	(\$2,209,395)	(\$703,667)	(\$2,027,534)	(\$126,432)	(\$1,918,453)	(\$3,863,511)	(\$2,164,163)	(\$2,688,119)	(\$22,181,016)	\$4,709,224	Above budget by 571.01%	



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# LEC Treasurer's Report

AGENDA ITEM NO.: 8

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**Date:** September 12, 2022  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended July 31, 2022

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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 \$63.

Investments - The carrying value of the LEC's investment portfolio totaled \$28,463,210 at month end. The current market value of the portfolio totaled \$27,401,859.

The overall portfolio had a combined weighted average interest rate of 1.449% with a bond equivalent yield (yield to maturity) of 1.448%. Investments with a maturity greater than one year totaled \$14,194,000. During the month \$2,181,921 was invested.

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

Interest Rates - During the month, rates on 90 day T-Bills increased 82 basis points from 1.67% to 2.49% and rates on one year T-Bills increased 18 basis points from 2.83% to 3.01%.

To the best of my knowledge and belief, all securities held by LEC as of July 31, 2022 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

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

Respectfully submitted,

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**JULY 31, 2022**

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**Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Cash & Investment Balance  
July 31, 2022**

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 63	\$ 4,523,120	\$ 4,523,183	15.89%	\$ 4,519,032
Debt Service Reserve	-	11,747,320	11,747,320	41.27%	11,412,358
O & M Reserve	-	11,730,785	11,730,785	41.21%	11,008,484
	<b>63</b>	<b>28,001,225</b>	<b>28,001,288</b>	<b>98.37%</b>	<b>26,939,874</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	461,985	461,985	1.63%	461,985
Participant Deposit Account	-	-	-	-	-
	<b>\$ 63</b>	<b>\$ 28,463,210</b>	<b>\$ 28,463,273</b>	<b>100.00%</b>	<b>\$ 27,401,859</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, 2022**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ -	\$ 1	\$ 243	\$ -	\$ (2,166,987)	\$ 2,166,379	\$ (364)
Debt Service Reserve	-	5	-	-	(5)	-	-
O & M Reserve	-	14,057	-	-	(14,057)	-	-
	-	14,063	243	-	(2,181,049)	2,166,379	(364)
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	872	-	-	(872)	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 14,935</b>	<b>\$ 243</b>	<b>\$ -</b>	<b>\$ (2,181,921)</b>	<b>\$ 2,166,379</b>	<b>\$ (364)</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, 2022**

			(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	\$ 2,166,987	\$ (243)	\$ 5,230	\$ -	\$ -	\$ 2,171,974
Debt Service Reserve	5	-	11,983	-	-	11,988
O & M Reserve	14,057	-	(448)	-	-	13,609
	<u>2,181,049</u>	<u>(243)</u>	<u>16,765</u>	<u>-</u>	<u>-</u>	<u>2,197,571</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	872	-	-	-	-	872
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 2,181,921</u>	<u>\$ (243)</u>	<u>\$ 16,765</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,198,443</u>

**Less Non- Cash Activity**

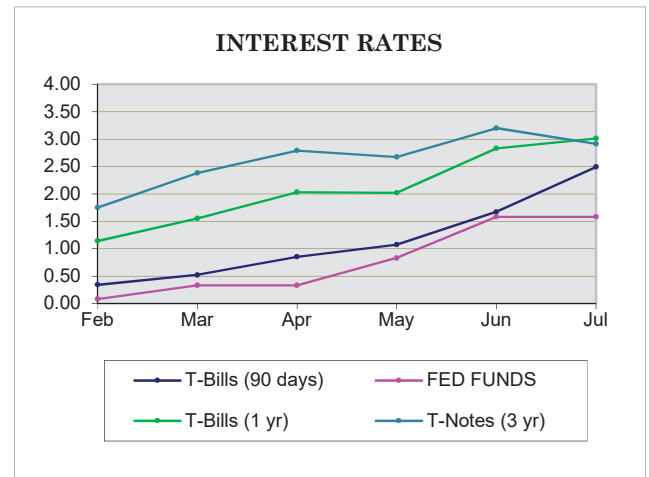
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(16,765)
<b>Net Change in Investment –Before Non-Cash Activity</b>	<u><u>\$ 2,181,678</u></u>

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

**Northern California Power Agency/Lodi Energy Center**  
**Interest Rate/Yield Analysis**  
**July 31, 2022**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>1.449%</b>	<b>1.448%</b>
Debt Service Account	<b>2.401%</b>	<b>2.458%</b>
Debt Service Reserve	<b>1.506%</b>	<b>1.532%</b>
O & M Reserve	<b>1.053%</b>	<b>1.001%</b>
GHG Cash Account	<b>0.742%</b>	<b>0.742%</b>

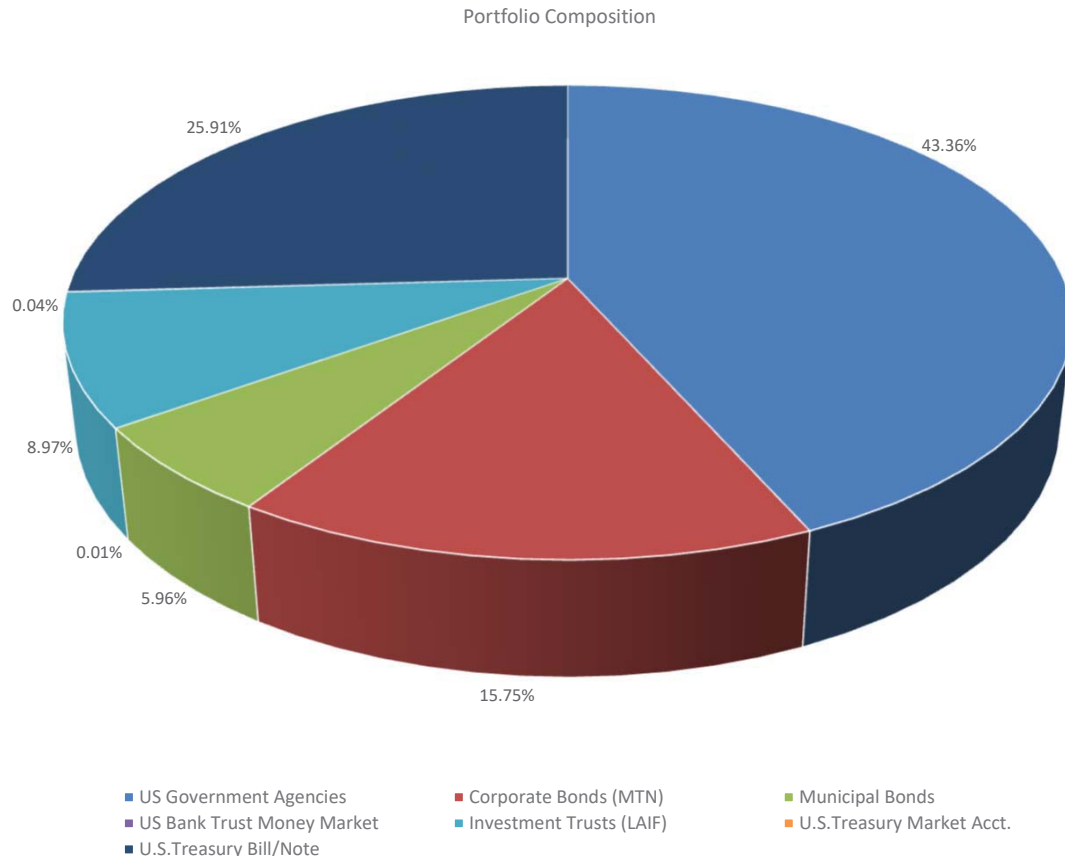
<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>1.58%</b>	<b>0.10%</b>
T-Bills (90da.)	<b>2.49%</b>	<b>0.05%</b>
Agency Disc (90da.)	<b>2.50%</b>	<b>0.09%</b>
T-Bills (1yr.)	<b>3.01%</b>	<b>0.07%</b>
Agency Disc (1yr.)	<b>3.00%</b>	<b>0.10%</b>
T-Notes (3yr.)	<b>2.91%</b>	<b>0.37%</b>



**Northern California Power Agency/Lodi Energy Center**  
**Total Portfolio**  
**Investment Maturities Analysis**  
**July 31, 2022**

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	\$ -	\$ -	\$ 4,375	\$ -	\$ -	\$ 8,000	\$ -	\$ 12,375	43.36%
Corporate Bonds (MTN)	-	-	-	-	-	4,494	-	4,494	15.75%
Municipal Bonds	-	-	-	-	-	1,700	-	1,700	5.96%
US Bank Trust Money Market	2	-	-	-	-	-	-	2	0.01%
Investment Trusts (LAIF)	2,561	-	-	-	-	-	-	2,561	8.97%
U.S.Treasury Market Acct.	11	-	-	-	-	-	-	11	0.04%
U.S.Treasury Bill/Note	-	18	7,379	-	-	-	-	7,397	25.91%
<b>Total Dollars</b>	<b>\$ 2,574</b>	<b>\$18</b>	<b>\$ 11,754</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$14,194</b>	<b>\$ -</b>	<b>\$ 28,540</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>9.02%</b>	<b>0.06%</b>	<b>41.18%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>49.74%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.



# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



## Northern California Power Agency

## Treasurer's Report

07/31/2022

## 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	297	0.005		297		1	0.005	297	SYS79004	79004	297
Federal Home Loan Ba	USBT	728,000	2.200	06/29/2022	721,104	12/01/2022	122	2.251	721,412	313385R57	27426	722,572
Federal Home Loan Ba	USBT	728,000	2.660	07/27/2022	721,169	12/01/2022	122	2.722	721,412	313385R57	27434	721,437
U.S. Treasury	USBT	113,000	1.550	06/03/2022	112,119	12/01/2022	122	1.583	112,010	912796P94	27413	112,406
<b>Fund Total and Average</b>		<b>\$ 1,569,297</b>	2.366		<b>\$ 1,554,689</b>		<b>122</b>	<b>2.421</b>	<b>\$ 1,555,131</b>			<b>\$ 1,556,712</b>

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	940	0.005		940		1	0.005	940	SYS79012	79012	940
Federal Home Loan Ba	USBT	787,000	2.200	06/29/2022	779,545	12/01/2022	122	2.251	779,878	313385R57	27427	781,132
Federal Home Loan Ba	USBT	786,000	2.660	07/27/2022	778,624	12/01/2022	122	2.722	778,887	313385R57	27435	778,915
U.S. Treasury	USBT	60,000	2.149	06/15/2022	59,394	12/01/2022	122	2.202	59,474	912796P94	27417	59,563
<b>Fund Total and Average</b>		<b>\$ 1,633,940</b>	2.418		<b>\$ 1,618,503</b>		<b>122</b>	<b>2.475</b>	<b>\$ 1,619,179</b>			<b>\$ 1,620,550</b>

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	673,000	2.200	06/29/2022	666,625	12/01/2022	122	2.251	666,909	313385R57	27428	667,982
Federal Home Loan Ba	USBT	673,000	2.660	07/27/2022	666,685	12/01/2022	122	2.722	666,909	313385R57	27436	666,933
U.S. Treasury	USBT	11,000	1.549	06/03/2022	10,914	12/01/2022	122	1.583	10,904	912796P94	27414	10,942
<b>Fund Total and Average</b>		<b>\$ 1,357,000</b>	2.423		<b>\$ 1,344,224</b>		<b>122</b>	<b>2.480</b>	<b>\$ 1,344,722</b>			<b>\$ 1,345,857</b>
<b>GRAND TOTALS:</b>		<b>\$ 4,560,237</b>	2.401		<b>\$ 4,517,416</b>		<b>122</b>	<b>2.458</b>	<b>\$ 4,519,032.</b>			<b>\$ 4,523,119</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 07/31/2022



## Northern California Power Agency

## Treasurer's Report

07/31/2022

## 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	366	0.005		366		1	0.005	366	SYS79005	79005	366
U.S. Treasury	USBT	18,000	0.947	05/11/2022	17,946	09/01/2022	31	0.963	17,967	912796T66	27402	17,985
U.S. Treasury	USBT	4,250,000	2.150	06/15/2022	4,207,105	12/01/2022	122	2.202	4,212,770	912796P94	27418	4,219,034
U.S. Treasury	USBT	514,000	1.952	06/21/2022	509,455	12/01/2022	122	1.997	509,497	912796P94	27422	510,598
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	1,309	0.840	4,122,071	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	1,411	0.799	139,304	3130AN4T4	27270	150,426
<b>Fund Total and Average</b>		<b>\$ 9,362,366</b>	<b>1.494</b>		<b>\$ 9,315,400</b>		<b>706</b>	<b>1.519</b>	<b>\$ 9,001,975</b>			<b>\$ 9,328,409</b>

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	531	0.005		531		1	0.005	531	SYS79006	79006	531
U.S. Treasury	USBT	2,277,000	1.550	06/03/2022	2,259,255	12/01/2022	122	1.583	2,257,053	912796P94	27415	2,265,039
<b>Fund Total and Average</b>		<b>\$ 2,277,531</b>	<b>1.550</b>		<b>\$ 2,259,786</b>		<b>122</b>	<b>1.584</b>	<b>\$ 2,257,584</b>			<b>\$ 2,265,570</b>

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	148	0.005		148		1	0.005	148	SYS79013	79013	148
U.S. Treasury	USBT	154,000	1.549	06/03/2022	152,800	12/01/2022	122	1.583	152,651	912796P94	27416	153,191
<b>Fund Total and Average</b>		<b>\$ 154,148</b>	<b>1.549</b>		<b>\$ 152,948</b>		<b>122</b>	<b>1.582</b>	<b>\$ 152,799</b>			<b>\$ 153,339</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,794,045</b>	<b>1.506</b>		<b>\$ 11,728,134</b>		<b>586</b>	<b>1.532</b>	<b>\$ 11,412,358.</b>			<b>\$ 11,747,318</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 07/31/2022

## Callable Dates:

Inv #  
27199      FFCB      Anytime



## Northern California Power Agency

## Treasurer's Report

07/31/2022

## LEC O &amp; M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		2,098,988	0.742		2,098,988		1	0.742	2,098,988	SYS70047	70047	2,098,988
First American Govt.	USBGC	10,568	1.260		10,568		1	1.260	10,568	SYS70041	70041	10,568
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	853	1.776	464,856	14912L6G1	26952	480,258
Nashville Met Gov	USBGC	500,000	0.610	02/18/2021	500,000	07/01/2025	1,065	0.610	465,210	592112UB0	27176	500,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	1,093	0.579	930,710	3136G4D75	27047	1,000,599
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	1,113	0.600	929,590	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	1,155	0.530	692,865	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	1,155	0.530	616,936	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	1,287	0.699	461,965	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	1,368	1.200	448,470	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	1,445	1.050	911,730	57629WDE7	27250	1,005,767
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	1,486	1.250	88,548	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	1,505	1.227	459,680	14913R2Q9	27290	498,463
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	1,546	1.567	787,483	872898AA9	27335	856,282
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	1,561	1.490	475,448	74460DAG4	27310	515,208
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	1,561	1.475	982,285	74460DAG4	27341	1,065,072
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,765	3.654	183,152	088006KB6	27424	179,581
Fund Total and Average		\$ 11,723,556	1.053		\$ 11,749,422		1072	1.001	\$ 11,008,484			\$ 11,730,786
GRAND TOTALS:		\$ 11,723,556	1.053		\$ 11,749,422		1072	1.001	\$ 11,008,484.			\$ 11,730,786

\*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 07/31/2022

## Callable Dates:

Inv #		
27047	FHLMC	Quarterly
27057	FNMA	Quarterly starting 8/18/2022
27083	FFCB	Anytime
27084	FFCB	Anytime
27170	APPL	Anytime starting 1/8/2026
27222	JPM	Annually starting 4/30/2023
27259	BAC	Semi-annually starting 8/26/2022





## Northern California Power Agency

## Treasurer's Report

07/31/2022

## LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		461,985	0.742		461,985		1	0.742	461,985	SYS70046	70046	461,985
Fund Total and Average		\$ 461,985	0.742		\$ 461,985		1	0.742	\$ 461,985			\$ 461,985
GRAND TOTALS:		\$ 461,985	0.742		\$ 461,985		1	0.742	\$ 461,985.			\$ 461,985

\*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 07/31/2022



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

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**Date:** September 12, 2022

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

**Subject:** July 31, 2022 Financial Reports (Unaudited)

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

	July	
	2022	2021
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 461,985	\$ 141,397
Interest receivable	25,722	39
Inventory and supplies - at average cost	2,252,372	2,197,965
Prepaid insurance	462,193	518,009
Due from (to) Agency, net	13,577,231	31,473,827
<b>TOTAL CURRENT ASSETS</b>	<b>16,779,503</b>	<b>34,331,237</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	2,111,901	6,176,437
Investments	25,889,387	27,466,482
Interest receivable	15,581	59,477
<b>TOTAL RESTRICTED ASSETS</b>	<b>28,016,869</b>	<b>33,702,396</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	446,092,894	410,208,081
Less: accumulated depreciation	(125,211,498)	(110,197,354)
<b>TOTAL ELECTRIC PLANT</b>	<b>320,881,396</b>	<b>300,010,727</b>
<b>OTHER ASSETS</b>		
Regulatory assets	29,675,405	28,656,144
<b>TOTAL OTHER ASSETS</b>	<b>29,675,405</b>	<b>28,656,144</b>
<b>TOTAL ASSETS</b>	<b>395,353,173</b>	<b>396,700,504</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Unamortized excess cost on advance refunding of debt, net	827,684	1,157,771
Asset retirement obligations	192,744	187,894
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>1,020,428</b>	<b>1,345,665</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$ 396,373,601</b>	<b>\$ 398,046,169</b>

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

	July	
	2022	2021
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 4,183,441	\$ 7,526,051
Operating reserves	12,649,636	16,150,399
Current portion of long-term debt	13,828,446	12,880,000
Accrued interest payable	2,136,462	2,192,622
<b>TOTAL CURRENT LIABILITIES</b>	<b>32,797,985</b>	<b>38,749,072</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	461,985	201,854
Asset retirement obligations	192,744	187,894
Long-term debt, net	315,090,067	293,655,000
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>315,744,796</b>	<b>294,044,748</b>
<b>TOTAL LIABILITIES</b>	<b>348,542,781</b>	<b>332,793,820</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	32,625,287	39,651,915
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	3,674,595	2,948,833
Restricted	2,427,900	7,141,186
Unrestricted	9,103,038	15,510,415
<b>TOTAL NET POSITION</b>	<b>15,205,533</b>	<b>25,600,434</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$ 396,373,601</b>	<b>\$ 398,046,169</b>

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

	<b>Month Ended July</b>	
	<b>2022</b>	<b>2021</b>
<b>SALES FOR RESALE</b>		
Participants	\$ 5,225,701	\$ 8,431,016
Other	4,770,457	14,944,286
<b>TOTAL SALES FOR RESALE</b>	<b>9,996,158</b>	<b>23,375,302</b>
<b>OPERATING EXPENSES</b>		
Operations	3,961,720	9,655,979
Depreciation	1,179,344	1,179,171
Purchased power	327,125	415,423
Maintenance	595,073	479,026
Administrative and general	485,748	428,594
Transmission	22,446	81,618
Intercompany (sales) purchases	35,013	25,351
<b>TOTAL OPERATING EXPENSES</b>	<b>6,606,469</b>	<b>12,265,162</b>
<b>NET OPERATING REVENUES</b>	<b>3,389,689</b>	<b>11,110,140</b>
<b>OTHER REVENUES (EXPENSES)</b>		
Interest expense	(1,088,005)	(1,118,943)
Interest income	1,228,597	12,265
Other	183,877	288,816
<b>TOTAL OTHER REVENUES (EXPENSES)</b>	<b>324,469</b>	<b>(817,862)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>	<b>(47,524)</b>	<b>(1,152,870)</b>
<b>INCREASE IN NET POSITION</b>	<b>3,666,634</b>	<b>9,139,408</b>
<b>NET POSITION</b>		
Beginning of year	11,538,899	16,461,026
End of period	\$ 15,205,533	\$ 25,600,434

**Lodi Energy Center  
FY 2023 Operating Costs  
As of July 31, 2022**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 6,088,236	\$ 61,202	\$ 6,027,034	99%	<b>A</b>
Fuel & LDC Costs	64,819,215	3,110,319	61,708,896	95%	
GHG Allowance Costs	20,249,959	-	20,249,959	100%	
CA ISO Charges	1,080,335	22,446	1,057,889	98%	
CA ISO Energy Purchases	1,889,864	327,125	1,562,739	83%	
<b>Total Variable Costs</b>	<b>94,127,609</b>	<b>3,521,092</b>	<b>90,606,517</b>	<b>96%</b>	
<b>Routine O&amp;M Costs</b>					
Fixed O&M	3,151,902	511,311	2,640,591	84%	<b>B</b>
Administration	195,869	8,661	187,208	96%	
Mandatory Costs	365,380	57,504	307,876	84%	<b>C</b>
Inventory Stock	-	-	-	0%	
Routine O&M Costs without Labor	3,713,151	577,476	3,135,675	84%	
Labor	6,112,796	680,683	5,432,113	89%	
<b>Total Routine O&amp;M Cost</b>	<b>9,825,947</b>	<b>1,258,159</b>	<b>8,567,788</b>	<b>87%</b>	
<b>Other Plant Costs</b>					
Debt Service	25,996,203	2,166,350	23,829,853	92%	
Insurance	1,313,901	109,492	1,204,409	92%	
Other Costs	151,208	-	151,208	100%	
Generation Services Shared	420,233	35,013	385,220	92%	
Administrative & General (Allocated)	2,270,375	189,197	2,081,178	92%	
Power Management Allocated Costs	1,450,728	120,894	1,329,834	92%	
<b>Total Other Plant Costs</b>	<b>31,602,648</b>	<b>2,620,946</b>	<b>28,981,702</b>	<b>92%</b>	
<b>Total O&amp;M Costs</b>	<b>135,556,204</b>	<b>7,400,197</b>	<b>128,156,007</b>	<b>95%</b>	
<b>Projects</b>					
Operations & Maintenance	1,342,970	25,183	1,317,787	98%	
Capital	280,000	-	280,000	100%	
Maintenance Reserve	2,008,392	167,366	1,841,026	92%	
<b>Total Projects</b>	<b>3,631,362</b>	<b>192,549</b>	<b>3,438,813</b>	<b>95%</b>	
<b>Annual Cost</b>	<b>139,187,566</b>	<b>7,592,746</b>	<b>131,594,820</b>	<b>95%</b>	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	25,387	224,613	90%	
ISO Energy Sales	121,619,515	4,735,192	116,884,323	96%	
Ancillary Services Sales	2,317,565	35,265	2,282,300	98%	
GHG Allowance Credits	19,709,710	-	19,709,710	100%	
Other Income	-	-	-	0%	
	143,896,790	4,795,844	139,100,946	97%	
<b>Net Annual Cost to Participants</b>	<b>\$ (4,709,224)</b>	<b>\$ 2,796,902</b>	<b>\$ (7,506,126)</b>	<b>159%</b>	

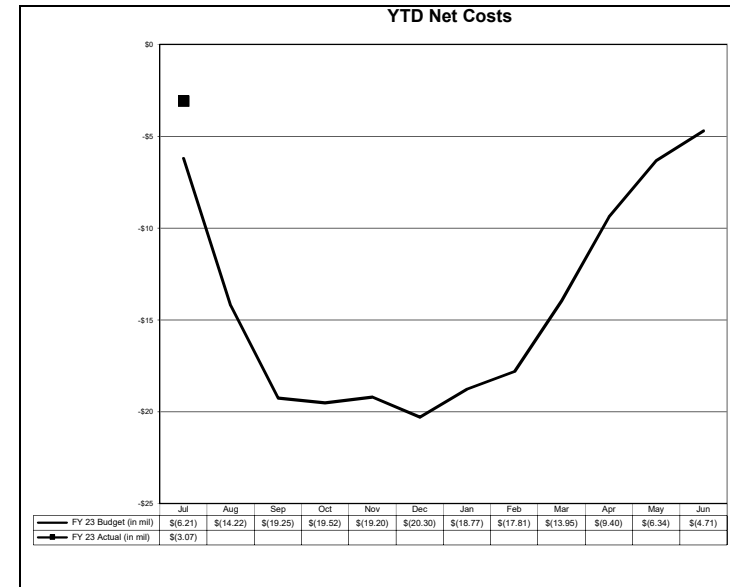
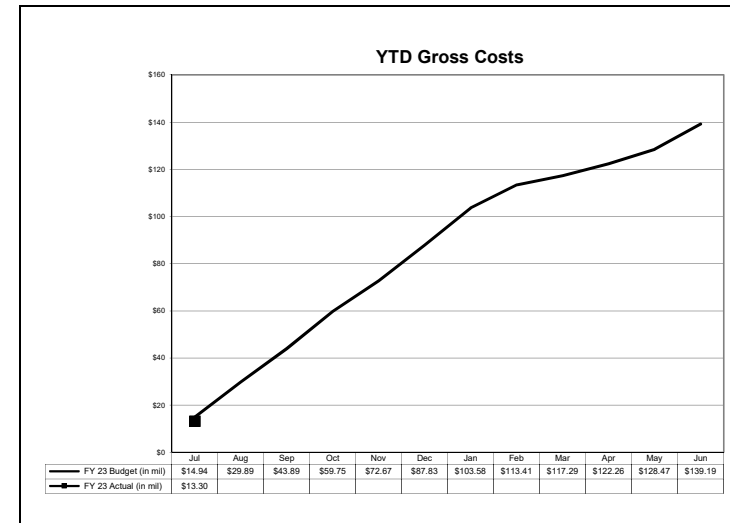
<b>Total Variable Costs</b>	94,127,609	3,521,092	90,606,517
<b>Total Fixed Costs</b>	45,059,957	4,071,654	40,988,303
	<b>\$ 139,187,566</b>	<b>\$ 7,592,746</b>	<b>\$ 131,594,820</b>

<b>Net Cumulative Generation (MWh)</b>	1,626,895	50,618
<b>Total O&amp;M Cost Per MWh</b>	\$ 83.32	\$ 146.20
<b>Net Annual Cost Per MWh</b>	\$ (2.89)	\$ 55.26

**Footnotes:**

**General** - The plant ran 20 out of 31 days during the month.

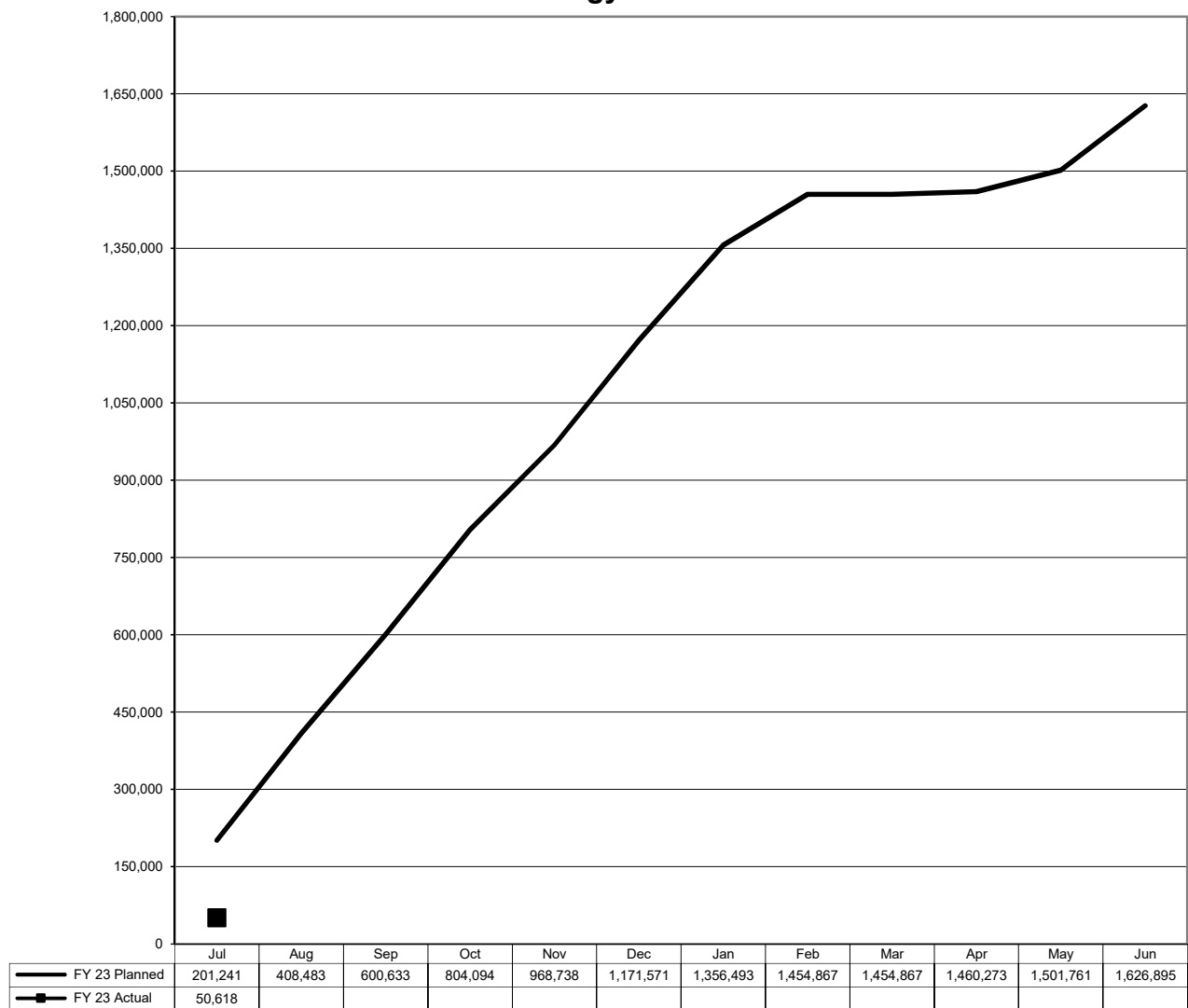
- A** - Higher CAISO energy purchases due to imbalance energy settlement costs.
- B** - Higher than budget fixed O&M costs mainly due to maintenance work on HRSG system.
- C** - Expenditure for annual permit fees which are expected to levelize by year end.



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

In MWh

## Lodi Energy Center





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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

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**Date:** September 12, 2022

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

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

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[illegible]

	CY 2022 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual						Estimated						CY 2022	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	55,697	29,584	0	0	0	15,031	116,019	167,280	162,004	139,231	144,886	167,402	997,134	11,380,404
Gas Schedule (MMBtu)	403,195	220,591	0	0	0	123,728	900,310	1,298,095	1,257,152	1,080,436	1,124,315	1,299,042	7,706,864	82,341,071
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)	21,758	11,904	0	0	0	6,677	48,585	70,052	67,842	58,306	60,674	70,103	415,901	4,451,587
Annual Cal e-GGRT/MT Obligation True Up (MTO)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cumulative MT Obligation (MTO)	633,125	645,029	645,029	645,029	645,029	651,706	700,291	770,343	838,185	896,491	957,165	1,027,268	1,027,268	1,027,268
Compliance Instrument Participant Transfers														
Carryover Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	69,263
Auction Allowances	55,655	0	223,522	0	0	0	0	0	0	0	0	0	279,177	4,331,852
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)	55,655	0	223,522	0	0	0	0	0	0	0	0	0	279,177	4,401,115
NCPA Compliance Instrument Purchases														
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument NCPA Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Internal Transfers (LEC from/to STIG)	0	0	0	0	0	0	0	0	0	0	0	0	0	(678)
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	3,418,853
Total Monthly Activity (MT)	55,655	0	223,522	0	0	0	0	0	0	0	0	0	279,177	4,447,437
Cumulative MT Account Balance (MTA)	805,740	805,740	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262	1,029,262
MTA Shortfall (MT)	(172,615)	(160,711)	(384,233)	(384,233)	(384,233)	(377,556)	(328,971)	(258,919)	(191,077)	(132,771)	(72,097)	(1,994)	(1,994)	(1,994)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	461,028	0	0	0	0	0	461,028
Monthly GHG Price	30.51	30.70	35.28	31.06	31.25	35.83	31.61	31.80	36.38	32.16	32.35	36.93		



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

AGENDA ITEM NO.: 11

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**Meeting Date:** September 12, 2022

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

**Subject:** Proclaiming a Local Emergency Persists in the City of Santa Clara and the Modesto Irrigation District, Re-Ratifying the Proclamation of a State of Emergency Issued by Governor Gavin Newsom, and Authorizing the Continuation of Remote Teleconference Meetings of the Lodi Energy Center Project Participant Committee for the Period of September 12, 2022, through October 12, 2022, Pursuant to the Brown Act

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### Proposal

Proclaim that a local emergency persists in the City of Santa Clara and the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi Energy Center Project Participant Committee for the period of September 12, 2022, through October 12, 2022, pursuant to the Ralph M. Brown Act (Brown Act).

### Background

The Lodi Energy Center Project Participant Committee (LEC PPC) is committed to preserving public access and participation in meetings of its governing body. All meetings of the LEC PPC's governing body are open and public, as required by the Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the LEC PPC conduct its business. The Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions.

On September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361 into law. AB 361 extends the flexibilities provided to government bodies, such as LEC PPC, with respect to holding public meetings remotely. As urgency legislation, AB 361 became effective immediately. In order to meet under the Brown Act rules of AB 361, the LEC PPC must adopt an initial resolution at the first meeting that they will operate under AB 361 and then a subsequent resolution at least every 30 days thereafter.

In light of the continued state of emergency related to COVID-19, the Santa Clara County Public Health Officer continues to recommend that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361 to maintain remote meetings under the Brown Act and similar laws, as outlined in their "Recommendation Regarding Continued Remote Public Meetings of Governmental Entities," issued September 21, 2021.

The Modesto Irrigation District has proclaimed that a local emergency exists through the District, and that the legislative body meeting in person could present imminent risks to the health and safety of attendees due to the prevalence of the COVID-19 Pandemic in Stanislaus County and the state.

On December 2, 2021, the LEC PPC adopted initial Resolution 2021-01 finding that the requisite conditions exist for the LEC PPC to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953.

As a condition of extending the use of the provisions found in section 54953(e), the LEC PPC governing body must reconsider the circumstances of the declared local emergency and state of emergency that exists.

A required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558. On March 4, 2020, Governor Newsom proclaimed a State of Emergency due to COVID-19 pursuant to Government Code Section 8625 and this proclamation remains in effect as of today's date.

A proclamation is made when there is an actual incident, threat of disaster, or extreme peril posing imminent risk to the health and safety of persons within the state of California including the LEC PPC Project members' jurisdictions, caused by natural, technological, or human-caused disasters. It is further required that state or local officials have imposed or recommended measures to promote social distancing, or, that the legislative body meeting in person would present imminent risks to the health and safety of attendees.

Such conditions now persist within certain LEC PPC members' jurisdictions, as some members reside: (i) in counties with higher COVID-19 transmission rates, (ii) in counties with varying vaccination rates, (iii) in counties with additional safety requirements in place including masking of all parties indoors regardless of vaccination status and requirements to show proof of vaccination to access certain indoor locations, (iv) in locations where social distancing and masking is recommended by local health authorities for meeting indoors, and (v) in counties where local public health officers recommend that public bodies meet remotely, and thus, the LEC PPC members convening in central location to attend an in person meeting would present imminent risk to the health and safety of attendees. Further, meeting in person during the COVID-19 pandemic could present imminent risks to the health and safety of attendees due to the continued COVID-19 pandemic.

The LEC PPC now considers adoption of a subsequent resolution to continue to meet by teleconference and make the meetings available telephonically to any members of the public for the period from September 12, 2022, through October 12, 2022.

#### Fiscal Impact

There is no fiscal impact as a result of authorizing teleconference meetings of the LEC PPC for the period September 12, 2022, through October 12, 2022.

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:



JANE E. LUCKHARDT  
NCPA General Counsel

Attachments: 1

- Proposed Resolution 2022-13

**RESOLUTION NO. 2022-13**

**A RESOLUTION OF THE LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE PROCLAIMING A LOCAL EMERGENCY PERSISTS IN THE CITY OF SANTA CLARA AND IN THE MODESTO IRRIGATION DISTRICT, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY ISSUED BY GOVERNOR GAVIN NEWSOM, AND AUTHORIZING THE CONTINUATION OF REMOTE TELECONFERENCE MEETINGS OF THE LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE FOR THE PERIOD SEPTEMBER 12, 2022, THROUGH OCTOBER 12, 2022, PURSUANT TO THE BROWN ACT**

WHEREAS, the LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE (LEC PPC) is committed to preserving and nurturing public access and participation in meetings of its governing body; and

WHEREAS, all meetings of the LEC PPC's governing body are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the LEC PPC conduct its business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency due to COVID-19 pursuant to Government Code Section 8625 and this proclamation remains in effect as of today's date; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril posing imminent risk to the health and safety of persons within the state of California including the LEC PPC Project members' jurisdictions, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, that the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, in light of the continued state of emergency related to COVID-19, the Santa Clara County Public Health Officer continues to recommend that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361 to maintain remote meetings under the Brown Act and similar laws, as outlined in their "Recommendation Regarding Continued Remote Public Meetings of Governmental Entities," issued on September 21, 2021; and

WHEREAS, the Modesto Irrigation District has proclaimed that a local emergency exists through the District, and that the legislative body meeting in person could present imminent risks to the health and safety of attendees due to the prevalence of the COVID-19 Pandemic in Stanislaus County and the state; and

WHEREAS, the LEC PPC previously adopted Resolution Number 2021-01 on December 2, 2021, finding that the requisite conditions exist for the LEC PPC to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the LEC PPC governing body must reconsider the circumstances of the local state of emergency that exists, and the governing body has done so; and

WHEREAS, such conditions persist within certain LEC PPC members' jurisdictions, as some members reside: (i) in counties with higher COVID-19 transmission rates, (ii) in counties with varying vaccination rates, (iii) in counties with additional safety requirements in place including masking of all parties indoors regardless of vaccination status and requirements to show proof of vaccination to access certain indoor locations, (iv) in locations where social distancing and masking is recommended by local health authorities for meeting indoors, and (v) in counties where local public health officers recommend that public bodies meet remotely, and thus, the LEC PPC members convening in central location to attend an in person meeting could present imminent risk to the health and safety of attendees; and

WHEREAS, as a consequence of the declared emergency persisting, the LEC PPC does hereby find that the state of emergency as a result of the ongoing COVID-19 pandemic and conditions causing imminent risk to the health and safety of meeting attendees has caused, and will continue to cause, conditions of peril to the safety of persons that are likely to be beyond the control of services, personnel, equipment, and facilities of the LEC PPC, and desires to proclaim a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District and re-ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency persisting, the governing body of the LEC PPC does hereby find that the LEC PPC shall conduct its meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative body shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the LEC PPC will continue to comply with all noticing and agenda requirements required by the Brown Act; provide the public with access to and participation in the meeting through a call-in or internet-based service; provide instructions in the posted notices or agenda for how to participate; ensure the public will be able to participate in the meeting in real time through call-in or internet-based service, ensure the public will be able to provide public comment during the meeting; and comply with the requirements of AB 361.

NOW, THEREFORE, THE LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE DOES HEREBY RESOLVE AS FOLLOWS:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. Proclamation of Local Emergency. The LEC PPC hereby proclaims that a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District due to the ongoing COVID-19 pandemic, and that the legislative body meeting in person could present imminent risks to the health and safety of attendees.
3. Re-Ratification of Governor's Proclamation of a State of Emergency. The Board hereby re-ratifies the Governor of the State of California's Proclamation of State of Emergency signed on March 4, 2020 regarding COVID-19.
4. Remote Teleconference Meetings. The members and staff of the LEC PPC are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) October 12, 2022, or (ii) such time the LEC PPC adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the LEC PPC may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE  
this \_\_\_\_ day of September, 2022, by the following vote on roll call:

Summary Vote	
Participant	Vote
Azusa	
BART	
Biggs	
CDWR	
Gridley	
Healdsburg	
Lodi	
Lompoc	
Modesto	
Plumas-Sierra	
PWRPA	
Silicon Valley Power	
Ukiah	
Vote Summary	
Total Ayes	
Total Noes	
Total Abstain	
Total Absent	
Result:	

\_\_\_\_\_  
DEANE BURK, CHAIR

ATTEST: \_\_\_\_\_  
ASSISTANT SECRETARY





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

AGENDA ITEM NO.: 12

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**Meeting Date:** September 12, 2022

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

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

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### Proposal

Approve the Multi-Task General Services Agreement with Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. for motor maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various motor maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Catrol, Inc., Custom Valve Solutions, Koffler Electrical Mechanical Apparatus and Martech.

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
MODESTO INDUSTRIAL ELECTRICAL CO., INC.  
DBA INDUSTRIAL ELECTRICAL CO., 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 Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc., a corporation with its office located at 1417 Coldwell Avenue, Modesto, CA 95350 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2022 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** Not Applicable.
- 4.4 Pollution Insurance.** Not Applicable.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.5.5 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.6 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent

contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

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

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

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

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

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge

and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

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

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

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



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

**Section 7. LEGAL REQUIREMENTS.**

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

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

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

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

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

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

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

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

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

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

- 8.4.1** Immediately terminate the Agreement;

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

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

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

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

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

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

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

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

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

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

subcontractors who have a need to know in connection with this Agreement.

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

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

## **Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations

including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

**11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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

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

**12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

**12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

**12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

**12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for

any Work performed when, Contractor is not in full compliance with this Section 12.

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

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

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2** **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

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

Industrial Electrical Co., Inc.  
Attention: Rich Hodge  
1417 Coldwell Avenue  
Modesto, CA 95350

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane E. Luckhardt  
General Counsel



Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

MODESTO INDUSTRIAL ELECTRICAL  
CO., INC DBA INDUSTRIAL ELECTRICAL  
CO., INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**PAUL SWANSON,**  
COO

Attest:

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

Approved as to Form:

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

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

Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. ("Contractor") shall provide motor maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Motor Maintenance
- Motor Replacements

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:

#### HOURLY LABOR SCHEDULE

(Revised 10/1/21)

MOTOR SHOP			
	Modesto	Fresno	
Mechanical Labor	98.00	98.00	HR.
Mechanical O.T.	147.00	147.00	HR.
Double Time	196.00	196.00	HR.
Service Call	135.00	135.00	HR.
Service Call O.T.	202.50	202.50	HR.
Service Call D.T.	270.00	270.00	HR.
WELDER - SMALL ENGINE - GENERATOR REPAIR			
All Others	98.00	98.00	HR.
Service Call	135.00	135.00	HR.
Advanced Welder & Robotics	135.00	135.00	HR.
Generator Service (In Shop)	98.00	98.00	HR.
Generator Service (In Shop) O.T.	147.00	147.00	HR.
Generator Service (In Shop) D.T.	196.00	196.00	HR.
Generator Service (Service Call)	135.00	135.00	HR.
Generator Service (Service Call) O.T.	202.50	202.50	HR.
Generator Service (Service Call) D.T.	270.00	270.00	HR.
EFS SHOP RATES			
In Shop Service	135.00	135.00	HR
On Site Service - M-F 8-4:30	135.00	135.00	HR
On Site Service - Emergency Call - M-F 8-4:30	270.00	270.00	HR
On Site Service - Emergency Call - After Hours	270.00	270.00	HR
FRESNO SHOP RATES			
	Fresno		
All Others	98.00		HR.
Service Call - Distributors	90.00		HR.
Service Call - All Others	135.00		HR.
Robinair	98.00		HR.
Robinair Service Call	135.00		HR.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

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(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

Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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(Signature of officer or agent)

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 13

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**Meeting Date:** September 12, 2022

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

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

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### Proposal

Approve the Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Nooter Eriksen, Inc. for heat recovery steam generator (HRSG) support services and parts, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA.

### Background

Various heat recovery steam generator (HRSG) support services and parts are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA currently has agreements in place with HRST, Inc. and Tetra Engineering Group, Inc. for similar services.

### Selection Process

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

### Fiscal Impact

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

### Environmental Analysis

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



Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement and Agreement for Purchase of Equipment, Materials and Supplies with Nooter Eriksen, Inc.



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

This agreement for general services and purchase of equipment, materials, and supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Nooter Eriksen, Inc., a Missouri corporation with its office located at 1509 Ocello Drive, Fenton, MO 63026 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2022 ("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. For Contractor personnel working at Agency's facilities, 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 working at Agency's facilities, 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 or monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be

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

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

## **2.1 Invoices.**

For Services: Contractor shall submit invoices, in accordance with any payment schedule identified in the Purchase Order, or 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, if billed by Contractor to Agency on a time and material basis, 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, if billed by Contractor to Agency on a time and material basis, 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.

All 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.** Unless there is a payment schedule provided for in the Purchase Order, Agency shall make payments, based on invoices received, for Work satisfactorily performed and for authorized reimbursable costs incurred, or for delivery of the Goods, per the delivery terms of this Agreement. 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 applicable federal and state taxes, including employment taxes, incurred under this Agreement. Agency is responsible for the payment of all local sales, use, and excise 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 one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a limit of \$2,000,000 per

occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 edition 4/13 on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$1,000,000.

**4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 edition 10/13 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), used by Contractor in connection with Work under this Agreement, whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$1,000,000. 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 those stated.

**4.3 [Intentionally omitted]**

**4.4 Pollution Insurance.** Intentionally left blank.

**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 , 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 cancellation of the policies referenced in Section 4.

**4.5.3 [Intentionally omitted]**

**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 third party (for avoidance of doubt Agency employees are considered third parties for purposes of this paragraph 5.2) 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 negligent acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the active, sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under California Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

## **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 approval will not be unreasonably withheld taking into account Agency's status as a California public agency and any previous experience Agency has with proposed subcontractor. 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 performed at Agency's facilities is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 Registration with DIR.** During the term of this Agreement, in the event Contractor performs Work at Agency's facilities, 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 at Agency's facilities. 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.

For Contractor personnel working at Agency's facilities, 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. 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 and any penalties assessed to Contractor or Agency for underpayment.

## **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.

Unless there is a termination schedule or payment provided for in the Purchase Order, in the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination including unreimbursed costs incurred in connection with fulfilling the Purchase Order and reasonable profit and overhead associated with those costs up to the 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** After a reasonable opportunity to cure, 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; provided, however, the underlying intellectual property rights in any documents (including any patent rights, trademarks, copyrights, trade secrets, know-how or other intellectual property rights) shall remain with Consultant. 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; provided, however, Contractor's financial and accounting books and records shall only be made available to verify cost billed to Agency on a time and material or cost plus basis as long as such limitation is consistent with California law. 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, generated by Contractor.

**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, unless otherwise specified on the Purchase Order. 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, 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.** 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.

Without limiting the generality of the foregoing, and in addition to any other warranties provided by Contractor, Contractor 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 specified; and are not subject to any liens or encumbrances. Contractor 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 quality and workmanship expected from purveyors engaged in the practice of providing materials and supplies of a similar nature.

- 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 one (1) year period following completion of the Work, but in no event longer than eighteen (18) months from delivery, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's reasonable satisfaction. In the event of a defect, Agency shall provide clear access to the Work at the installation site; provided, however, that Contractor shall be responsible for any cost related to uncovering, disassembly

or reassembly of parts or hardware required for Contractor to perform its warranty obligations.

Contractor's warranty does not include remedies for defects or damages caused by normal wear and tear, improper or insufficient operation, maintenance, or modifications performed by Agency or others retained by Agency, or abuse (including, but not limited to, any damage resulting from corrosion, erosion, water hammer, thermal shock, or drum water carryover, except for issues resulting from Contractor's design or Contractor's operating procedures ).

**ALL OTHER WARRANTIES, OTHER THAN THOSE WARRANTIES SET FORTH IN THIS SECTION ABOVE, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED.**

- 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 commonly associated with HRSG(s) 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, to the extent necessary to protect Agency, payment due from Agency to Contractor under this Agreement may be withheld at any time when, or for any Work performed when,

Contractor is not in full compliance with this Section 12 until Contractor remedies said non-compliance.

- 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 generated or created by Contractor. 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** If generating or bringing Hazardous Material to the Project site, 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 the Assistant General Manager, Generation Services, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

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

Nooter Eriksen, Inc,  
Attention: Jim Mahan  
1509 Ocello Drive  
Fenton, MO 63026

With a copy to:

General Counsel  
Nooter Eriksen, Inc.  
1509 Ocello Drive  
Fenton, MO 63026

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.
- 13.16 Waiver of Consequential Damages.** Notwithstanding anything contained herein to the contrary, the Contractor and Agency waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes 1) damages incurred by the Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and 2) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.
- 13.17 Limitation of Liability.** In recognition of the relative risks and benefits of the Work to both the Agency and the Contractor, the risks have been allocated such that the Agency agrees, to the fullest extent permitted by law, to limit the liability of the Contractor, whether arising from breach of contract, negligence, or other common law or statutory theory of recovery, or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of the Contractor shall not exceed: (i) one hundred percent (100%) of the Purchase Order Price where the Purchase Order price is greater than or equal to one hundred thousand dollars (\$100,000), or (ii) one hundred twenty-five percent (125%) of the Purchase Order price for the Purchase Order where the Purchase Order price is less than one hundred thousand dollars (\$100,000). It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited

by law, including but not limited to negligence, breach of contract, or any other claim whether in tort, contract, or equity, **except for (i) Contractor's insurance proceeds to the extent such proceeds result from a claim arising out of or related to this Agreement and is covered by the insurance policies required and set forth in Section 4; or (ii) indemnity obligations for claims being asserted by a nonaffiliated third party (expressly excluding Agency claims) concerning bodily injury, death, or property damage.**

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

NORTHERN CALIFORNIA POWER AGENCY

NOOTER ERIKSEN, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JAMES W. MAHAN,**  
Aftermarket Account Manager

Attest:

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

Approved as to Form:

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

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

Nooter Eriksen, Inc. ("Contractor") shall provide heat recovery steam generator (HRSG) support services 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:

- Field technical assistance (FTA) on major HRSG related maintenance and modifications
- Engineering and Design
- Component (regular and routine component purchases)
  - Replacement Coils
  - Tube & Heater
  - SCR & CO Systems
  - Stack Dampers
  - Burners
  - Liner Systems
  - Drum

At the request of Agency, Contractor shall also supply:

- Parts as requested.

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:

Services will be quoted at the time they are requested.

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

---

(Name of person signing affidavit)(Title)

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

Nooter Eriksen, Inc.

(Company name)

for contract work at

---

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**NOT APPLICABLE - EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE - EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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





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

AGENDA ITEM NO.: 14

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**Meeting Date:** September 12, 2022

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

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

---

### Proposal

Approve the Multi-Task General Services Agreement with Unique Scaffold for scaffold related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$4,000,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various scaffolding related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has agreements in place for similar services with American Industrial Scaffolding, Inc., ASRC/D2 Industrial (pending), BrandSafway, LLC and Elevator, LLC.

### 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 \$4,000,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Unique Scaffold



## **MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND UNIQUE SCAFFOLD**

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 Unique Scaffold, an S-corporation with its office located at 2501 Annalisa Drive, Concord, CA 94520 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2022 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident. The alternate employer endorsement (WC 00 03 01 A) shall be attached showing Northern California Power Agency, in the schedule as the alternate employer.

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

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

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

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** Not Applicable
- 4.4 Pollution Insurance.** Not Applicable
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.5.5 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.6 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent

contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

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

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

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

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

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge

and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

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

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

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



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

**Section 7. LEGAL REQUIREMENTS.**

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

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

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

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

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

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

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

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

- 8.4.1** Immediately terminate the Agreement;

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

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

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

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

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

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

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

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

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

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

subcontractors who have a need to know in connection with this Agreement.

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

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

## **Section 11. WARRANTY.**

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations

including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

**11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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

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

**12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

**12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

**12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

**12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for

any Work performed when, Contractor is not in full compliance with this Section 12.

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

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

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2** **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

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

John Soto  
President  
Unique Scaffold  
2501 Annalisa Drive  
Concord, CA 94520

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane E. Luckhardt



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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

UNIQUE SCAFFOLD

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JOHN SOTO, President**

Attest:

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

Approved as to Form:

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

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

As requested by the Agency, Unique Scaffold ("Contractor") shall provide routine, recurring, and usual scaffolding maintenance services for the preservation, protection, and keeping of any facilities owned and/or operated by Agency, its members, Southern California Public Power Authority ("SCPPA") or SCPPA members, in a safe and continually usable condition.

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

- Assemble, safety tag scaffold, inspect scaffold, modify scaffold structures, disassemble scaffold.
- Contractor is responsible for inspecting and tracking scaffold materials being stored and erected to ensure scaffold quality is within the Cal-OSHA requirements and Industry Standard Guidelines.

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:

<b>NCPA Lodi July/01/2022 Thru June/30/2023 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$110.13	\$138.41	\$170.38	\$70.00
<b>NCPA Lodi July/01/2023 Thru June/30/2024 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$115.50	\$145.25	\$178.75	\$75.00
<b>NCPA Lodi July/01/2024 Thru June/30/2025 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$121.25	\$152.50	\$187.50	\$80.00
<b>NCPA Lodi July/01/2025 Thru June/30/2026 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Driver Drive Time</u>
Per Hour	\$127.25	\$160.00	\$196.70	\$85.00
<b>NCPA Lodi July/01/2026 Thru June/30/2027 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Tim</u>	<u>Driver Drive Time</u>
Per Hour	\$133.50	\$168.00	\$206.50	\$90.00
*Driver drive time (Round Trip) will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 1 hour each way. 2 total.				

<b>NCPA Geysers July/01/2022 Thru June/30/2023 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$110.13	\$138.41	\$170.38	\$70.00
<b>NCPA Geysers July/01/2023 Thru June/30/2024 Rates</b>				
<u>Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time/Driver Drive Time</u>
Per Hour	\$115.50	\$145.25	\$178.75	\$75.00

**NCPA Geysers July/01/2024 Thru June/30/2025 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Travel Time/Driver Drive Time
Per Hour	\$121.25	\$152.50	\$187.50	\$80.00

**NCPA Geysers July/01/2025 Thru June/30/2026 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Travel Time/Driver Drive Time
Per Hour	\$127.25	\$160.00	\$196.75	\$85.00

**NCPA Geysers July/01/2026 Thru June/30/2027 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Travel Time/Driver Drive Time
Per Hour	\$133.50	\$168.00	\$206.50	\$90.00

**\*Travel Time**

Will apply to all crew members one way only except the driver (see below for driver). 3 hours one way only.

**\*Driver drive time only (Round Trip)**

Will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 3 hours each way. 6 total.

**NCPA Alameda July/01/2022 Thru June/30/2023 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Driver Drive Time
Per Hour	\$113.74	\$145.73	\$180.10	\$75.00 Round Trip

**NCPA Alameda July/01/2023 Thru June/30/2024 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Driver Drive Time
Per Hour	\$119.25	\$153.00	\$189.00	\$80.00 Round Trip

**NCPA Alameda July/01/2024 Thru June/30/2025 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Driver Drive Time
Per Hour	\$125.00	\$160.25	\$198.00	\$85.00 Round Trip

**NCPA Alameda July/01/2025 Thru June/30/2026 Rates**

Labor Rates	Straight Time	Overtime	Double Time	Driver Drive Time
Per Hour	\$131.00	\$168.00	\$207.75	\$90.00 Round Trip

**NCPA Alameda July/01/2026 Thru June/30/2027 Rates**

Labor Rates	Straight Time	Overtime	Double Tim	Driver Drive Time
Per Hour	\$137.50	\$176.00	\$218.00	\$95.00 Round Trip

\*Driver drive time (Round Trip) will only apply to the employee assigned by Unique Scaffold to drive company truck to and from job site to deliver or pick any scaffold material. 1 hour each way. 2 total.

- **Daily use of Flatbed and Pickup Truck will be billed as follows.**
  - July/01/2022 thru June/30/2023. Pickup \$60.00 plus \$0.50 per mile. Flatbed \$80.00 plus \$1.00 per mile
  - July/01/2023 thru June/30/2024. Pickup \$70.00 plus \$0.50 per mile. Flatbed \$90.00 plus \$1.00 per mile
  - July/01/2024 thru June/30/2025. Pickup \$80.00 plus \$0.50 per mile. Flatbed \$100.00 plus \$1.00 per mile
  - July/01/2025 thru June/30/2026. Pickup \$90.00 plus \$0.50 per mile. Flatbed \$110.00 plus \$1.00 per mile
  - July/01/2026 thru June/30/2027. Pickup \$100.00 plus \$0.50 per mile. Flatbed \$120.00 plus \$1.00 per mile
- **Scaffold material rental for the initial 28 days are FREE. Rental there after will be billed as follows.**
  - July/01/2022 thru June/30/2023 rental will be billed at \$0.09 per piece, per day, plus tax.
  - July/01/2023 thru June/30/2024 rental will be billed at \$0.10 per piece, per day, plus tax.
  - July/01/2024 thru June/30/2025 rental will be billed at \$0.11 per piece, per day, plus tax.
  - July/01/2025 thru June/30/2026 rental will be billed at \$0.12 per piece, per day, plus tax.
  - July/01/2026 thru June/30/2027 rental will be billed at \$0.13 per piece, per day, plus tax.
- **Shrink wrap material/ accessories that are used per-request will be billed per (½ roll and or full roll) 12mil 30' x 100' as follows.**
  - July/01/2022 thru June/30/2023 \$700.00 per full roll and \$350.00 per half roll, plus tax.
  - July/01/2023 thru June/30/2024 \$710.00 per full roll and \$355.00 per half roll, plus tax.
  - July/01/2024 thru June/30/2025 \$720.00 per full roll and \$360.00 per half roll, plus tax.
  - July/01/2025 thru June/30/2026 \$730.00 per full roll and \$365.00 per half roll, plus tax.
  - July/01/2026 thru June/30/2027 \$740.00 per full roll and \$370.00 per half roll, plus tax.
- Consumables such as wire, nails, toe-board, and small tools are included in the pricing.
- Other consumables, i.e. full sheets of plywood, safety netting, I-beams or any other items uncommonly used for day to day scaffold use will be billed at cost plus 15%.
- Freight (Semi-Truck) will be billed at cost plus 15%.
- Engineering will be billed at cost plus 15%.
- Third Party rental equipment will be billed at cost plus 15%.
- Budget pricing will be provided for all projects prior to starting work, except for emergency call out work. Pricing for this work will provided in a timely manner.
- All work will be done in accordance with NCCRC Agreement.
- Unique Scaffold will coordinate directly with NCPA on work being performed and at the sole discretion of on-site Manager(s).
- Unique Scaffold's project manager's responsibilities shall include inspection and tracking of all scaffold materials being stored and erected to ensure scaffold quality is within the Cal – OSHA requirements and Industry Standard Guidelines.
- No back charge for work by others on or incidental to our work under this Agreement will be accepted by or paid by us unless we have entered into written agreement relative to said charges prior to the performance of such work.
- Bid assumes that a material stocking area will be provided near the area being erected or dismantle.
- Bid excludes cost of site-specific safety orientation or drug testing.
- Prices quoted are based on reasonable site access, allowed, and/or provided by Customer.
- Pricing is based on Union wages.

- Bid assumes that Unique Scaffold may operate a forklift which may be used to help load and unload truck and moving equipment around the jobsite.
- At your request, we shall make alterations and repairs at your expense. Unless otherwise specified herein, no alterations to our work shall be made by you without our written consent. Additional Labor and/or rental beyond the original scope of work will be performed on a Time & Material basis, with additional rental equipment charges to be charged at rates mentioned above.
- Any un-scheduled work/call outs will be a minimum of 4 hours per man & a 2 hour minimum per man (with travel time (if applicable) in the event job gets cancelled due to weather.
- T&M All – Inclusive Labor rates are effective 07/01/22 thru 06/30/2027.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

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

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

Unique Scaffold

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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



**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

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

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

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 15

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**Date:** September 6, 2022

**Meeting Date:** September 12, 2022

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

**Subject:** Approval of Northern California Power Agency's (NCPA) Casualty Insurance Program Extension

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### Proposal

LEC PPC delegate authority to the General Manager to extend the expiration of the LEC's Casualty insurance coverage (Liability) from December 31, 2022 to February 28, 2023, at a not-to-exceed premium of \$33,000.

### Background

The Northern California Power Agency (NCPA) utilizes Alliant Insurance Services, Inc. as the Agency's broker to procure Casualty insurance, including Liability, Workers Comp, and Auto coverages. Over the last several years, the renewal process has been increasingly challenging because of higher premiums and broker delays. The leading cause for this delay is the Liability program being presented and negotiated during the height of the wildfire season. Despite having a robust Wildfire Mitigation Plan and our vegetation management practice, the media coverage of California wildfires seems to suggest that our plants are in constant and imminent danger.

One of the goals identified in the 2021-2026 Strategic Plan was to develop a long-term, cost-effective insurance coverage strategy. The current casualty insurance coverage expires on December 31, 2022. After a thorough discussion with Alliant, they suggested moving the renewal outside the typical wildfire season by extending our current coverage by two months. In addition, after meeting with the Chief AEGIS underwriter in July 2022, they corroborated Alliant's recommendation stating that moving the renewal date was in the best interest of NCPA.

NCPA directed Alliant to approach the markets requesting if an extension to the current Casualty programs were an option they would consider. After a few months of negotiations, the markets agreed. A summary of the premiums is detailed in the table below:

NCPA			
Program	Carrier	Current Premium	Extension NTE
Excess Liability	AEGIS	1,091,244	209,000
Excess Liability	EIM	179,460	34,000
Excess Liability	Ironshore	77,437	15,000
Workers Comp	Liberty Mutual	229,089	44,000
Auto	Liberty Mutual	60,185	12,000
		<b>Total</b>	<b>314,000</b>
LEC			
Program	Carrier	Current Premium	Extension
Excess Liability	AEGIS	170,836	33,000
		<b>Total</b>	<b>33,000</b>
		<b>Grand Total</b>	<b>347,000</b>

Moving the renewal date of the liability insurance program will have no impact on the coverages or limits provided by the current program. Furthermore, moving the renewal date will not interfere with or change anything associated with the property insurance program provided by FM Global.

#### Fiscal Impact

The total cost to extend the current Casualty insurance program is estimated not-to-exceed \$347,000 of which \$33,000 relates to LEC's Liability insurance coverage. This cost is equal to the current pricing of the 2022 premium prorated for the two-month extension plus a small contingency for unexpected expenses.

#### 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:

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