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## LEC PPC Agenda

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**Subject: October 10, 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/danielleking>

**Dial: 1-408-650-3123**

**Access Code: 903-028-005**

*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 September 12, 2022 Regular Meeting Minutes**

**INFORMATIONAL ITEM**

**4. Reserve and Security Deposit Policies Study** – Staff and Utility Financial Solutions (UFS) will present and discuss the draft recommendations of the deposit and reserve requirements study (as related to LEC) and seek Committee feedback. *(Administrative Services)*

**MONTHLY REPORTS**

**5. Operational Report for September 2022**

**6. Bidding Strategies Report**

**7. Market Data Report for September 2022**

**8. Monthly Asset Report for August 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.

*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.*

9. **Treasurer's Report for August 2022** – Accept by all Participants
10. **Financial Report for August 2022** – Approve by all Participants
11. **GHG Reports (excerpted from Monthly ARB)** – Accept by all Participants
12. **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 October 10, 2022, through November 9, 2022, the LEC PPC should meet remotely.
13. **Property Insurance Program Renewal for CY 2023** – Staff is seeking a recommendation for approval authorizing the General Manager to negotiate and bind renewal of the Agency's property insurance program for CY 2023.
14. **Sunshine Metal Clad, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Sunshine Metal Clad, Inc. for routine maintenance services, with a not to exceed amount of \$2,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
15. **Precision Iceblast Corporation First Amendment MTGSA** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task General Services Agreement with Precision Iceblast Corporation for inspection and maintenance services, increasing the not-to-exceed from \$1,000,000 to \$3,000,000, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
16. **Exponential Power, LLC MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Exponential Power, LLC for battery related 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.
17. **PMOA Schedule 1.00 Exhibit 5 Updates** – Staff is seeking a recommendation for approval of updates to PMOA Schedule 1.00 Exhibit 5 CAISO Charges.

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

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

18. **FY2022 Annual Billing Settlements Review** – Staff will present a draft of LEC's FY2022 Annual Billing Settlement and encumbrances for the period of July 1, 2021 to June 30, 2022.
19. **Additional Operational Updates** – Staff will provide an update on issues related to Operations.

*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.*

## **ADJOURNMENT**

Next Regular Meeting: Monday, November 7, 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, September 12, 2022

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

**Location:** via teleconference

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

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## 1. Review Safety Procedures

Due to continued remote teleconference meetings, Safety Procedures were not formally reviewed.

## 2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:00 a.m. Pacific Standard Time by Chairman Deane 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	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah -	Absent	1.7857%
<b>Summary</b>		
Present	7	84.3644%
Absent	6	15.6356%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	September 12, 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 August 8, 2022 Regular Meeting and the August 30, 2022 Special Meeting were considered. The LEC PPC considered the following motion:

**Date:** 9/12/2022

**Motion:** The PPC approves the minutes from the August 8, 2022 Regular Meeting and the August 30, 2022 Special Meeting.

**Moved by:** SVP

**Seconded by:** Gridley

**Discussion:** There was no further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Absent	2.7857%
BART	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	6	84.0965%
Total Noes	0	0.0000%
Total Abstain	1	0.2679%
Total Absent	6	15.6356%
Result:		Motion Passes

## **MONTHLY REPORTS**

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

Ryan Johnson presented the Operational Report for August. There were no OSHA recordable accidents, and no NERC/WECC or permit violations. Ryan reviewed the details of an outage that took place on August 16. There are no changes to the 2023 outage schedule.

The operational report reflected monthly production of 133,587 MWH, 574 service hours, and equivalent operating availability of 100%. The report set for the Capacity Factor @ 302MW Pmax of 59.5%. There were 0 hot starts, 13 warm starts, and 0 cold starts during the month.

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

Jesse Shields presented the Bidding Strategies Report for August 2022. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee. There was a question regarding performance during the heatwave the previous week. Jesse confirmed that the current bid strategy worked well even during the heat wave, and that LEC was online for energy during all hours. Pricing for ancillary services was still being analyzed and will be presented in the next regular LEC PPC meeting.

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

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 31 out of 31 available days. Most startups were for mid to long-term runs, with eighteen 24-hour runs. There was a question regarding the amount listed for the Accrued LT Maintenance Costs on the Cumulative Monthly Margin slide. Bob and Rafael Santana both clarified that if the Plant is running continuously, the LTP Agreement with Siemens results in a charge of \$15,000 per day (which is a maintenance adder). The value listed on the Cumulative Monthly Margin slide is for 18 days of continuous running.

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

Rafael Santana presented the monthly asset report for July 2022. Rafael reported that July was not a good month for revue, due to rising market weakness and a ~43% increase in fuel costs. Rafael reviewed the monthly historical comparisons as well as the 12-month history.

#### **Consent Calendar (Items 8 – 14)**

The consent calendar was considered. Chairman Burk requested that Item 15 be pulled from the Consent Calendar for further discussion. Hearing no protests, the item was pulled. Chairman Burk 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:** 9/12/2022

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for July 2022; **9.** Financial Report for July 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 September 12, 2022, through October 12, 2022, pursuant to the Ralph M. Brown Act (Brown Act); **12.** Modesto Industrial Electrical Co., Inc. dba Industrial Electrical Co., Inc. MTGSA for motor maintenance services, not to exceed \$500,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **13.** Nooter/Eriksen, Inc. MTGSA-EMS for heat recovery steam generator (HRSG) support services and parts, not to exceed \$500,000, for use at all facilities owned and/or operated by NCPA; **14.** Unique Scaffold MTGSA for scaffolding related services, not to exceed \$4,000,000, for use at all facilities owned and/or operated by NCPA, Members/SCPPA.

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

**Gridley**  
**SVP**

Discussion:

There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	86.8822%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	13.1178%
Result:	Motion Passes	

## **BUSINESS ACTION ITEMS**

### **15. Casualty Insurance Program Extension**

Randall Kramer presented a PowerPoint to the Committee regarding the extension of the current Casualty Insurance Program. Randall gave background regarding the current casualty program, and the timing of renewal discussions. Having these discussions during the height of wildfire season can cause an increase in wildfire coverage premiums. Extending the current program by a few months to move these discussions outside of wildfire season could result in lower premiums. There were no questions from the Committee Members. The LEC PPC considered the following motion:

**Date:** 9/12/2022

**Motion:** The PPC approves the Casualty Insurance Program Extension authorizing the General Manager to extend the expiration of the Agency's Casualty Insurance coverage from December 31, 2022 to February 28, 2023, at not to exceed premium of \$347,000.

**Moved by:**

**SVP**

**Seconded by:**

**CDWR**

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

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

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

This item was a continuation of the discussion which took place in the August 8, 2022 regular LEC PPC Meeting. Chairman Burk asked Committee Members if there were any nominations for Secretary. Hearing none, following a brief discussion, the Committee determined this role would go unfilled for the time being. This item will be up for discussion annually at the same time that nominations for LEC PPC Chair and Vice Char are presented (typically in the November LEC PPC meeting).

**INFORMATIONAL ITEMS**

**17. Additional Operational Updates**

Rafael stated that he there are plans to bring LEC up to normal load for 4 hours, as requested by Siemens, to test how the unit does (there have been no vibration issues recently). The results of this 4-hour test will be sent to Siemens for analysis. If all looks normal, staff will potentially raise the load limits to normal limits as outlined to handle the gearbox issue.

Rafael also stated that the gearbox is on target to be delivered in mid-November.

**Adjournment**

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

The meeting was adjourned at 10:37 a.m.

Submitted by: MICHELLE SCHELLENTRAGER

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 4**

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**Date:** 10/10/2022

**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:**

- 9/01 @ 00:00 - 9/30 @ 23:59; LEC plant de-rated to 240MW for HPST vibration issue
- 9/06 @ 14:31 - 15:54; CTG excitation transformer high temp indication
- 9/06 @ 20:48 - 23:35; STG ONLY, HPT trip due to speed probe issue
- 9/24 @ 14:31 - 9/27 @ 20:50; Rotor air cooler line failure

### **Planned Outage Summaries:**

- April 1-30, 2023; Annual Maintenance Outage

**Generating Unit Statistics:****Date:** 9/1/2022

1. Monthly Production
2. Productivity Factor
  - a. Service Hours
  - b. Service Factor
  - c. Capacity Factor @ 302MW Pmax
  - d. Hours/days load > 240 MW

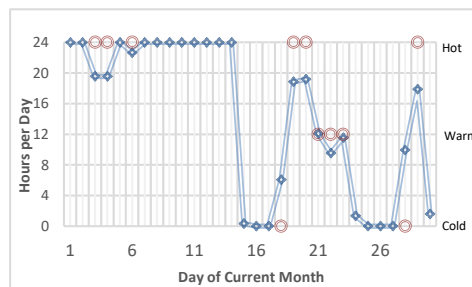
100,052 MWh

434 Hours

60.3 %

46.0 %

5/1 h/d



3. Equivalent Operating Availability (EOA) 88.3 %
4. Forced Outage Rate (FOR) 16.3 %

## 5. Heat Rate Deviation

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

MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	0	0.00%	0	\$0
Seg. 3 275 - 284	6971	6,984	0.19%	1,142	\$60
Seg. 4 250 - 275	7081	7,112	0.44%	141	\$18
Seg. 5 225 - 250	7130	7,116	-0.20%	90,876	-\$5,166
Seg. 6 200 - 225	7200	7,252	0.72%	3,287	\$682
Seg. 7 175 - 225	7450	7,497	0.63%	821	\$155
Seg. 8 165 - 175	7760	7,884	1.60%	405	\$201
	7,164	7,308	0.56%	96,672	-\$4,050

## 6. AGC Control Deviation

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

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	6	3	2
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	18	17	19
Start Time Deviation (%)	-13%	-13%	-5%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	181	174	202
Fuel Deviation (%)	-27%	-31%	-19%
Costs of Fuel Deviations (\$)	-\$1,646	-\$917	-\$380





# **LEC PPC Meeting**

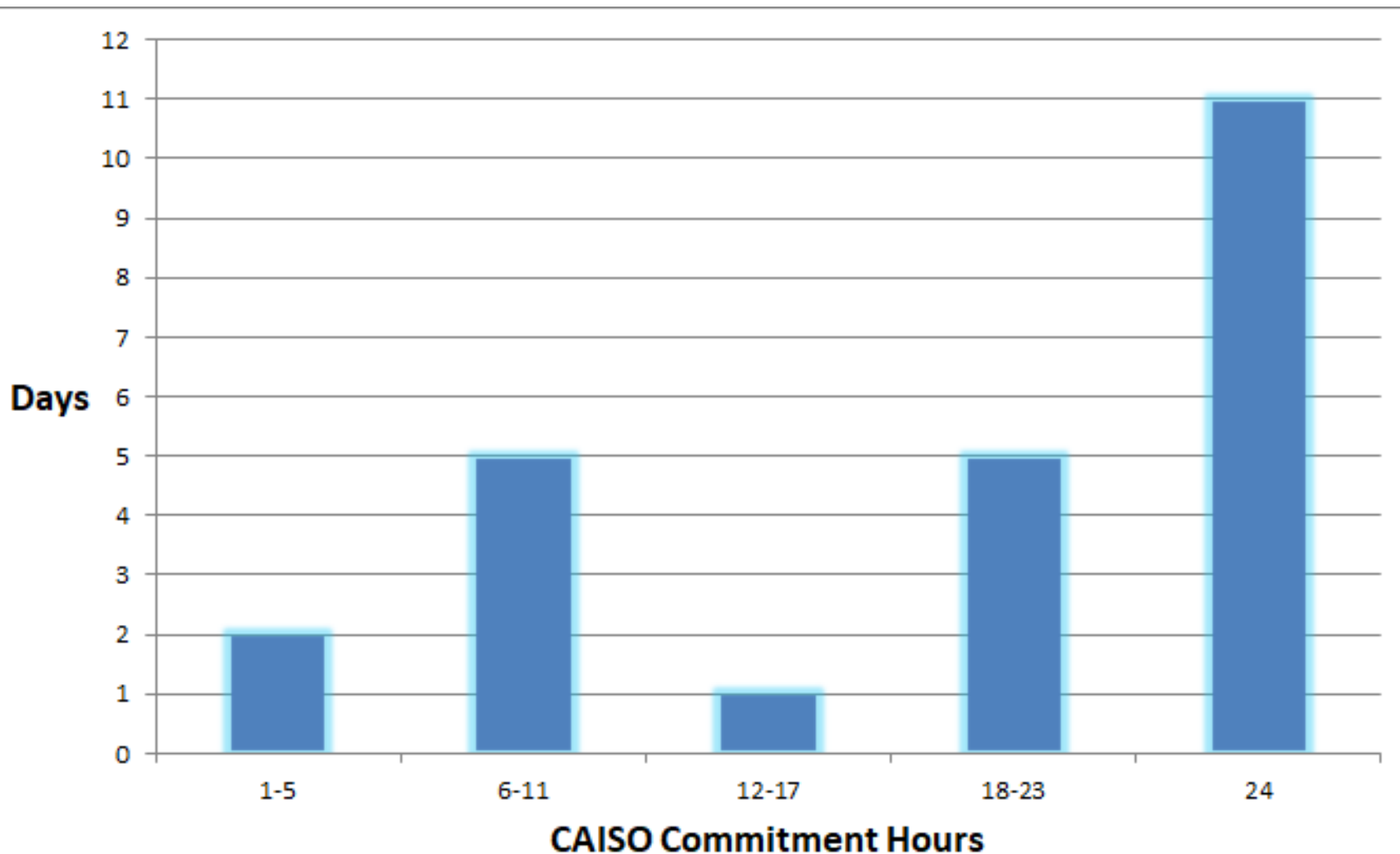
**October 10, 2022**

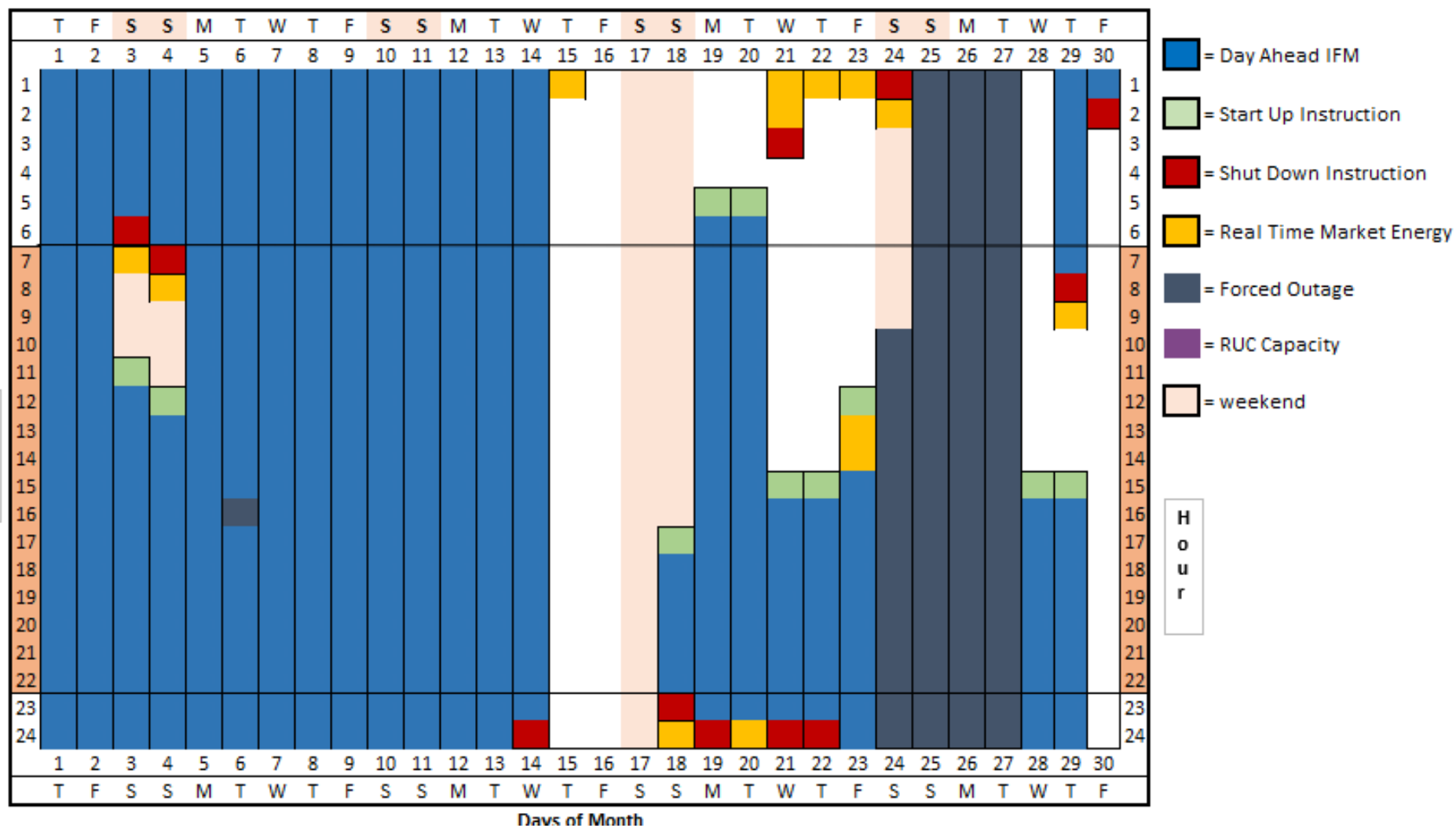
**September 2022 Market Financial Results**

## LEC Operational Results for September 2022

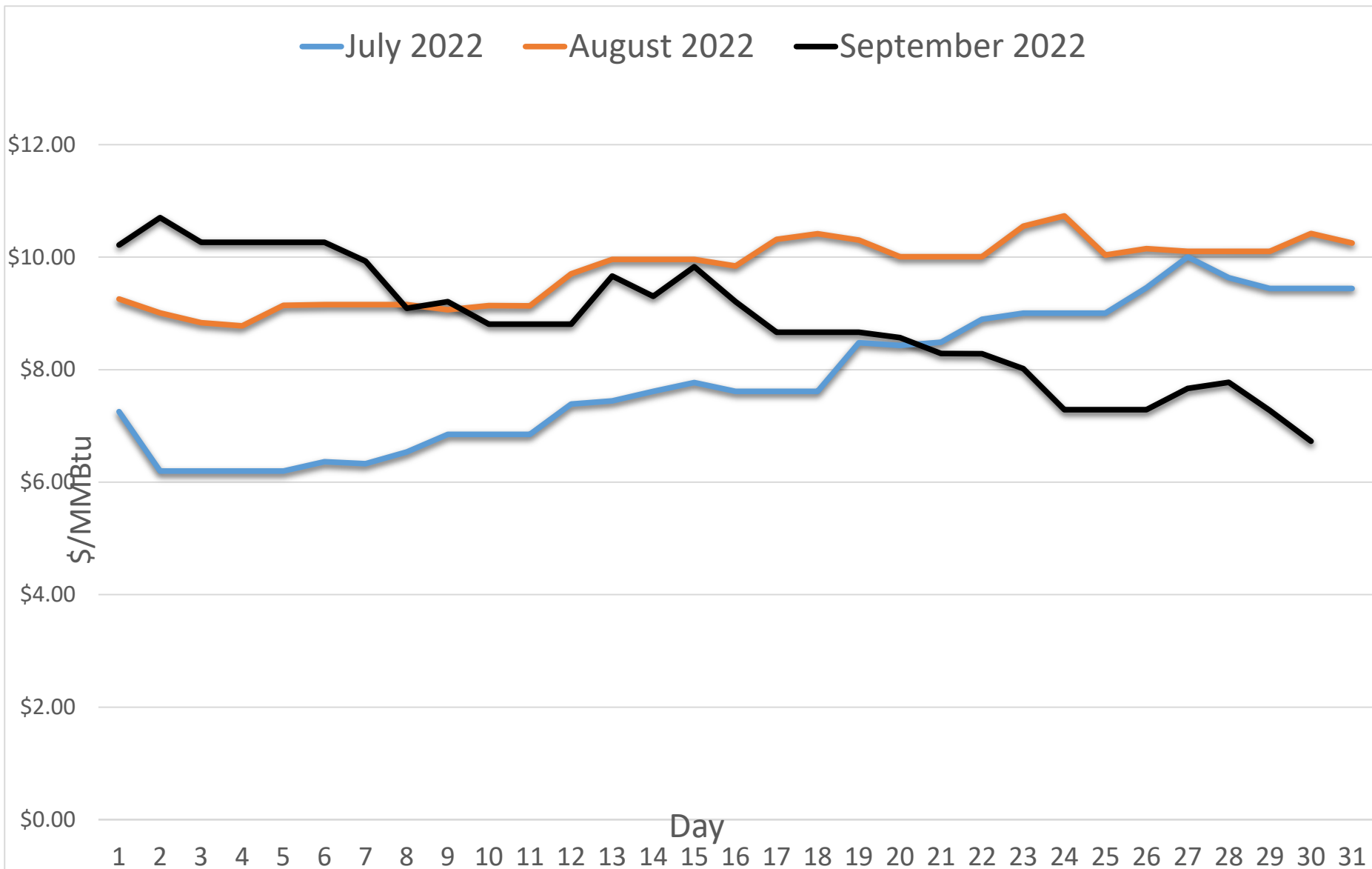
- Resource Adequacy Availability Metrics:
  - 90.5% - Monthly Assessment Generic Performance
  - 87.0% - Monthly Assessment Flexible Performance Vs
  - 96.5% Availability Standard
- Estimated RAAIM Non-Availability Charge:
  - \$17.7k for Generic RA based on claimed 115.92 MW
  - \$7k for Flexible RA based on claimed 24.38 MW
- LEC was committed by CAISO for Market energy 22 days of 27 available days
  - Three (3) days unavailable due to forced outage;
  - Four (4) days not committed due to economics;
  - Eleven (11) starts during the month, including transient 9/6 plant trip

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



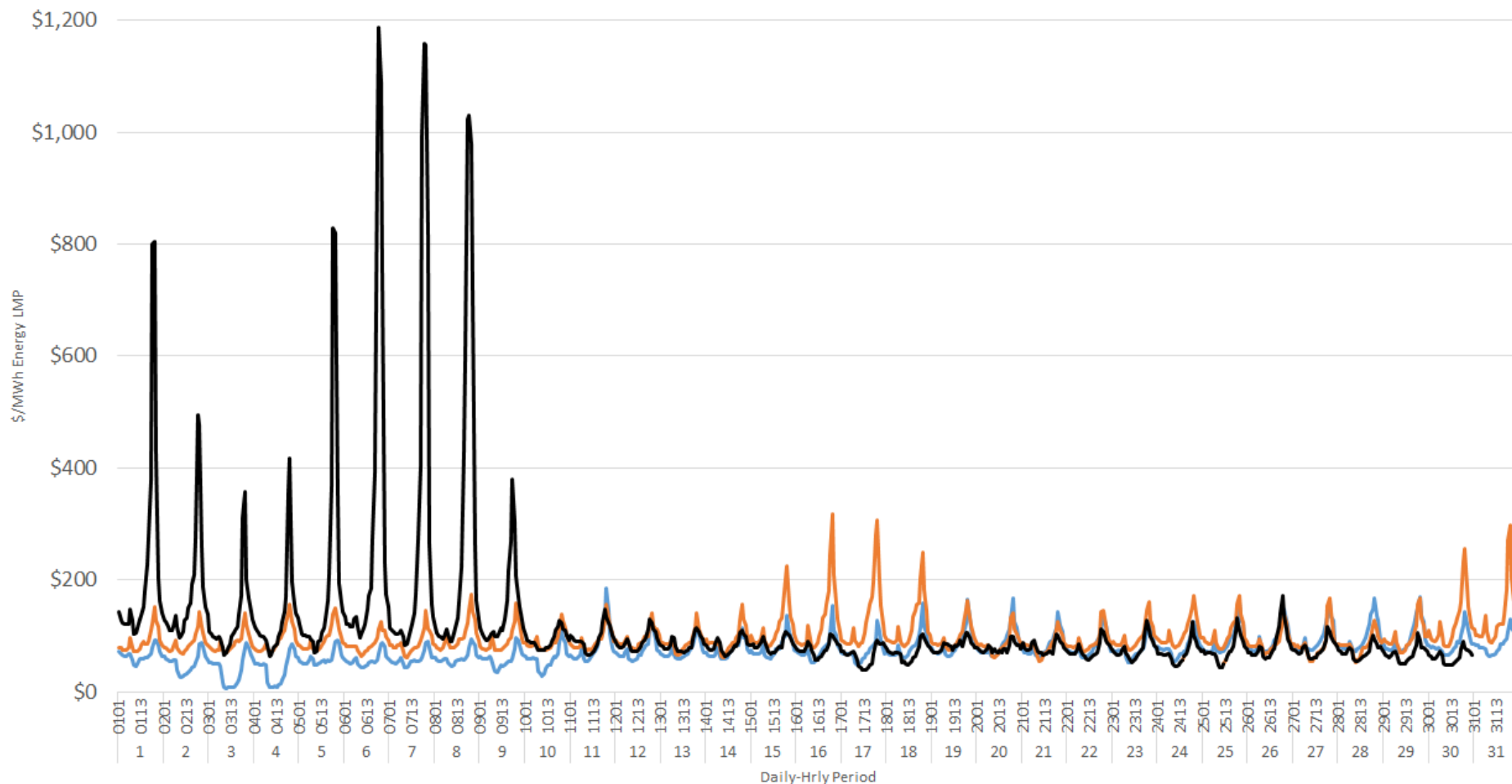


# September 2022 Daily PG&E City Gate Gas Index



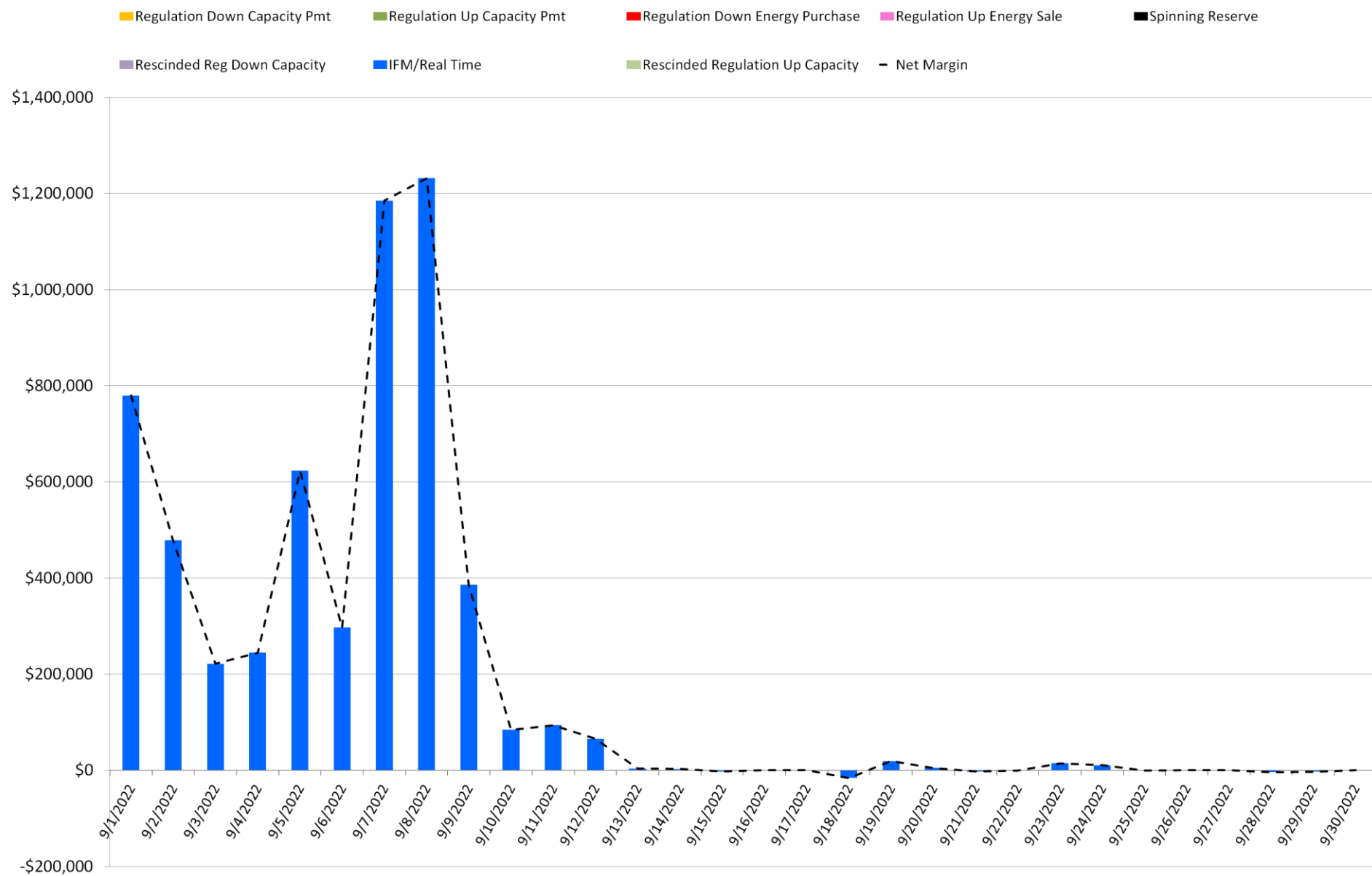
# DA Energy LMP values by Month

— July 2022 — August 2022 — September 2022





# September 2022 LEC Daily September Profile by Product



## September 2022 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$	16,314,400	
Regulation Up Capacity	\$	-	
Regulation Down Capacity	\$	-	
Spinning Reserve	\$	-	
<b>Total Gross LEC Revenue</b>			<b>\$ 16,314,400</b>
LEC CAISO GMC Costs	\$	(33,200)	
CAISO Energy & Capacity Buyback Costs	\$	(2,000,300)	
Total Monthly LEC Fuel Cost	\$	(7,186,500)	
Total Monthly GHG Obligation	\$	(1,078,400)	
Variable Operations & Maintenance Cost	\$	(251,200)	
<b>Total Gross Costs</b>			<b>\$ (10,549,600)</b>
<b>Cumulative Monthly Margin</b>			<b>\$ 5,764,800</b>
<b>11 Days of Accrued LT Maintenance Costs</b>	\$	(166,988)	
<b>Net Cumulative Monthly Margin</b>			<b>\$ 5,597,812</b>
<b>Average Net Margin \$/MWh</b>	\$		<b>55.9</b>

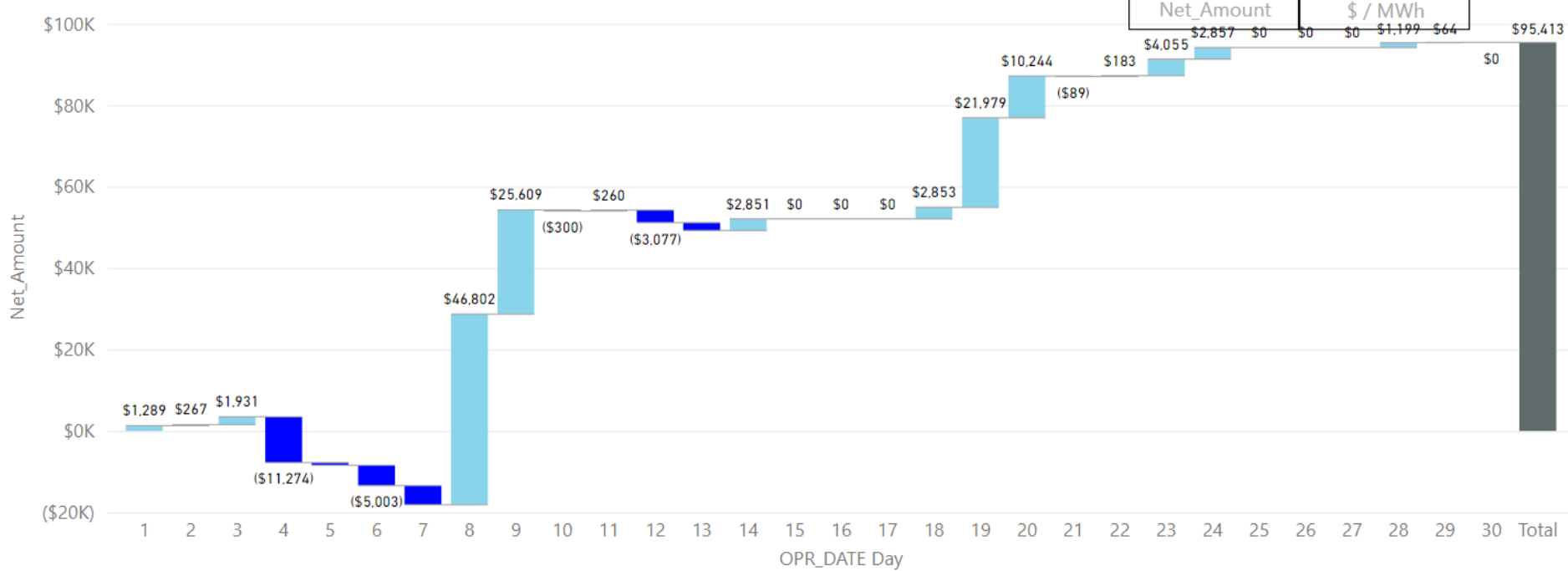


# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

September 2022 Cost of Congestion Component



\$95,413

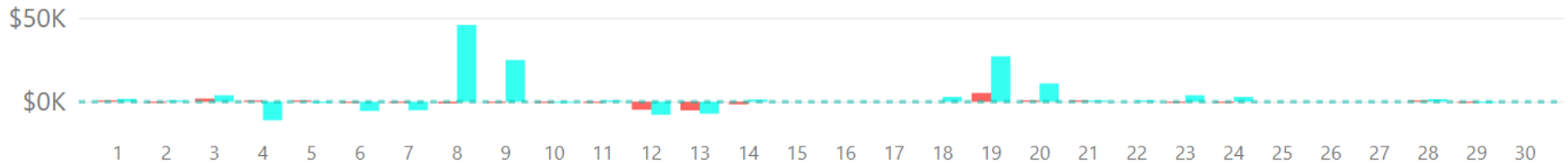
Net\_Amount

\$0.95

\$ / MWh

NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost

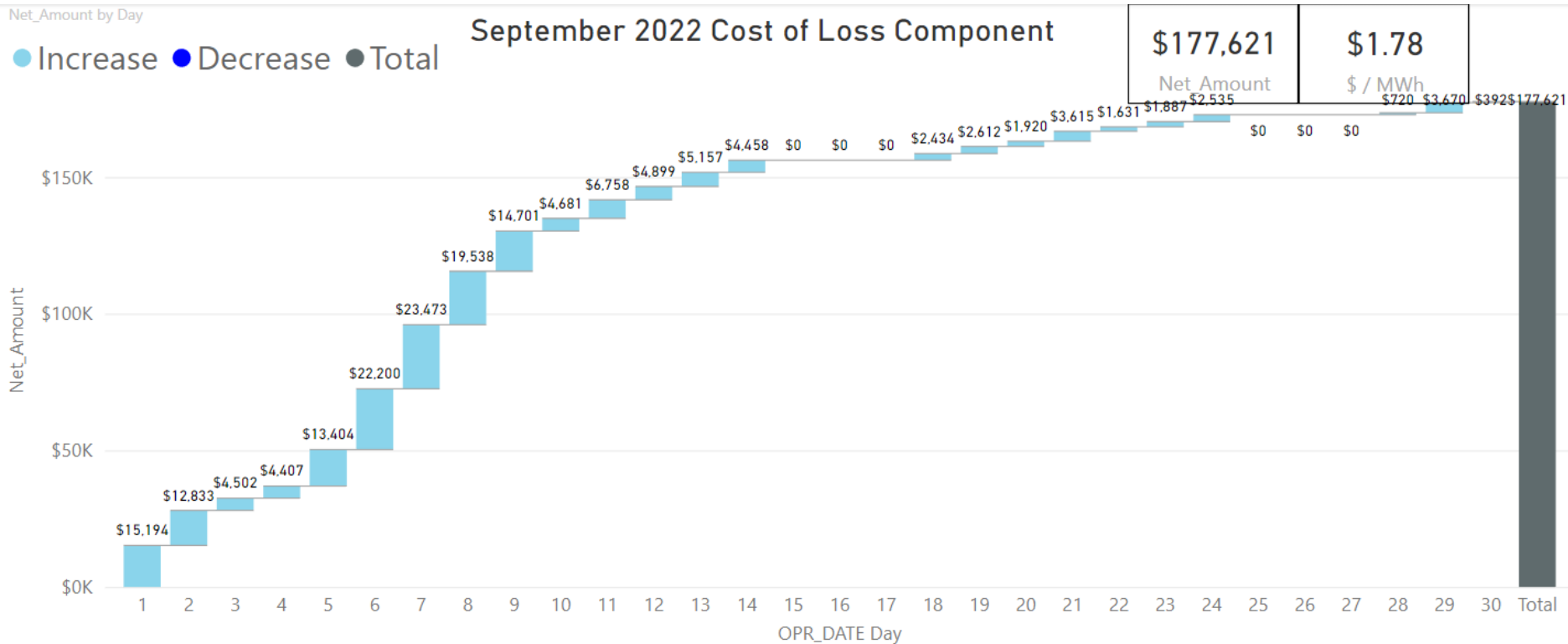


# Comparison of Day Ahead Loss Component LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

September 2022 Cost of Loss Component

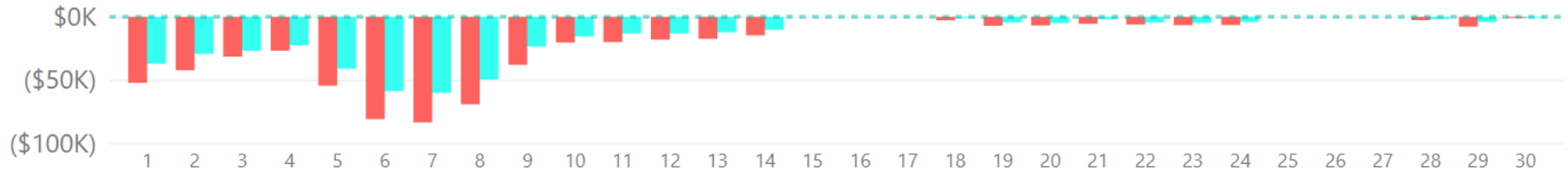


**\$177,621**  
Net\_Amount

**\$1.78**  
\$/ MWh

NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost

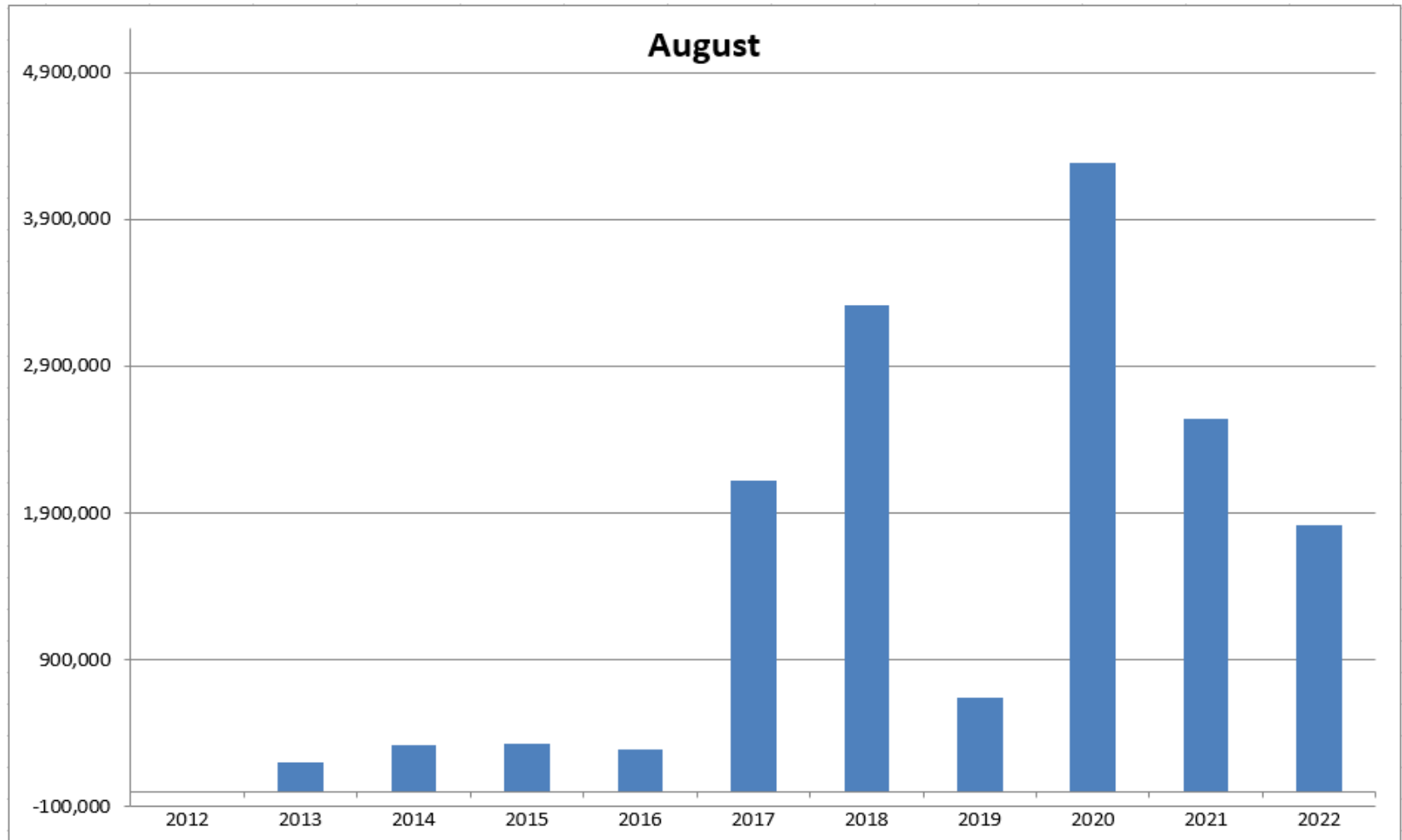


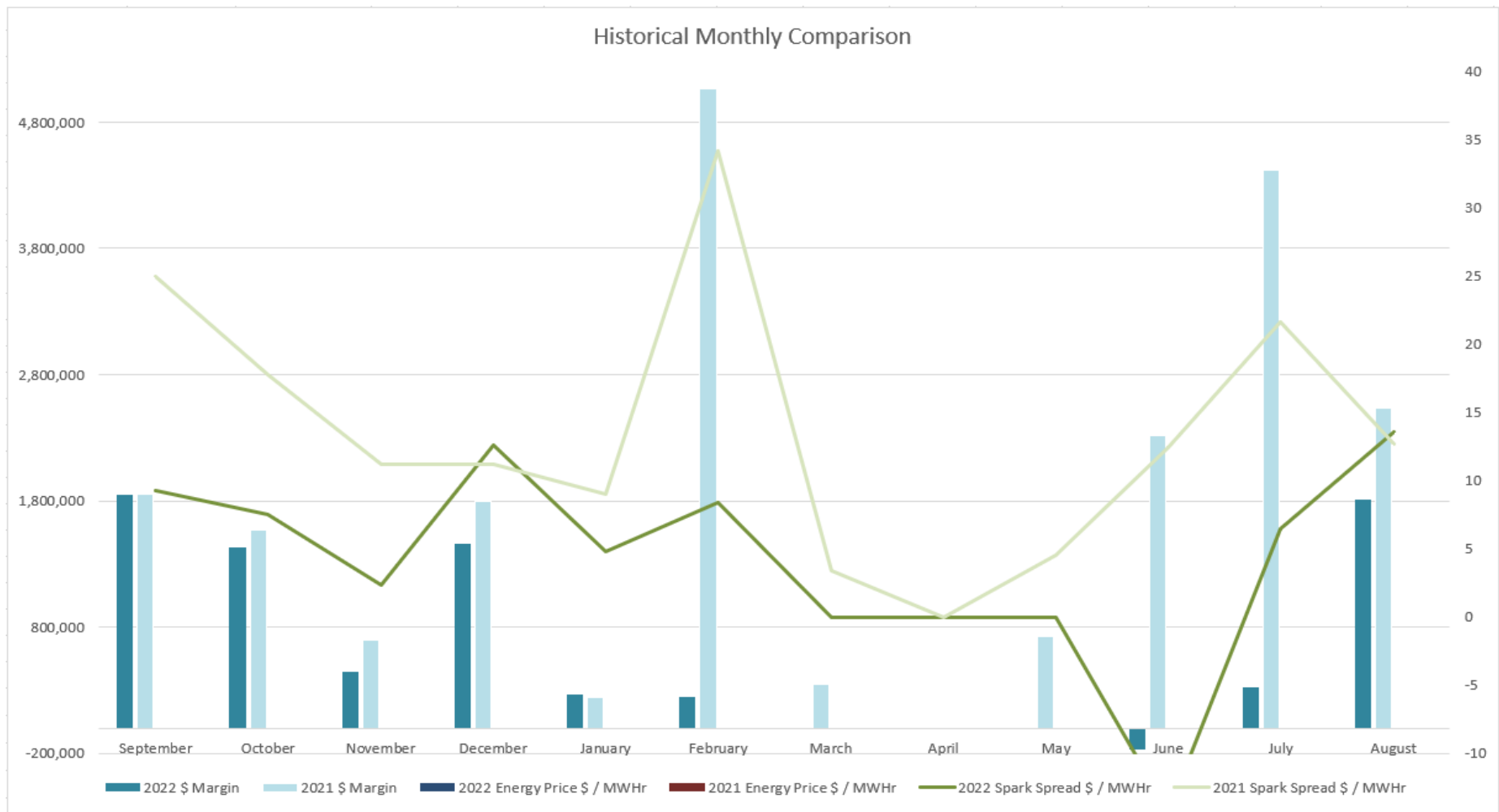


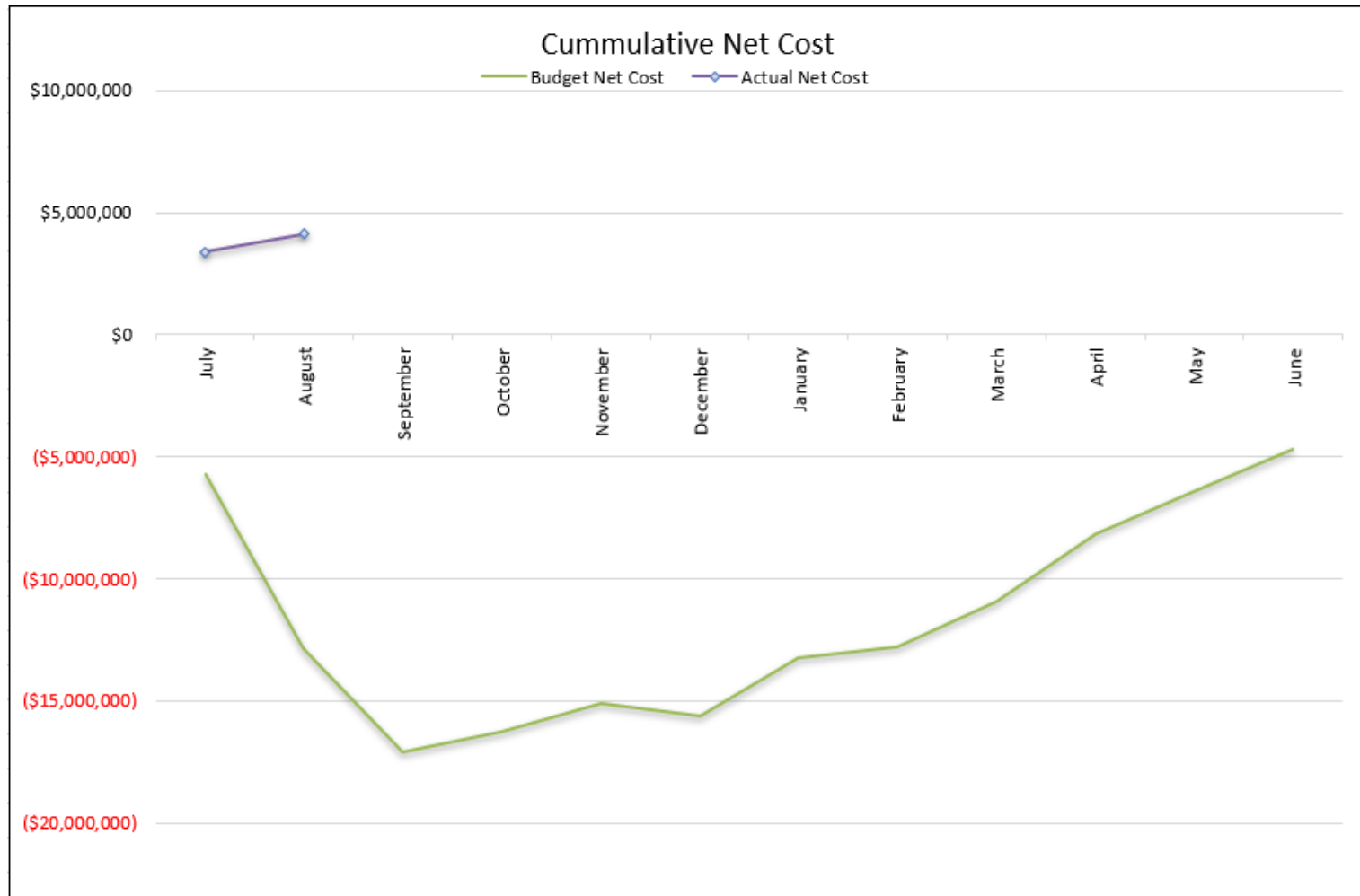
# August Asset Report

		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	14,514,876	13,522,571	22,106,083	992,305	7%	Market showed some strength
VOM	12,532,232	11,219,757	11,249,256	1,312,476	12%	Fuel cost ^82% vs forecast
Fixed	341,261	1,044,526	1,044,526	(703,265)	-67%	Maint. Outage invoices transfer
Projects	-14,837	279,280	279,280	(294,117)	-105%	
A&G	224,210	224,217	224,217	(7)	0%	
Debt	2,166,350	2,166,350	2,166,350	(0)	0.00%	
Net Cost	(734,340)	(1,411,559)	7,142,453	677,219	-48%	
Net Annual Cost		(21,503,798)	4,709,224	(\$26,213,021)		
				Above budget by 556.63%		

# Historical Margins







\*\*On the cumulative chart, August is consistent with historical results for the same month and are consistent with expectations regardless of the budget model used. We can expect from here that the actual trend will follow a historical pattern.

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2023 Budget	Percent Used	Comments
VOM																
Capacity Factor	4,095,484	12,532,232	10,414,648	9,459,874	7,404,715	14,825,176	15,676,120	10,745,990	8,099,318	0	6,273,552	7,810,737	107,337,847	94,127,609	114.0%	
Fuel Consumed (mmBTU, estimated)	383,556	967,914	1,347,121	1,273,133	608,749	1,183,154	1,154,489	848,153	702,628	0	622,241	698,440	9,789,578	11,557,251	100.0%	
Avg Fuel Cost (\$/mmBTU)	8.02	10.24	5.57	4.54	10.05	10.40	10.77	10.51	9.37	0.00	7.93	8.08	8.50	5.61	84.7%	
Power Produced (MWHr, estimated)	50,612	133,579	192,174	178,560	78,751	163,758	159,110	113,437	90,932	0	79,083	93,467	1,333,463	1,627,093	151.6%	Fuel cost was 82% higher vs. forecast
Avg Power Price (\$/MWHr)	94.27	108.38	69.29	30.62	103.86	106.96	105.93	114.12	76.07	0.00	74.21	124.16	4,076,393	6,088,236	67.0%	82.0% Plant MWHr production down 36% vs forecast
Operations / Variable / LTSA	61,202	505,263	184,925	1,135,053	86,866	158,813	893,468	114,591	97,743	0	87,419	751,052	88.43	74.75	118.3%	Power Prices rose by 93% vs. forecast
Fuel (estimated)	3,077,263	9,916,156	7,509,238	5,784,421	6,115,252	12,309,490	12,433,558	8,911,925	6,582,678	0	4,932,209	5,643,630	83,215,821	64,819,215	128.4%	
AB32 GHG Offset (estimated)	608,065	1,590,908	2,369,768	2,214,528	1,058,877	2,058,016	2,058,718	1,512,451	1,252,946	0	1,109,597	1,245,478	17,079,352	20,249,959	84.3%	
CA ISO Charges (estimated)	348,954	519,905	350,717	325,872	143,720	298,858	290,376	207,023	165,951	0	144,327	170,577	2,966,280	2,970,199	99.9%	
Routine O&M (Fixed)	1,488,545	341,261	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	12,569,538	12,741,784	98.6%	
Maintenance / Fixed	511,311	-394,386	240,863	240,863	350,000	240,863	240,863	240,863	275,000	325,000	275,000	240,863	2,787,102	3,151,902	88.4%	Maint. Outrage Invoices
Administration	8,661	7,798	10,000	10,000	35,000	10,000	35,000	10,000	10,000	10,000	35,869	10,000	192,328	195,869	98.2%	
Mandatory Costs	57,504	32,740	12,000	14,000	17,000	20,000	16,000	8,500	30,000	32,000	42,000	26,880	308,624	365,380	84.5%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	680,683	430,671	433,677	650,515	458,677	433,677	650,515	433,677	433,677	583,677	433,677	733,677	6,356,797	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	1,313,902	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	34,052	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	160,059	151,208	105.9%	
Projects																
Maintenance Reserve	192,549	-14,837	279,280	279,280	529,280	279,280	279,280	309,280	279,280	279,280	279,280	279,280	3,250,514	3,631,362	89.5%	
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	-182,203	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	962,122	1,342,970	71.6%	
	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	224,210	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	2,690,593	2,690,608	100.0%	
Generation Services Shared	189,197	189,197	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	2,270,373	2,270,375	100.0%	
	35,013	35,013	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	420,220	420,233	100.0%	
Total O&M Cost	6,000,788	13,082,866	11,857,672	11,121,736	9,261,875	16,276,199	17,364,982	12,215,513	9,594,479	1,697,161	7,806,582	9,568,640	125,848,492	113,191,363	111.2%	
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	14,514,876	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	134,689,658	143,896,790	93.6%	
Other Income	4,771,209	14,476,684	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	117,918,123	121,619,515	97.0%	
	25,387	38,192	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	16,771,535	22,277,275		
Net	(\$3,370,542)	(\$734,340)	\$1,148,483	(\$5,963,364)	(\$1,392,687)	\$929,440	(\$820,409)	\$420,223	(\$2,986,808)	(\$3,863,511)	(\$2,248,076)	\$1,726,557	(\$17,155,036)	\$4,709,224		Above budget by 464.29%



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# LEC Treasurer's Report

AGENDA ITEM NO.: 9

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**Date:** October 10, 2022  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended August 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 \$1,206.

Investments - The carrying value of the LEC's investment portfolio totaled \$31,436,366 at month end. The current market value of the portfolio totaled \$30,097,151.

The overall portfolio had a combined weighted average interest rate of 1.572% with a bond equivalent yield (yield to maturity) of 1.576%. Investments with a maturity greater than one year totaled \$14,194,000. During the month \$2,951,727 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 35 basis points from 2.49% to 2.84% and rates on one year T-Bills increased 32 basis points from 3.01% to 3.33%.

To the best of my knowledge and belief, all securities held by LEC as of August 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*

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

*Sandra Ainsworth*

SONDRA AINSWORTH  
Treasurer-Controller

Attachments



# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**AUGUST 31, 2022**

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**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**August 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	\$ 1,206	\$ 6,698,289	\$ 6,699,495	21.31%	\$ 6,691,318
Debt Service Reserve	-	12,540,375	12,540,375	39.89%	12,092,065
O & M Reserve	-	11,735,717	11,735,717	37.33%	10,851,783
	<b>1,206</b>	<b>30,974,381</b>	<b>30,975,587</b>	<b>98.52%</b>	<b>29,635,166</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	461,985	461,985	1.48%	461,985
Participant Deposit Account	-	-	-	-	-
	<b>\$ 1,206</b>	<b>\$ 31,436,366</b>	<b>\$ 31,437,572</b>	<b>100.00%</b>	<b>\$ 30,097,151</b>

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**August 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	\$ -	\$ -	\$ 218	\$ -	\$ (2,165,455)	\$ 2,166,379	\$ 1,142
Debt Service Reserve	780,892	-	-	-	(780,892)	-	-
O & M Reserve	-	5,380	-	-	(5,380)	-	-
	<b>780,892</b>	<b>5,380</b>	<b>218</b>	<b>-</b>	<b>(2,951,727)</b>	<b>2,166,379</b>	<b>1,142</b>
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	137,500	-	-	(137,500)	-	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ 918,392</b>	<b>\$ 5,380</b>	<b>\$ 218</b>	<b>\$ (137,500)</b>	<b>\$ (2,951,727)</b>	<b>\$ 2,166,379</b>	<b>\$ 1,142</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**  
**August 31, 2022**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR	DISC/(PREM)	GAIN/(LOSS)	TRANSFERS	INCREASE /
		MATURED	AMORT	ON SALE		(DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	\$ 2,165,455	\$ (218)	\$ 9,932	\$ -	\$ -	\$ 2,175,169
Debt Service Reserve	780,892	-	12,164	-	-	793,056
O & M Reserve	5,380	-	(448)	-	-	4,932
	<u>2,951,727</u>	<u>(218)</u>	<u>21,648</u>	<u>-</u>	<u>-</u>	<u>2,973,157</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	-	-	-	-	-	-
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 2,951,727</u>	<u>\$ (218)</u>	<u>\$ 21,648</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,973,157</u>

**Less Non- Cash Activity**

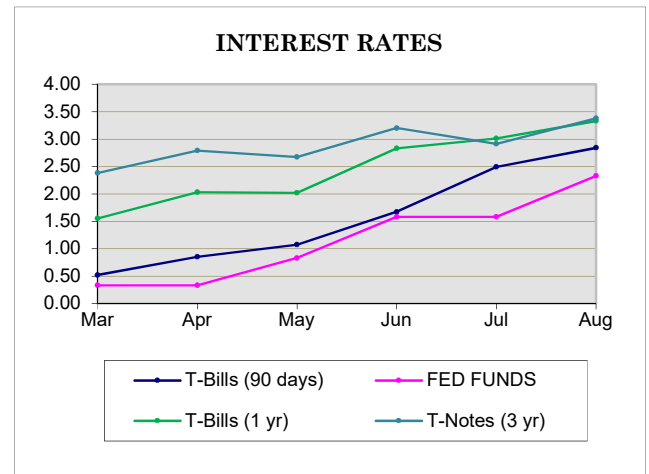
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(21,648)
<b>Net Change in Investment –Before Non-Cash Activity</b>	<u><u>\$ 2,951,509</u></u>

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

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

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>1.572%</b>	<b>1.576%</b>
Debt Service Account	<b>2.516%</b>	<b>2.573%</b>
Debt Service Reserve	<b>1.584%</b>	<b>1.612%</b>
O & M Reserve	<b>1.053%</b>	<b>1.001%</b>
GHG Cash Account	<b>0.742%</b>	<b>0.742%</b>

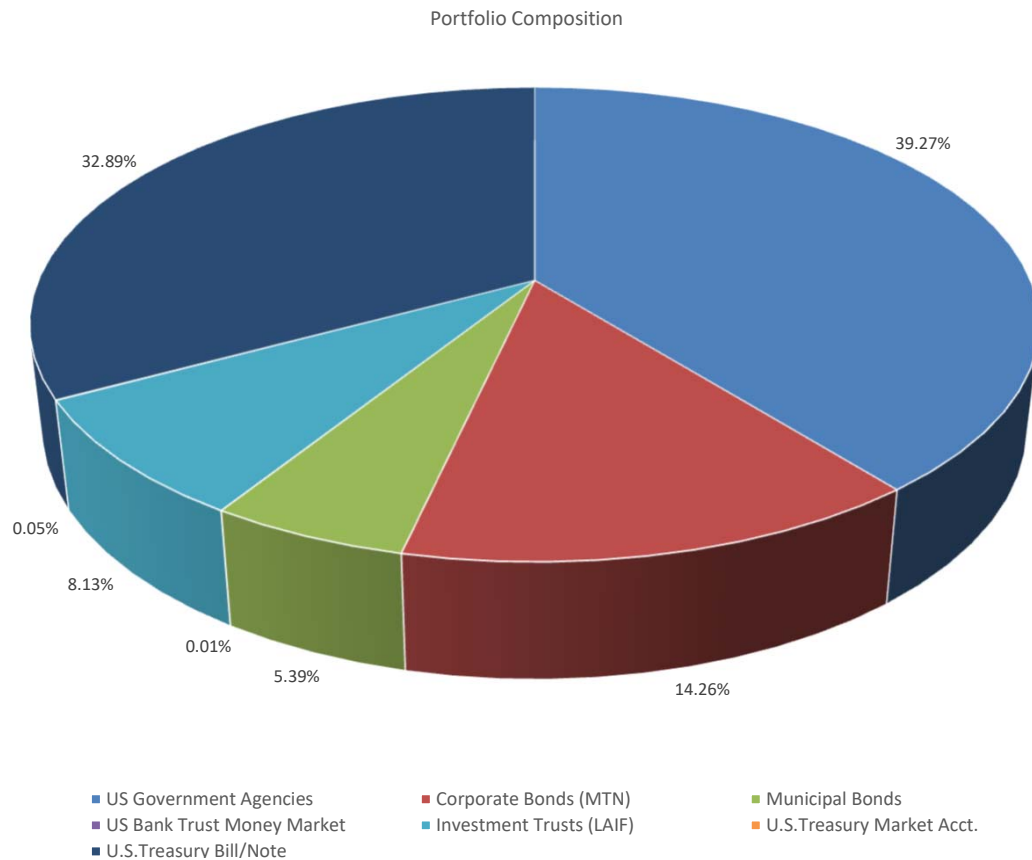
<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>2.33%</b>	<b>0.09%</b>
T-Bills (90da.)	<b>2.84%</b>	<b>0.05%</b>
Agency Disc (90da.)	<b>2.50%</b>	<b>0.07%</b>
T-Bills (1yr.)	<b>3.33%</b>	<b>0.07%</b>
Agency Disc (1yr.)	<b>3.00%</b>	<b>0.07%</b>
T-Notes (3yr.)	<b>3.38%</b>	<b>0.44%</b>



**Northern California Power Agency/Lodi Energy Center**  
**Total Portfolio**  
**Investment Maturities Analysis**  
**August 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	39.27%
Corporate Bonds (MTN)	-	-	-	-	-	4,494	-	4,494	14.26%
Municipal Bonds	-	-	-	-	-	1,700	-	1,700	5.39%
US Bank Trust Money Market	3	-	-	-	-	-	-	3	0.01%
Investment Trusts (LAIF)	2,561	-	-	-	-	-	-	2,561	8.13%
U.S.Treasury Market Acct.	16	-	-	-	-	-	-	16	0.05%
U.S.Treasury Bill/Note	18	-	10,346	-	-	-	-	10,364	32.89%
<b>Total Dollars</b>	<b>\$ 2,598</b>	<b>\$0</b>	<b>\$ 14,721</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$14,194</b>	<b>\$ -</b>	<b>\$ 31,513</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>8.24%</b>	<b>0.00%</b>	<b>46.71%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>45.05%</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

08/31/2022

## 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	446	0.005		446		1	0.005	446	SYS79004	79004	446
Federal Home Loan Ba	USBT	728,000	2.200	06/29/2022	721,104	12/01/2022	91	2.251	722,562	313385R57	27426	723,952
Federal Home Loan Ba	USBT	728,000	2.660	07/27/2022	721,169	12/01/2022	91	2.722	722,562	313385R57	27434	723,105
U.S. Treasury	USBT	113,000	1.550	06/03/2022	112,119	12/01/2022	91	1.583	112,180	912796P94	27413	112,557
U.S. Treasury	USBT	726,000	2.756	08/29/2022	720,776	12/01/2022	91	2.814	720,729	912796P94	27450	720,942
<b>Fund Total and Average</b>		<b>\$ 2,295,446</b>	2.489		<b>\$ 2,275,614</b>		<b>91</b>	<b>2.546</b>	<b>\$ 2,278,479</b>			<b>\$ 2,281,002</b>

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	722	0.005		722		1	0.005	722	SYS79012	79012	722
Federal Home Loan Ba	USBT	787,000	2.200	06/29/2022	779,545	12/01/2022	91	2.251	781,121	313385R57	27427	782,623
Federal Home Loan Ba	USBT	786,000	2.660	07/27/2022	778,624	12/01/2022	91	2.722	780,129	313385R57	27435	780,715
U.S. Treasury	USBT	60,000	2.149	06/15/2022	59,394	12/01/2022	91	2.202	59,564	912796P94	27417	59,674
U.S. Treasury	USBT	785,000	2.755	08/29/2022	779,351	12/01/2022	91	2.814	779,301	912796P94	27451	779,531
<b>Fund Total and Average</b>		<b>\$ 2,418,722</b>	2.528		<b>\$ 2,397,636</b>		<b>91</b>	<b>2.585</b>	<b>\$ 2,400,837</b>			<b>\$ 2,403,265</b>

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	673,000	2.200	06/29/2022	666,625	12/01/2022	91	2.251	667,973	313385R57	27428	669,257
Federal Home Loan Ba	USBT	673,000	2.660	07/27/2022	666,685	12/01/2022	91	2.722	667,973	313385R57	27436	668,475
U.S. Treasury	USBT	11,000	1.549	06/03/2022	10,914	12/01/2022	91	1.583	10,920	912796P94	27414	10,957
U.S. Treasury	USBT	670,000	2.756	08/29/2022	665,179	12/01/2022	91	2.814	665,136	912796P94	27452	665,332
<b>Fund Total and Average</b>		<b>\$ 2,027,000</b>	2.533		<b>\$ 2,009,403</b>		<b>91</b>	<b>2.590</b>	<b>\$ 2,012,002</b>			<b>\$ 2,014,021</b>
<b>GRAND TOTALS:</b>		<b>\$ 6,741,168</b>	2.516		<b>\$ 6,682,653</b>		<b>91</b>	<b>2.573</b>	<b>\$ 6,691,318.</b>			<b>\$ 6,698,288</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 08/31/2022





## Northern California Power Agency

## Treasurer's Report

08/31/2022

## 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	0	0.963	18,000	912796T66	27402	18,000
U.S. Treasury	USBT	4,250,000	2.150	06/15/2022	4,207,105	12/01/2022	91	2.202	4,219,145	912796P94	27418	4,226,902
U.S. Treasury	USBT	514,000	1.952	06/21/2022	509,455	12/01/2022	91	1.997	510,268	912796P94	27422	511,463
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	1,278	0.840	4,013,093	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	1,380	0.799	136,320	3130AN4T4	27270	150,417
<b>Fund Total and Average</b>		<b>\$ 9,362,366</b>	<b>1.495</b>		<b>\$ 9,315,400</b>		<b>675</b>	<b>1.520</b>	<b>\$ 8,897,192</b>			<b>\$ 9,337,148</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	91	1.583	2,260,469	912796P94	27415	2,268,079
<b>Fund Total and Average</b>		<b>\$ 2,277,531</b>	<b>1.550</b>		<b>\$ 2,259,786</b>		<b>91</b>	<b>1.584</b>	<b>\$ 2,261,000</b>			<b>\$ 2,268,610</b>

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	697	0.005		697		1	0.005	697	SYS79013	79013	697
U.S. Treasury	USBT	154,000	1.549	06/03/2022	152,800	12/01/2022	91	1.583	152,882	912796P94	27416	153,397
U.S. Treasury	USBT	786,000	2.756	08/29/2022	780,344	12/01/2022	91	2.814	780,294	912796P94	27454	780,524
<b>Fund Total and Average</b>		<b>\$ 940,697</b>	<b>2.556</b>		<b>\$ 933,841</b>		<b>91</b>	<b>2.610</b>	<b>\$ 933,873</b>			<b>\$ 934,618</b>
<b>GRAND TOTALS:</b>		<b>\$ 12,580,594</b>	<b>1.584</b>		<b>\$ 12,509,027</b>		<b>526</b>	<b>1.612</b>	<b>\$ 12,092,065.</b>			<b>\$ 12,540,376</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 08/31/2022



## Northern California Power Agency

## Treasurer's Report

08/31/2022

## 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	15,948	1.260		15,948		1	1.260	15,948	SYS70041	70041	15,948
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	822	1.776	458,997	14912L6G1	26952	479,713
Nashville Met Gov	USBGC	500,000	0.610	02/18/2021	500,000	07/01/2025	1,034	0.610	461,165	592112UB0	27176	500,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	1,062	0.579	913,540	3136G4D75	27047	1,000,583
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	1,082	0.600	911,930	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	1,124	0.530	680,108	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	1,124	0.530	607,563	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	1,256	0.699	451,780	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	1,337	1.200	439,775	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	1,414	1.050	893,670	57629WDE7	27250	1,005,646
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	1,455	1.250	86,820	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	1,474	1.227	447,880	14913R2Q9	27290	498,494
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	1,515	1.567	771,052	872898AA9	27335	856,158
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	1,530	1.490	467,697	74460DAG4	27310	515,203
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	1,530	1.475	966,272	74460DAG4	27341	1,065,051
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,734	3.654	178,598	088006KB6	27424	179,933
Fund Total and Average		\$ 11,728,936	1.053		\$ 11,754,802		1046	1.001	\$ 10,851,783			\$ 11,735,717
GRAND TOTALS:		\$ 11,728,936	1.053		\$ 11,754,802		1046	1.001	\$ 10,851,783.			\$ 11,735,717

\*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 08/31/2022

## Callable Dates:

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



## Northern California Power Agency

## Treasurer's Report

08/31/2022

## 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 08/31/2022



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 10

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**Date:** October 10, 2022

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

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

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

		<b>August</b>	
		<b>2022</b>	<b>2021</b>
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$	461,985	\$ 85,145
Interest receivable		30,910	30,873
Inventory and supplies - at average cost		2,252,372	2,451,616
Prepaid insurance		352,701	386,636
Due from (to) Agency, net		33,513,255	37,819,922
<b>TOTAL CURRENT ASSETS</b>		<b>36,611,223</b>	<b>40,774,192</b>
<b>RESTRICTED ASSETS</b>			
Cash and cash equivalents		2,118,904	7,247,736
Investments		28,856,682	28,570,582
Interest receivable		18,793	38,355
<b>TOTAL RESTRICTED ASSETS</b>		<b>30,994,379</b>	<b>35,856,673</b>
<b>ELECTRIC PLANT</b>			
Electric plant in service		447,458,697	410,208,080
Less: accumulated depreciation		(126,592,963)	(111,376,525)
<b>TOTAL ELECTRIC PLANT</b>		<b>320,865,734</b>	<b>298,831,555</b>
<b>OTHER ASSETS</b>			
Regulatory assets		29,627,151	27,502,566
<b>TOTAL OTHER ASSETS</b>		<b>29,627,151</b>	<b>27,502,566</b>
<b>TOTAL ASSETS</b>		<b>418,098,487</b>	<b>402,964,986</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Unamortized excess cost on advance refunding of debt, net		799,607	1,130,316
Asset retirement obligations		193,158	188,297
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>		<b>992,765</b>	<b>1,318,613</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$</b>	<b>419,091,252</b>	<b>\$ 404,283,599</b>

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

		<b>August</b>	
		<b>2022</b>	<b>2021</b>
<b>LIABILITIES &amp; NET POSITION</b>			
<b>CURRENT LIABILITIES</b>			
Accounts and retentions payable	\$	9,961,523	\$ 7,747,771
Operating reserves		12,817,002	16,306,658
Current portion of long-term debt		13,842,676	12,880,000
Accrued interest payable		3,196,388	3,284,109
<b>TOTAL CURRENT LIABILITIES</b>		<b>39,817,589</b>	<b>40,218,538</b>
<b>NON-CURRENT LIABILITIES</b>			
Operating reserves and other deposits		461,985	99,006
Asset retirement obligations		193,158	188,297
Long-term debt, net		315,948,765	293,655,000
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>316,603,908</b>	<b>293,942,303</b>
<b>TOTAL LIABILITIES</b>		<b>356,421,497</b>	<b>334,160,841</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Regulatory credits		37,380,694	39,895,213
<b>NET POSITION</b>			
Invested in capital assets, net of related debt		(1,494,516)	(4,174,576)
Restricted		3,521,900	8,192,674
Unrestricted		23,261,677	26,209,447
<b>TOTAL NET POSITION</b>		<b>25,289,061</b>	<b>30,227,545</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$</b>	<b>419,091,252</b>	<b>\$ 404,283,599</b>

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

		<b>Two Months Ended August</b>	
		<b>2022</b>	<b>2021</b>
<b>SALES FOR RESALE</b>			
Participants	\$	18,800,379	\$ 14,497,571
Other		19,243,518	28,235,197
<b>TOTAL SALES FOR RESALE</b>		<b>38,043,897</b>	<b>42,732,768</b>
<b>OPERATING EXPENSES</b>			
Operations		15,471,637	20,272,024
Depreciation		2,358,688	2,358,342
Purchased power		779,995	878,193
Maintenance		23,303	825,180
Administrative and general		979,921	1,015,760
Transmission		117,264	178,003
Intercompany (sales) purchases		70,026	56,066
<b>TOTAL OPERATING EXPENSES</b>		<b>19,800,834</b>	<b>25,583,568</b>
<b>NET OPERATING REVENUES</b>		<b>18,243,063</b>	<b>17,149,200</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(2,176,009)	(2,237,885)
Interest income		1,276,909	29,932
Other		1,097,526	1,131,013
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>198,426</b>	<b>(1,076,940)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(95,048)</b>	<b>(2,305,741)</b>
<b>INCREASE IN NET POSITION</b>		<b>18,346,441</b>	<b>13,766,519</b>
<b>NET POSITION</b>			
Beginning of year		6,942,620	16,461,026
End of period	\$	25,289,061	\$ 30,227,545

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

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Variable Costs</b>					
Variable	\$ 6,088,236	\$ 566,465	\$ 5,521,771	91%	
Fuel & LDC Costs	64,819,215	13,281,826	51,537,389	80%	
GHG Allowance Costs	20,249,959	239,201	20,010,758	99%	
CA ISO Charges	1,080,335	117,264	963,071	89%	
CA ISO Energy Purchases	1,889,864	779,995	1,109,869	59%	A
<b>Total Variable Costs</b>	94,127,609	14,984,751	79,142,858	84%	
<b>Routine O&amp;M Costs</b>					
Fixed O&M	3,151,902	116,925	3,034,977	96%	
Administration	195,869	16,459	179,410	92%	
Mandatory Costs	365,380	90,245	275,135	75%	B
<b>Routine O&amp;M Costs without Labor</b>	3,713,151	223,629	3,489,522	94%	
Labor	6,112,796	1,111,355	5,001,441	82%	
<b>Total Routine O&amp;M Cost</b>	9,825,947	1,334,984	8,490,963	86%	
<b>Other Plant Costs</b>					
Debt Service	25,996,203	4,332,701	21,663,502	83%	
Insurance	1,313,901	218,984	1,094,917	83%	
Other Costs	151,208	34,052	117,156	77%	C
Generation Services Shared	420,233	70,026	350,207	83%	
Administrative & General (Allocated)	2,270,375	378,394	1,891,981	83%	
<b>Power Management Allocated Costs</b>	1,450,728	241,788	1,208,940	83%	
<b>Total Other Plant Costs</b>	31,602,648	5,275,945	26,326,703	83%	
<b>Total O&amp;M Costs</b>	135,556,204	21,595,680	113,960,524	84%	
<b>Projects</b>					
Operations & Maintenance	1,342,970	(157,020)	1,499,990	112%	
Capital	280,000	-	280,000	100%	
Maintenance Reserve	2,008,392	334,732	1,673,660	83%	
<b>Total Projects</b>	3,631,362	177,712	3,453,650	95%	
<b>Annual Cost</b>	139,187,566	21,773,392	117,414,174	84%	
<b>Less: Third Party Revenue</b>					
Interest Income	250,000	63,579	186,421	75%	
ISO Energy Sales	121,619,515	19,144,298	102,475,217	84%	
Ancillary Services Sales	2,317,565	99,220	2,218,345	96%	
GHG Allowance Credits	19,709,710	239,201	19,470,509	99%	
Other Income	-	-	-	0%	
	143,896,790	19,546,298	124,350,492	86%	
<b>Net Annual Cost to Participants</b>	<b>\$ (4,709,224)</b>	<b>\$ 2,227,094</b>	<b>\$ (6,936,318)</b>	147%	

Total Variable Costs	94,127,609	14,984,751	79,142,858
Total Fixed Costs	45,059,957	6,788,641	38,271,316
	<u>\$ 139,187,566</u>	<u>\$ 21,773,392</u>	<u>\$ 117,414,174</u>

Net Cumulative Generation (MWh)	1,626,895	184,204
Total O&M Cost Per MWh	\$ 83.32	\$ 117.24
Net Annual Cost Per MWh	\$ (2.89)	\$ 12.09

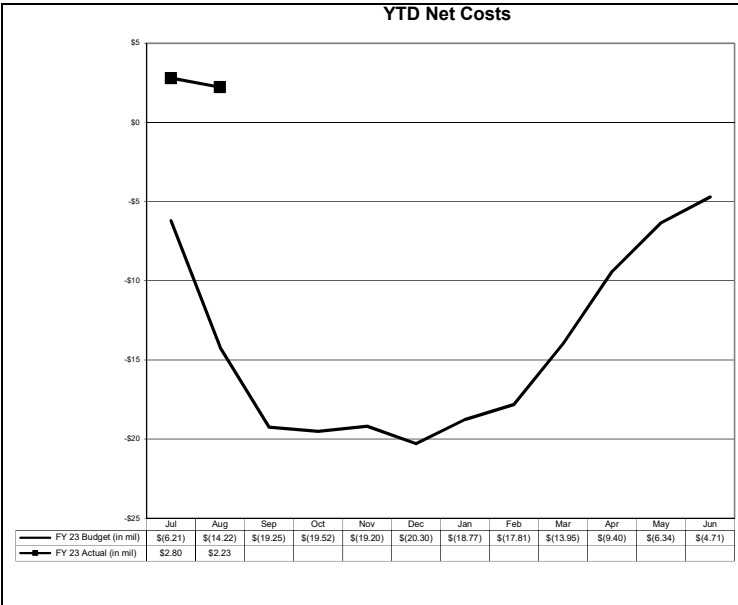
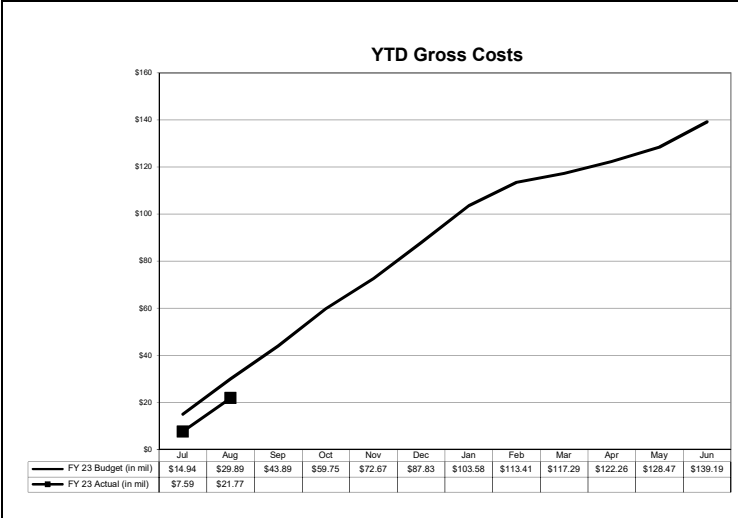
### Footnotes:

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

**A - Higher CAISO energy purchases due to imbalance energy settlement costs.**

**B - Expenditure for annual permit fees which are expected to levelize by year end.**

**C - Expenditure for trustee and debt fees which are expected to levelize by year end.**

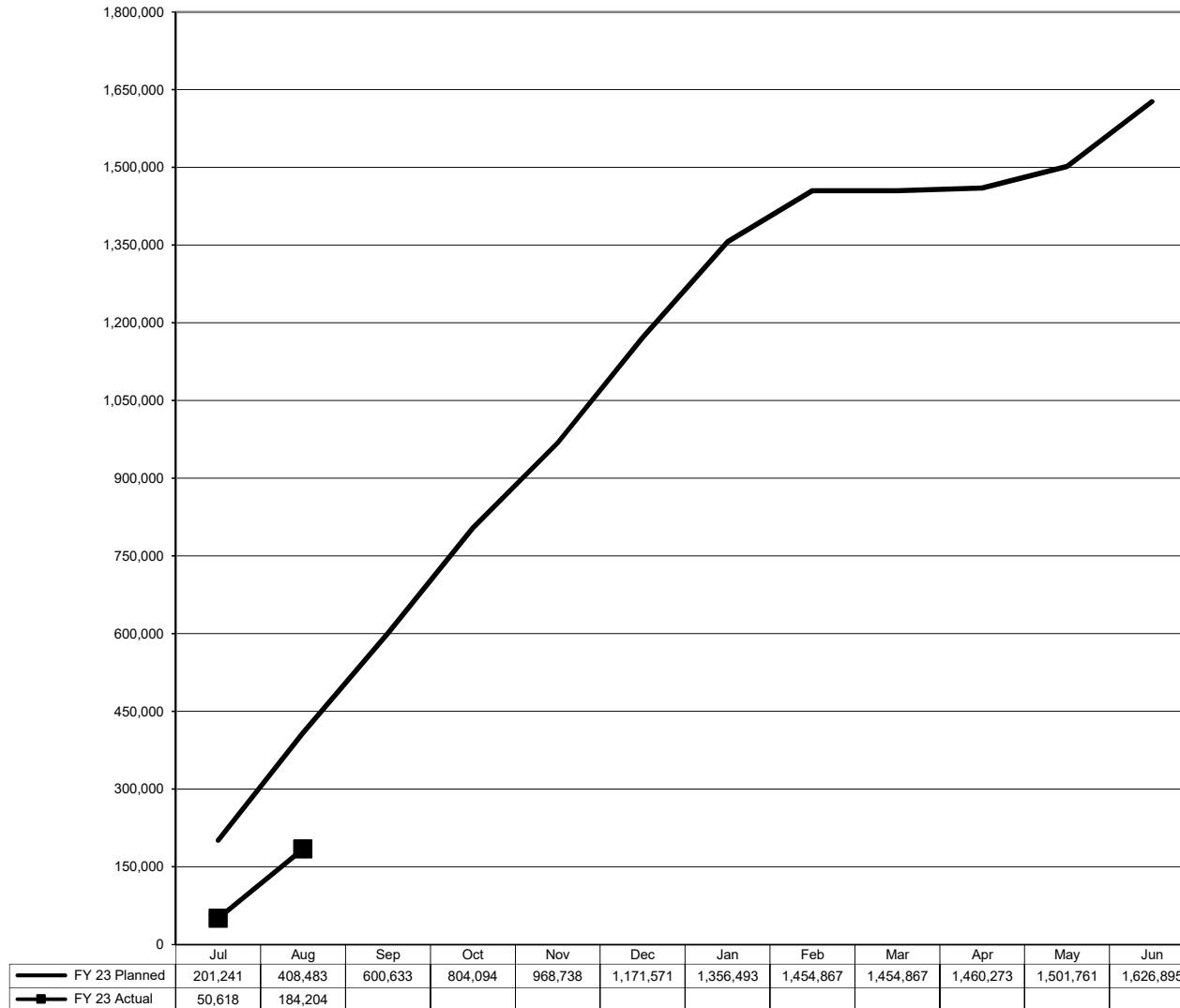




**Annual Budget  
LEC Generation Analysis  
Planned vs. Actual  
FY 2023**

In MWh

## Lodi Energy Center





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

### **LEC GHG Reports**

AGENDA ITEM NO.: 11

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**Date:** October 10, 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	50,618	133,586	145,858	106,163	136,327	177,251	850,115	11,233,385
Gas Schedule (MMBtu)	403,195	220,591	0	0	0	123,728	388,460	972,424	1,131,859	823,822	1,057,896	1,375,467	6,497,442	81,131,649
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	20,963	52,477	61,081	44,458	57,089	74,227	350,634	4,386,320
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	672,669	725,146	786,227	830,685	887,774	962,001	962,001	962,001
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	100,000	19,000	0	80,537	0	0	0	478,714	4,531,389
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	100,000	19,000	0	80,537	0	0	0	478,714	4,600,652
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	100,000	19,000	0	80,537	0	0	0	478,714	4,646,974
Cumulative MT Account Balance (MTA)	805,740	805,740	1,029,262	1,029,262	1,029,262	1,129,262	1,148,262	1,148,262	1,228,799	1,228,799	1,228,799	1,228,799	1,228,799	1,228,799
MTA Shortfall (MT)	(172,615)	(160,711)	(384,233)	(384,233)	(384,233)	(477,556)	(475,593)	(423,116)	(442,572)	(398,114)	(341,025)	(266,798)	(266,798)	(266,798)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	0	0	461,028	0	0	0	461,028
Monthly GHG Price	29.65	29.82	34.22	30.17	30.35	34.75	30.70	30.88	35.27	31.23	31.40	35.80		



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

AGENDA ITEM NO.: 11

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**Meeting Date:** October 10, 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 October 10, 2022, through November 9, 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 October 10, 2022, through November 9, 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 October 10, 2022, through November 9, 2022.

#### Fiscal Impact

There is no fiscal impact as a result of authorizing teleconference meetings of the LEC PPC for the period October 10, 2022, through November 9, 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 2022-14

**RESOLUTION NO. 2022-14**

**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 OCTOBER 10, 2022, THROUGH NOVEMBER 9, 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) November 9, 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 October, 2022, by the following vote on roll call:

<b>Summary Vote</b>	
<b>Participant</b>	<b>Vote</b>
Azusa	
BART	
Biggs	
CDWR	
Gridley	
Healdsburg	
Lodi	
Lompoc	
Modesto	
Plumas-Sierra	
PWRPA	
Silicon Valley Power	
Ukiah	
<b>Vote Summary</b>	
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.: 13

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**Date:** October 5, 2022

**Meeting Date:** October 10, 2022

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

**Subject:** Approval of Northern California Power Agency's (NCPA) Property Insurance Program for Calendar Year 2023

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### Proposal

LEC PPC delegate authority to the General Manager to negotiate and bind Property coverage with FM Global at a not-to-exceed premium of \$1,320,000.

### Background

One of the goals identified in the 2021-2026 Strategic Plan was to develop a long-term, cost-effective insurance coverage strategy while building solid relationships between the Agency and its insurers. FM Global was new to the Agency as of 2021 and quickly established itself as a valued partner. FM Global offers engineering support, cyber security assessments, and responsive account managers/engineers. In addition, FM Global provides membership credits.

### *Engineering Support*

FM Global provides engineering support to the plants through loss control visits. The ultimate goal of these visits is for FM Global to provide recommendations to plant staff with the goal of increasing the business resiliency of the plant. In addition to the loss control visits, FM Global also supports plant staff with expertise from project scoping through implementation. FM Global also performs all onsite jurisdictional inspections and certifications.

### *Cyber Security Assessments*

FM Global performed Cyber Security Assessments for LEC, Geo, and Hydro in CY22, with Headquarters in Roseville due to be assessed in Q4 or Q1 of CY23. These assessments aim to recommend to the Ops Tech (OT) staff how to improve system hardening against bad actors.

### *Account Managers and Engineers*

The level of service received from FM Global's account manager and engineering team has been top-notch, far exceeding the support received from previous insurers. NCPA staff continue to build strong relationships with FM Global staff across the board.

### **FM Global Credits for 2022**

NCPA will receive a 5% Membership Credit from FM Global in the amount of \$194,178 to be applied directly to the policy premium at renewal for CY23. In addition, NCPA will also receive a

Resiliency Credit of \$194,178 (5%) to be used for loss control recommendations to increase plant resiliency and help reduce FM Global's risk profile.

### Plant Appraisals

In CY22, appraisals were performed for Geo and LEC and are shown in the column labeled CY23 in the table below. For Hydro and the CTs, a standard 7% increase over the CY22 values was used to obtain actual values for FY23. Of note, Geo saw a 16% decrease in appraised value compared to the CY22 book value. The appraisals were commissioned and paid for by FM Global. NCPA expects Hydro and the CTs to be appraised in CY23.

	CY22	CY23	YOY Change	YOY Pct. Change
Geo	406	341	-65	-16%
LEC	426	496	70	16%
Hydro + CTs	414	443	29	7%

**\*All values are in millions**

### Business Interruption Insurance (BI)

Business interruption insurance was quoted for CY23. Since LEC declined BI in CY22 and FM Global agreed to a two-year rate lock, BI insurance will not be available to LEC for CY23; this can be revisited for the CY24 renewal. Forecasted revenue for Geo is up \$27M YOY, driven by higher forward energy price curves. Forecasted revenue for Hydro is up \$12M YOY, also driven by higher forwards but a lower forecasted generation expected for FY23. Insurable BI values are detailed in the table below.

	CY22	CY23	YOY Change	YOY Pct. Change
Geo	50	77	27	54%
Hydro	60	72	12	20%

**\*All values are in millions**

### CY23 Property Insurance Premium

The property insurance premium is allocated based on the total insured value, calculated as Property Value + BI. FM Global has indicated the expected CY23 Property Insurance Renewal Premium at a not-to-exceed of \$3,800,000. NCPA's commitment is an NTE of \$2,480,000, while LEC's commitment is an NTE of \$1,320,000 for the CY23 property renewal.

NCPA signed a two-year rate lock with FM Global at the inception of the CY22 insurance program. This lock keeps the rate used to calculate the total premium from CY22 to CY23 the same. While the rate remained unchanged, NCPA saw an increased total insured value for its assets in CY23. This increase in value is the driver for why NCPA's property premium will go up approximately 5% in CY23, but those premium increases are offset by membership credits. The two-year rate lock proved to be beneficial since the property market is experiencing increases north of 10%.

Fiscal Impact

The total cost to renew the property insurance program is estimated not-to-exceed \$3,800,000 s of which \$1,320,000 relates to LEC's property insurance coverage. This amount is already included in the Risk Management budget and no budget augmentation is required.

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:

Randall Kramer  
Energy Risk Analyst



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

AGENDA ITEM NO.: 14

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**Meeting Date:** October 10, 2022

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

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

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### Proposal

Approve the Multi-Task General Services Agreement with Sunshine Metal Clad, Inc. for various insulation related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

### Background

Various insulation 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. The current agreement with Sunshine Metal Clad, Inc. is expiring. 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 projects. NCPA has agreements in place for similar services with American Industrial Scaffolding, Inc., Bayside Insulation & Construction, Inc. and Farwest Insulation Contracting.

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement is not-to-exceed \$2,500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

MICHAEL DEBORTOLI  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Sunshine Metal Clad, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
SUNSHINE METAL CLAD, 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 Sunshine Metal Clad, Inc., a corporation with its office located at 7201 Edison Highway, Bakersfield, CA 93307 ("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** TWO MILLION FIVE HUNDRED THOUSAND dollars (\$2,500,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

**4.3     Professional Liability Insurance.** Intentionally Omitted.

**4.4     Pollution Insurance.** Intentionally Omitted

**4.5     All Policies Requirements.**

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

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

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

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

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

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

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

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without 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.** Intentionally Omitted.

## **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:

James Eudy  
President  
Sunshine Metal Clad, Inc.  
7201 Edison Highway  
Bakersfield, CA 93307

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

SUNSHINE METAL CLAD, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JAMES EUDY, 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, Sunshine Metal Clad, Inc. ("Contractor") shall provide routine, recurring, and usual insulation 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.

Provide labor, equipment, and materials to address deteriorated insulation and maintain insulation. Any manlifts, scaffolding, forklifts, or other required equipment shall be provided by Contractor, with the associated costs to be included in any quotes provided.

Any and all work related to lead and asbestos abatement or public works is not included within this Scope of Services and will be subject to a separate written agreement.

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:



#### NORTHERN CALIFORNIA POWER AGENCY

#### LABOR & EQUIPMENT RATES - 2022

#### PREVAILING WAGE JOBS

CLASSIFICATION	STRAIGHT TIME / HOUR	OVERTIME / HOUR
SUPERVISOR / SAFETY COORDINATOR	\$175.00	\$262.50
INSULATOR 1	\$135.00	\$202.50
WORK TRUCKS - MEDIUM & LARGE		
WORK TRUCK / AUTO - Per Hour	\$10.00	
TRUCKS - 1 - TON / STAKE BED - Per Hour	\$15.00	
TRUCKS - 2 TON / BOX VANS - Per Hour	\$20.00	
TRAILERS		
SHOP TRAILER - MATERIAL - Day Rate	\$50.00	
PAD TRAILER W/TOOLS - Day Rate	\$50.00	

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

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(Company name)

for contract work at:

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

(Project name and location)

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

---

(Signature of officer or agent)

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

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

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**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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**Meeting Date:** October 10, 2022

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

**Subject:** Precision Iceblast Corporation – First Amendment to 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 First Amendment to the Multi-Task General Services Agreement Precision Iceblast Corporation for inspection and maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not-to-exceed amount from \$1,000,000 to \$3,000,000, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Inspection and maintenance services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA entered into a five year Multi-Task General Services Agreement with Precision Iceblast Corporation effective June 23, 2021, for an amount not to exceed \$1,000,000, for use at all NCPA, NCPA Member, SCPPA, and SCPPA Member facilities.

An NCPA Member has requested services from this vendor through NCPA's Support Services Program, the cost of which will result in this agreement running low on funds. To ensure there are sufficient funds available for the remainder of the contract term, NCPA desires to enter into a First Amendment to the Multi-Task General Services agreement to increase the not-to-exceed amount from \$2,000,000 to \$5,000,000, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. NCPA has agreements in place for similar services with Environex, Inc., Groome Industrial Services Group, Inc., and Tetra Engineering Group, Inc.

### Selection Process

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

Fiscal Impact

Upon execution, the total cost of the agreement will be not to exceed \$5,000,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with Precision Iceblast Corporation
- First Amendment to Multi-Task General Services Agreement with Precision Iceblast Corporation



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
PRECISION ICEBLAST CORPORATION**

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 Precision Iceblast Corporation, a corporation with its office located at 801 Maple Street, Peshtigo, WI 54157 ("Contractor") (together sometimes referred to as the "Parties") as of June 23, 2021 ("Effective Date") in Roseville, California.

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

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



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

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

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

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

Invoices shall be sent to:

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

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

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

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



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

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

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

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

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

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

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

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

**4.3 Professional Liability Insurance.** Not Applicable.

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

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

**4.5 All Policies Requirements.**

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

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

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

**4.5.4 Additional Certificates and Endorsements.** 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.** If Contractor's Work involves its transporting hazardous materials, Contractor shall be deemed to be in exclusive possession and control of such materials and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of such materials, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Contractor or its agents complete transfer of such materials into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Contractor shall be responsible for all such notifications. Should Contractor be required to remedy or remove such materials as a result of a leak, spill, release or discharge of such materials into the environment at Agency's Site

or elsewhere, Contractor agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

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

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

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

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

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

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

- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

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

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



**7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

**7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

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

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

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

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

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

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

**8.4.1** Immediately terminate the Agreement;

**8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;

**8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or

**8.4.4** Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

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

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.
- 9.4.2 Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.
- 9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:



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

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

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

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

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

**10.1** **Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

**10.2** **Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to

have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

## **Section 11. WARRANTY.**

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

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

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

- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

**Section 13. MISCELLANEOUS PROVISIONS.**

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

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

Precision Iceblast Corporation  
Attention: Matt Peterson  
801 Maple Street  
Peshtigo, WI 54157

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

**13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

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

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

**13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

**13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails,

the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

**13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

**13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

**13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

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

SIGNATURES ON NEXT PAGE

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

NORTHERN CALIFORNIA POWER AGENCY

Date 6/23/2021

Walter Hand for  
**RANDY S. HOWARD,**  
General Manager

PRECISION ICEBLAST CORPORATION

Date MAY 21, 2021

Joel Williams  
**JOEL WILLIAMS,**  
Vice President Business Development

Attest:

[Signature]  
Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt  
Jane E. Luckhardt, General Counsel

## Michelle Schellentrager

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**From:** Randy Howard  
**Sent:** Monday, June 21, 2021 8:16 AM  
**To:** \*Mgmt Team  
**Cc:** \*Admin Assts  
**Subject:** Signature Authority

Good morning,

Monty Hanks will have signature authority on my behalf June 21-24, 2021.

Thank you,  
Randy

*Randy S. Howard*  
General Manager  
Northern California Power Agency  
*A Public Agency*  
651 Commerce Drive, Roseville CA 95678  
916-781-4200



## **EXHIBIT A**

### **SCOPE OF WORK**

Precision Iceblast Corporation ("Contractor") shall provide inspection and 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:

- SCR Catalyst Cleaning & Repacking
- CO Catalyst Cleaning & Repacking
- Ammonia Injection Grid Cleaning
- Ammonia Vaporizer Cleaning
- SCR & CO Catalyst Replacement
- HRSG Tube Cleaning
- Inlet Filter House & Duct Refurbishment
- Full-Scale Plant Cleandown
- Baghouse / Filter Changeouts
- Drain System & Pit Cleanouts
- Cooling Tower / ACC Cleaning
- Grate Block / Bar Refurbishment

## **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:

Pricing will be quoted as a fixed firm price at the time services are requested.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I, Joel Williams

(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

Precision Iceblast Corporation

(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 21<sup>st</sup> day of MAY, 20 21.

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)  
\_\_\_\_\_



## FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND PRECISION ICEBLAST CORPORATION

This First Amendment ("Amendment") to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Precision Iceblast Corporation ("Contractor") (collectively referred to as "the Parties") as of \_\_\_\_\_, 202\_\_.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective June 23, 2021, (the "Agreement") for Contractor to provide inspection and maintenance services at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA), or SCPPA Members; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of \$1,000,000 to a "NOT TO EXCEED" amount of \$3,000,000; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 2—Compensation** of the Agreement is amended and restated to read as follows:

Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED THREE MILLION** dollars (\$3,000,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

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

NORTHERN CALIFORNIA POWER AGENCY

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

PRECISION ICEBLAST CORPORATION

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

\_\_\_\_\_  
**JOEL WILLIAMS,**  
Vice President Business Development

Attest:

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

Approved as to Form:

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



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

AGENDA ITEM NO.: 16

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**Meeting Date:** October 10, 2022

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

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

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### Proposal

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

### Background

Various battery 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 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 American Power Systems and Nor-Cal Battery.

### 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 Exponential Power, LLC



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
EXPONENTIAL POWER, LLC**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Exponential Power, LLC, a C-corporation with its office located at N56W16665 Ridgewood Drive, Menomonee Falls, WI 53051 ("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.** Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

**4.4 Pollution Insurance.** Not Applicable.

**4.5 All Policies Requirements.**

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

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

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

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

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

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

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

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

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

to a level sufficient to receive a “No Further Action Required” or “Closure Letter” from the appropriate regulatory authority.

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

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

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

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

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

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

- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

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

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



- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

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

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) business 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:

Exponential Power, LLC  
Attention: Kristi Longshore, VP Sales  
1649 Sands Place, SE Suite C  
Marietta, GA 30067

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.

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

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

NORTHERN CALIFORNIA POWER AGENCY

EXPONENTIAL POWER, LLC

Date \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
**KRISTI LONGSHORE,**  
VP of Stationary Sales

Attest:

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

Approved as to Form:

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

**EXHIBIT A**

**SCOPE OF WORK**

Exponential Power, LLC ("Contractor") shall provide battery related services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA Members. Services to include, but not be limited to the following:

- Maintenance
- Equipment (including associated off the shelf product specifications and drawings)
- Testing
- DC Equipment

## **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:

Pricing will be quoted at the time services are requested by Agency.

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

NOTE: As a public agency, NCPA shall not reimburse 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

Exponential Power, LLC

(Company name)

for contract work at:

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

(Project name and location)

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

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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.: 17

**Date:** October 5, 2022

**Meeting Date:** October 10, 2022

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

**Subject:** Revision to Exhibit 5 of PMOA Agreement Schedule 1.00

### Proposal

Adopt revision of PMOA Exhibit 5 of Schedule 1.00 for revised 2022 CAISO Grid Management Charge (GMC) rates related to the Market Services Charge and System Operations Charge.

### Background

The CAISO recovers its cost through unbundled grid management charges (GMC) composed of three volumetric charges and five associated fees and charges assessed to market participants. Each unbundled service has a corresponding service rate. With respect to the LEC Project, two of the CAISO's volumetric grid management rates, the Market Services Charge and System Operations Charge categories, are used as inputs into the Economic Operations bid calculation defined in Agreement Schedule 1.00 to the LEC PMOA (Project Management and Operations Agreement).

The CAISO issued a market notice on July 18, 2022 indicating that an increase in energy demand attributable to recent economic upturn and a return to more seasonal weather patterns have resulted in year-to-date over-recovery of the GMC specific to the Market Services Charge component of the GMC. As authorized by the CAISO Tariff, the CAISO will reduce the Market Services Charge rate to better align forecasted actual GMC revenues to budgeted revenues. The revised GMC rates became effective on trade date August 1, 2022 as indicated in the table below.

Charge Code	CAISO GMC Charge Code Name	Current 2022 Rate	Adjusted 2022 Rate	Difference	Unit of Measure
4560	GMC - Market Services Charge	\$0.1484	\$0.1265	\$(0.0219)	Awarded Schedules (MWh)
4561	GMC - System Operations Charge	\$0.2004	\$0.2004	\$0.0000	Metered Energy (MWh)
		\$0.3488	\$0.3269	\$(0.0219)	

The market services charge is assessed to the LEC Project based on awarded CAISO energy and ancillary service schedules while the system operations charge is based on metered generation quantities. NCPA includes these GMC rates into the Economic Operations bid



calculation indicated in Agreement Schedule 1.00 under the defined term 'CAISO GMC' in order to internalize these costs in the awarded energy bid amount.

Fiscal Impact

There is no fiscal impact on an overall basis to Participants as these costs will be included in the Economic Operations bid calculation in order to achieve economic awards.

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.

Recommendation

NCPA staff recommends that the PPC pass a motion authorizing adopting the revised PMOA Exhibit 5 of Schedule 1.00 for the revised 2022 CAISO Grid Management Charge (GMC) rates.

Submitted by:

ROBERT W. CARACRISTI  
Manager,  
Information Services and Power Settlements

Attachments: (1)

- Red-lined version of PMOA Exhibit 5 of Schedule 1.00

## EXHIBIT 5

### CAISO Charges

The CAISO Charges component used to determine Economic Operations is calculated as shown in the table below:

<b>Market Charge Code</b>	<b>CAISO Charge Code Name</b>	<b>Rate</b>	<b>Unit of Measure</b>
4560	GMC - Market Services Charge	\$ .1265	per MWh
4561	GMC - System Operation Charge	\$ .2004	per MWh
Total GMC Amount		<u><u>\$ .3269</u></u>	per MWh