



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
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LEC PPC Agenda

Date: October 6, 2021

Subject: October 11, 2021 Lodi Energy Center Project Participant Committee Meeting

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

Time: 10:00 AM

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*****This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Act, Governor Gavin Newsom's Emergency Declaration related to COVID-19, that Declaration's requirement that the state provide updated and specific guidance relating to preventing and mitigating COVID-19, California Department of Public Health recommends social distancing and masking indoors 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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In compliance with the Executive Department, State of California, Emergency Declaration, SB 361, and the Brown Act, you may participate in the meeting via teleconference by:

<https://www.gotomeet.me/NCPALodi>

Dial: 1-872-240-3212

Access Code: 327-912-613

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

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 13, 2021 Regular Meeting Minutes

MONTHLY REPORTS

4. Operational Report for September 2021 – *(Rafael Santana)*

5. Market Data Report for September 2021 – Verbal Report *(Mike Maltese)*

6. Monthly Asset Report for August 2021 – *(Michael DeBortoli)*

7. Bidding Strategies Report – Verbal Report and update regarding bidding strategies and regulation down revenues *(Jesse Shields/Ken Goeke)*

CONSENT CALENDAR

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

8. Treasurer's Report for August 2021 – Accept by all Participants

9. Financial Report for August 2021 – Approve by all Participants

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

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

- 11. ACCO Engineered Systems, Inc. First Amendment to MTGSA** – Staff is seeking a recommendation for approval of the First Amendment to the five-year Multi-Task General Services Agreement with ACCO Engineered Systems, Inc. for HVAC maintenance services, extending the contract expiration date to January 31, 2022, with no other changes to the contract terms, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 12. CH2M Hill Engineers, Inc. First Amendment to MTPSA** – Staff is seeking a recommendation for approval of the First Amendment to the five-year Multi-Task Professional Services Agreement with CH2M Hill Engineers, Inc. for compliance support services, including biological monitoring and general compliance support, increasing the not to exceed from \$200,000 to \$500,000, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 13. Black & Veatch Corporation Second Amendment to MTPSA** – Staff is seeking a recommendation for approval of the Second Amendment to the five-year Multi-Task Professional Services Agreement with Black & Veatch Corporation for consulting services related project support and plant operations, extending the contract expiration date to January 31, 2022, with no other changes to the contract terms, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 14. Evoqua Water Technologies, LLC First Amendment to MTGSA** – Staff is seeking a recommendation for approval of the First Amendment to the five-year Multi-Task General Services Agreement with Evoqua Water Technologies, LLC, modifying Sections 12.1, 12.2, and Exhibit B of the original agreement, with no other changes to the contract terms, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 15. Hometown Connections, Inc. First Amendment to MTCSA** – Staff is seeking a recommendation for approval of the First Amendment to the five-year Multi-Task Consulting Services Agreement with Hometown Connections, Inc. for various consulting related tasks including but not limited to organization assessments, strategic planning, market research, and training, increasing the not to exceed amount from \$250,000 to \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

- 16. 2022 Insurance Renewal** – Staff is seeking a recommendation for approval of the NCPA Major Insurance renewals for 2022.

INFORMATIONAL/ DISCUSSION ITEMS

- 17. FY2021 Annual Billing Settlements Review** – Staff will present a draft of LEC's FY2021 Annual Billing Settlement and encumbrances for the period of July 1, 2020 – June, 20, 2021

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.

18. Additional Operational Updates – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: November 15, 2021 at 10:00 AM.

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.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

LEC PPC Meeting Minutes

Date: September 13, 2021

Time: 10:00am

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

Subject: Lodi Energy Center Project Participant Committee Meeting

1. Review Safety Procedures

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

2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:04 am by Chairman Basil Wong. He asked that roll be called for the Project Participants as listed below.

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

Meeting Date:

9/13/2021

Public Forum

Chairman Wong asked if any members of the public were on the phone 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 9, 2021 meeting were considered. The LEC PPC considered the following motion:

Date: 9/13/2021

Motion: The PPC approves the minutes from the August 9, 2021 regular LEC PPC meeting.

Moved by:

Lodi

Seconded by:

MID

Discussion: There was no further discussion

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

MONTHLY REPORTS

4. Operational Reports for August 2021

Rafael Santana presented the Operational Report for August 2021. There were no OSHA recordable accidents and no NERC/WECC violations. There were two outages in August 2021. The T3000 CPU failed and tripped the unit on August 2nd for a forced outage. On August 8th, parts were received and installed to repair the trip on August 2nd. The next planned outage for the steam turbine and generator major work is scheduled for March 1, 2022 – May 31, 2022.

The operational report reflected monthly production of 199,547 MWH, 725 service hours, and equivalent operating availability of 97.4%. The report set for the Capacity Factor @ 302MW Pmax of 88.8%. There were 0 hot starts, 2 warm starts, and 0 cold starts during the month.

5. Market Data Report for August 2021

Zackary Liske mentioned the operating and financial settlement results for the month. LEC was committed to CAISO 31 out of 31 available days. Most runs were 24 hours runs in the month of August.

6. Monthly Asset Report

Michael DeBortoli presented the monthly asset report for July 2021. Michael mentioned the revenues were stronger in 2021 than previous years in July. Variable expenses were up with more run time. The budget is staying below budget as of July 2021.

7. Bidding Strategies Report

Jesse Shields presented the Bidding Strategies Report for August 2021. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee.

Consent Calendar (Items 8-15)

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

Date: 9/13/2021

Motion: The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for July 2021; **9.** Financial Report for July 2021; **10.** GHG

Reports (excerpted from the Monthly ARB); **11.** McHale & Associates MTCSA for plant performance improvement consulting services, not to exceed from \$1,000,000, for use at all NCPA facilities and Members/SCPPA; **12.** Famand, Inc. dba Indoor Environmental Services MTGSA for heating, ventilation, and air-conditioning (HVAC) services, not to exceed \$1,000,000, for use at all NCPA facilities and Members/SCPPA; **13.** Famand, Inc. dba SitelogIQ First Amendment to MTGSA updating the Scope of Work, with no change to the not to exceed amount or contract term, for continued use at all NCPA facilities and Members/SCPPA; **14.** Rescue Solutions, LLC MTGSA for emergency rescue response and training services, not to exceed \$500,000, for use at all NCPA facilities; **15.** AECOM Technical Services, Inc. MTCSA for injection well related consulting services, not to exceed \$2,500,000, for use at all NCPA facilities and Members/SCPPA.

Moved by:
Seconded by:

Biggs
SVP

Discussion: There was no further discussion.

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

BUSINESS ACTION ITEMS

None.

INFORMATIONAL ITEMS

16. Additional Operational Updates

Joel Ledesma announced this will be he last week with the Agency. He appreciates the help and support he received from LEC operations.

CLOSED SESSION

17. Adjourned to Closed Session

Chairman Wong and Jane Luckhardt adjourned to Closed Session at 10:40am. A Closed Session discussion was had pursuant to Government Code Section 54956.8 regarding authority to conduct real property negotiations for Property: APN # 055-070-07, APN # 055-070-08, APN # 055-080-02.

At 10:45 am the Committee returned to Open Session. General Counsel Jane Luckhardt advised that no reportable action was taken during the Closed Session.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, October 11, 2021 at 10:00am.

The meeting was adjourned at 10:46 am.

Submitted by: Melissa Conrad

Lodi Energy Center Project Participant Committee

Operational Report

Agenda Item No.: 4

Date: 10/11/2021

To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents.

Notice of Violations

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

Outage Summaries:

- None

Planned Outage Summaries:

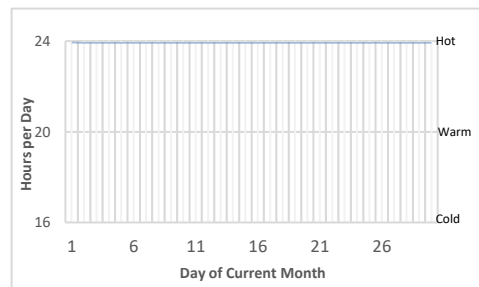
- March 1 – May 31, 2022; Steam turbine generator major inspection, gas turbine ULN installation

NOTE: Gas chromatograph experienced a component failure from 8/17/21 – 9/9/21. Highlighted sections have been approximated using typical natural gas data instead of anomalous instrument readings.

Generating Unit Statistics:

Date: 9/1/2021

| | | |
|--|---------|-------|
| 1. Monthly Production | 199,045 | MWh |
| 2. Productivity Factor | | |
| a. Service Hours | 720 | Hours |
| b. Service Factor | 100.0% | % |
| c. Capacity Factor @ 302MW Pmax | 91.5 | % |
| 3. Equivalent Operating Availability (EOA) | 100.0 | % |
| 4. Forced Outage Rate (FOR) | 0.0 | % |



5. Heat Rate Deviation
a. Fuel Cost (Not Current Market Price)

4.00 \$/mmBTU

| MW Range | PMOA HR BTU/kw- Hr | Average HR BTU/kw-Hr | Deviation % | Production MWh | Cost \$ |
|------------------|--------------------------|-------------------------|----------------|-------------------|------------|
| Seg. 1 296 + | 6850 | 6,853 | 0.04% | 178 | \$2 |
| Seg. 2 284 - 296 | 6870 | 6,913 | 0.63% | 84,036 | \$14,510 |
| Seg. 3 275 - 284 | 6971 | 6,931 | -0.57% | 60,600 | -\$9,686 |
| Seg. 4 250 - 275 | 7081 | 6,936 | -2.05% | 39,308 | -\$22,804 |
| Seg. 5 225 - 250 | 7130 | 6,984 | -2.05% | 9,778 | -\$5,721 |
| Seg. 6 200 - 225 | 7200 | 7,040 | -2.23% | 2,431 | -\$1,560 |
| Seg. 7 175 - 225 | 7450 | 7,192 | -3.46% | 563 | -\$581 |
| Seg. 8 165 - 175 | 7760 | 0 | 0.00% | 0 | \$0 |
| | 7,164 | 6,978 | -1.73% | 196,894 | -\$25,840 |

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 | \$5 |
| Seg. 3 275 - 284 | 0 | -1 | 1 | \$17 |
| Seg. 4 250 - 275 | 0 | -1 | 1 | \$41 |
| Seg. 5 225 - 250 | 1 | -1 | 1 | \$34 |
| Seg. 6 200 - 225 | 0 | 0 | 0 | \$8 |
| Seg. 7 175 - 225 | 0 | 0 | 0 | \$0 |
| Seg. 8 165 - 175 | 0 | 0 | 0 | \$0 |
| | 1 | -3 | 4 | \$104 |

7. Starting Reliability

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



LEC PPC Meeting

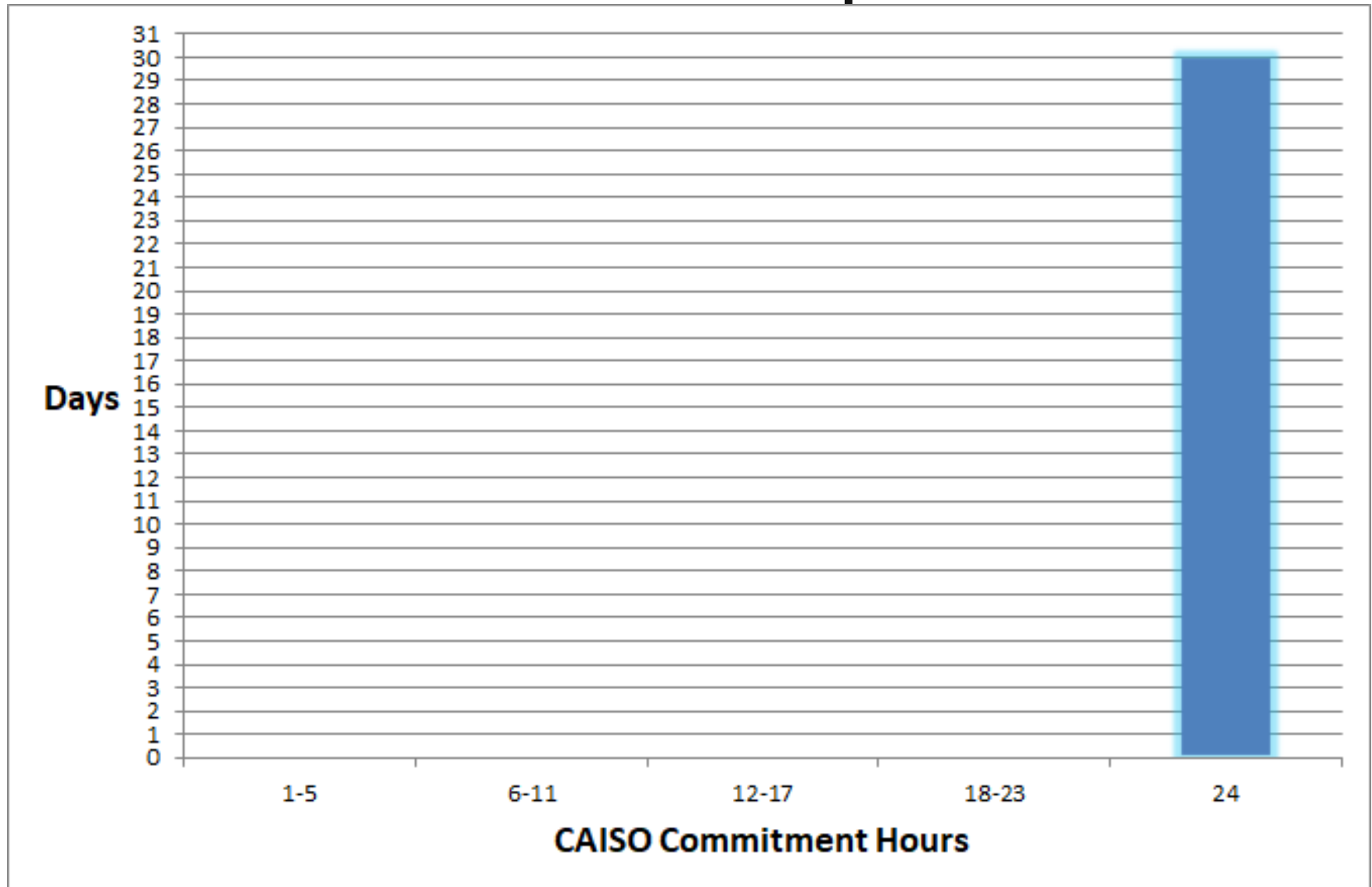
October 11, 2021

September 2021 Market Financial Results

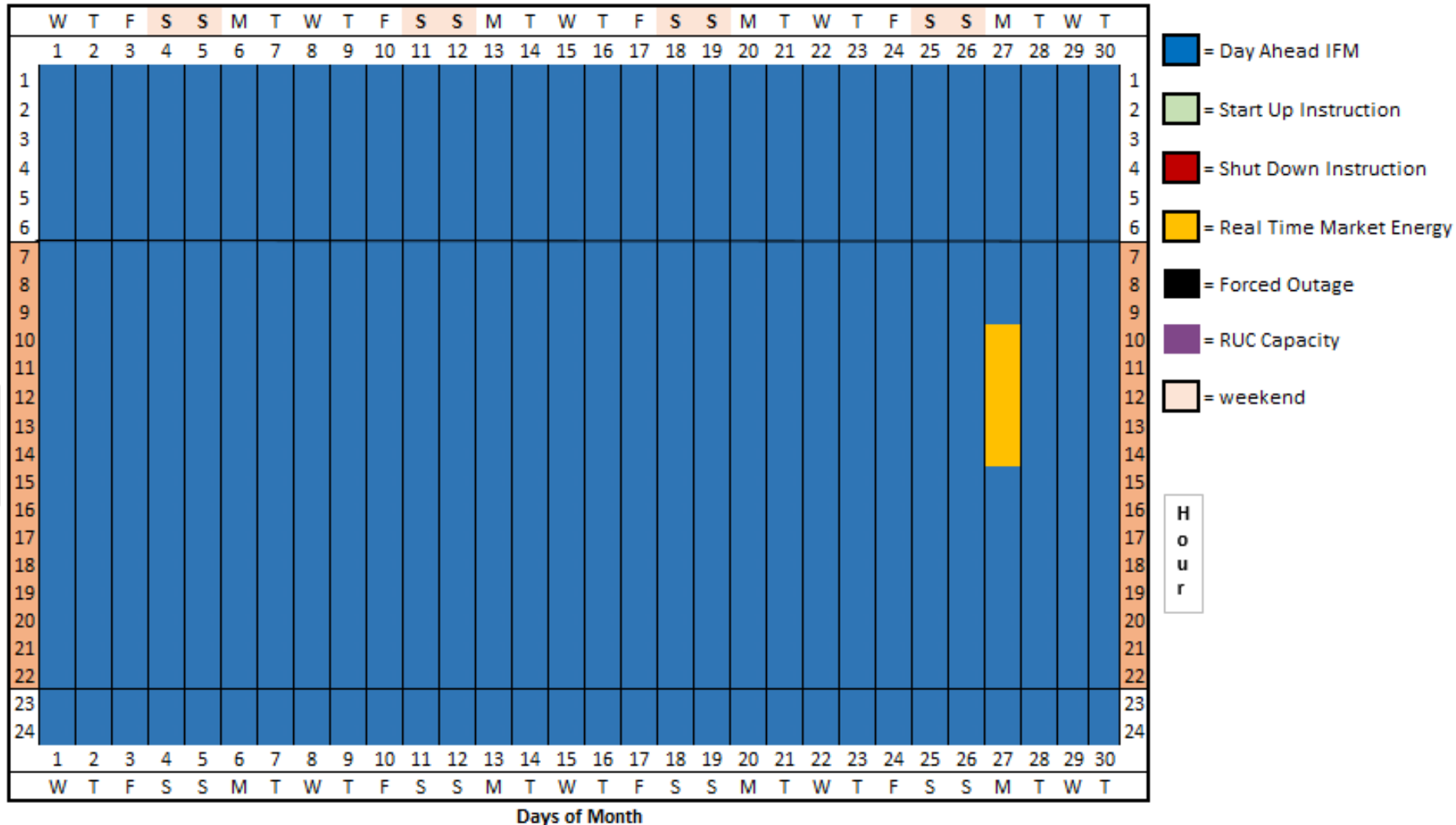
LEC Operational Results for September 2021

- Resource Adequacy Availability Metrics:
 - 100% - Monthly Assessment Generic Performance
 - 100% - Monthly Assessment Flexible Performance Vs
 - 96.5% Availability Standard
- Estimated RAAIM Net Incentive **Payment** Amount:
 - \$5k - \$15k (depending on CAISO's RAAIM rate) for Generic RA based on claimed 87.07 MW
 - \$3k - \$10k (depending on CAISO's RAAIM rate) for Flexible RA based on claimed 62.32 MW
- LEC was committed by CAISO for Market energy 30 days of 30 available days
 - 30 days of continuous operation

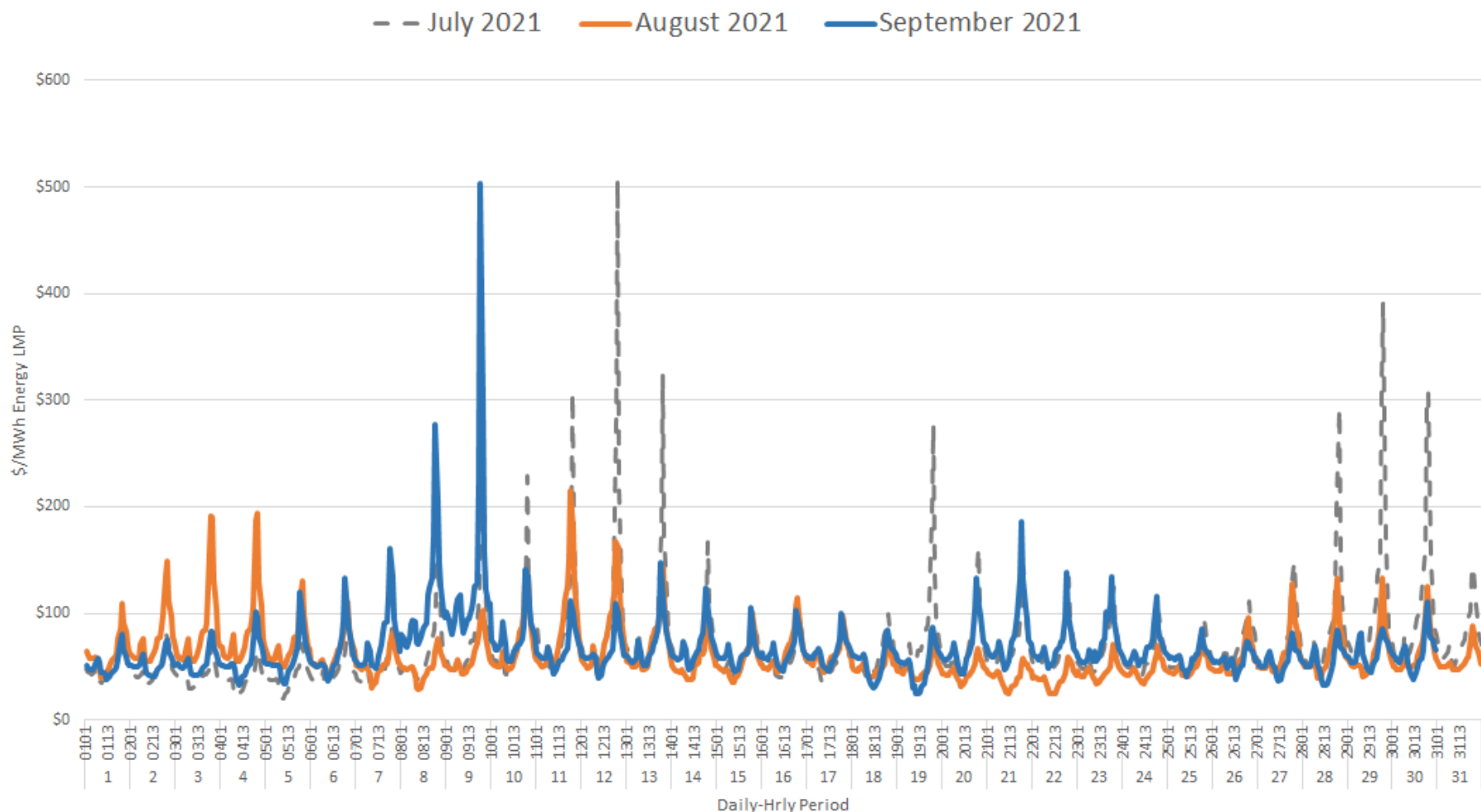
Frequency Tabulation of Daily CAISO commitment hours for September 2021



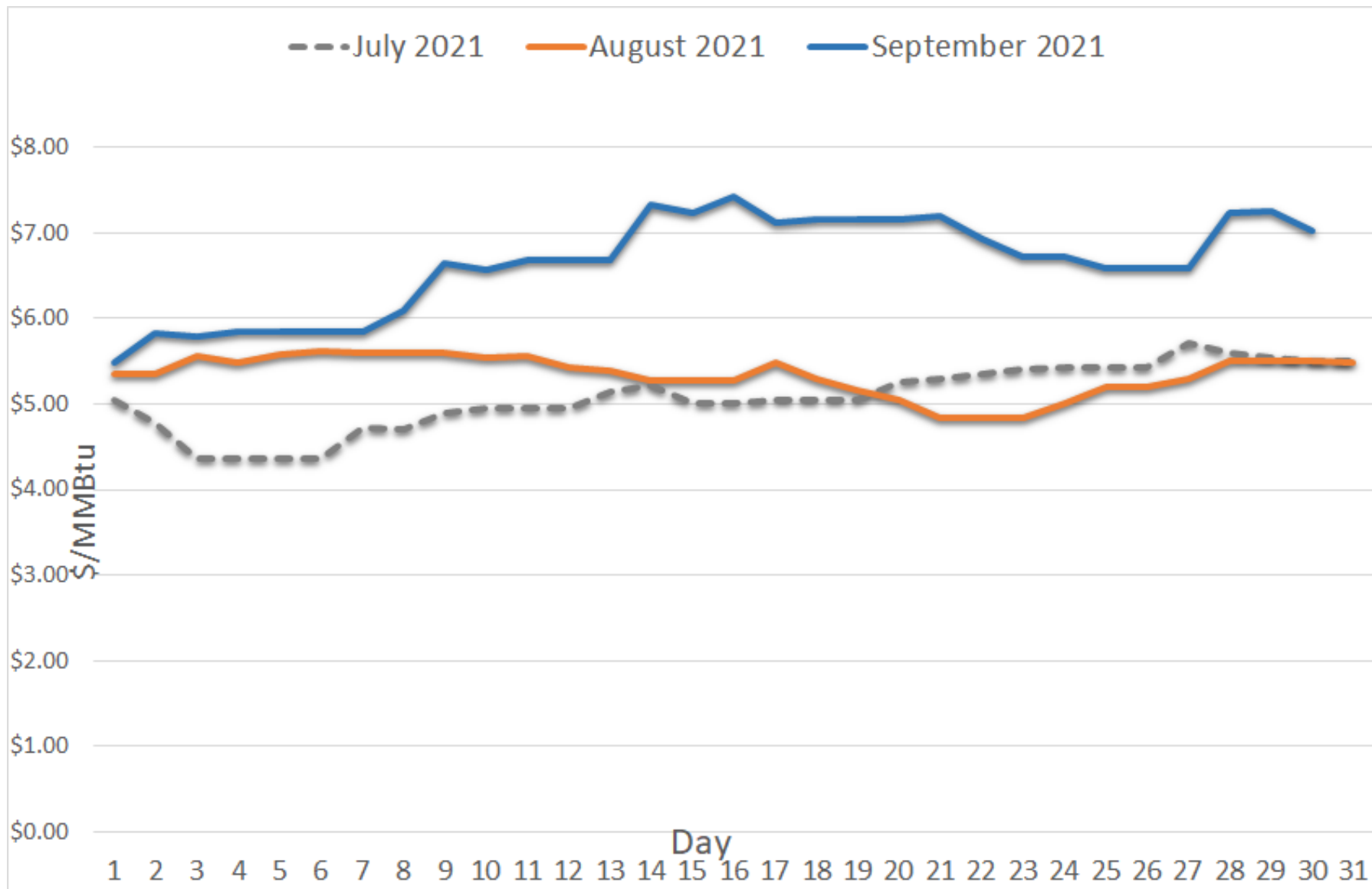
Daily CAISO Commitment Runs for September 2021



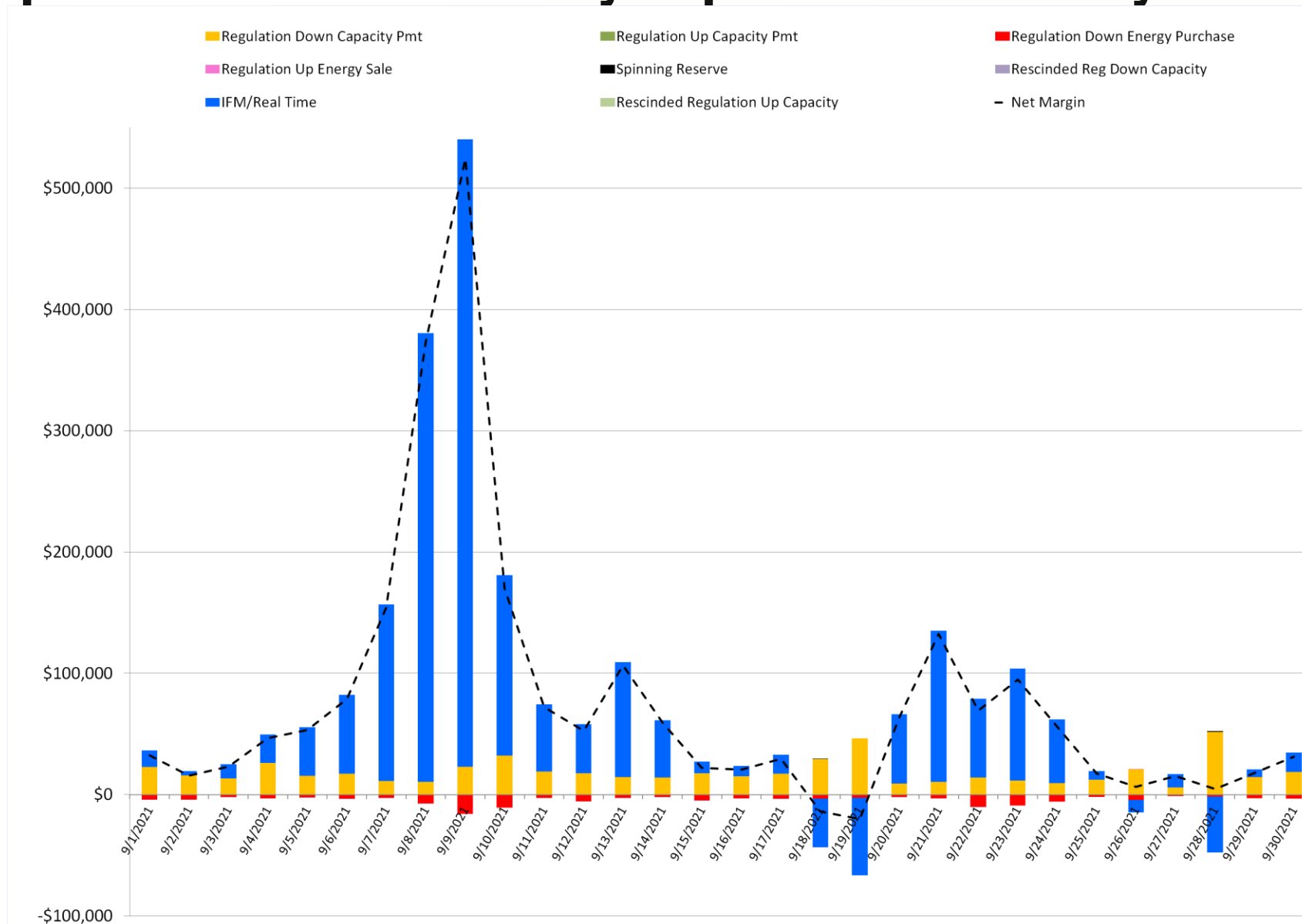
DA Energy LMP values by Month



September 2021 Daily PG&E City Gate Gas Index



September 2021 LEC Daily September Profile by Product



September 2021 LEC Project Cumulative Monthly Margin

| | | |
|--|---------------------|------------------------|
| IFM/RTM Gross Revenues | \$ 13,688,200 | |
| Regulation Up Capacity | \$ 300 | |
| Regulation Down Capacity | \$ 556,300 | |
| Spinning Reserve | \$ - | |
| Total Gross LEC Revenue | | \$ 14,244,800 |
| LEC CAISO GMC Costs | \$ (75,600) | |
| CAISO Energy & Capacity Buyback Costs | \$ (296,000) | |
| Total Monthly LEC Fuel Cost | \$ (9,480,400) | |
| Total Monthly GHG Obligation | \$ (1,894,400) | |
| Variable Operations & Maintenance Cost | \$ (193,100) | |
| Total Gross Costs | | \$ (11,939,500) |
| Cumulative Monthly Margin | | \$ 2,305,300 |
| 30 Days of Accrued LT Maintenance Costs | \$ (455,422) | |
| Net Cumulative Monthly Margin | | \$ 1,849,878 |
| Average Net Margin \$/MWh | | \$ 9.3 |

Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net_Amount by Day

September 2021 Cost of Congestion Component

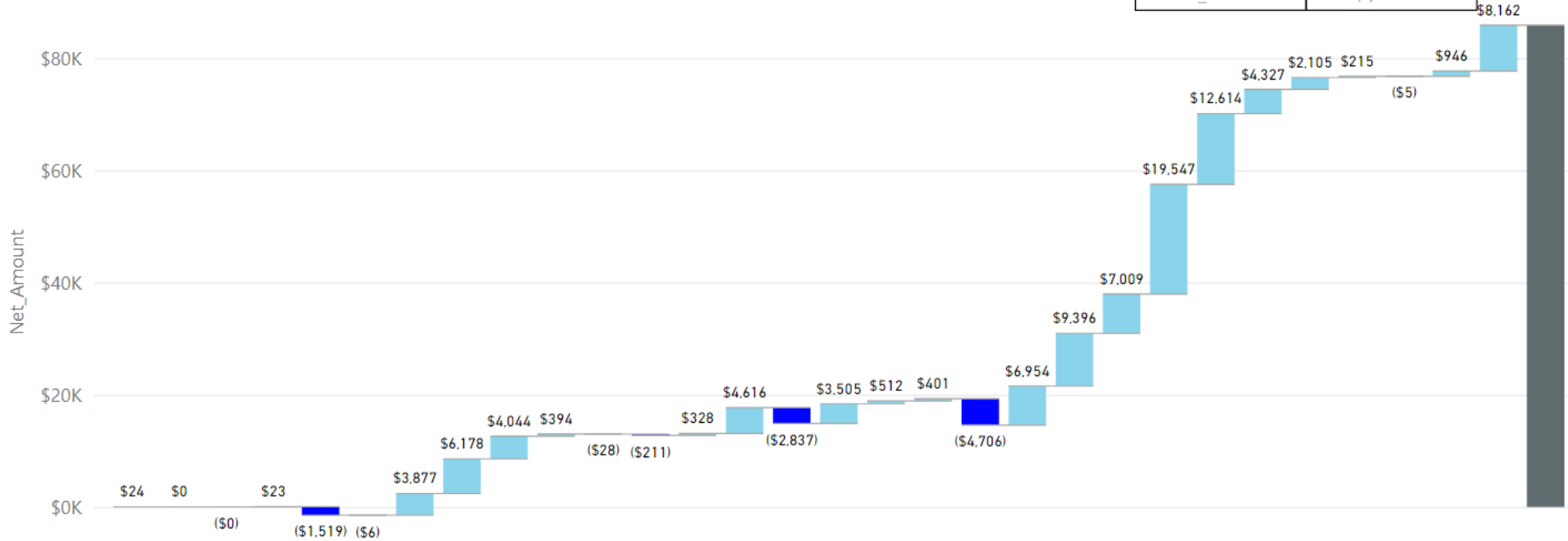
● Increase ● Decrease ● Total

\$85,863

Net_Amount

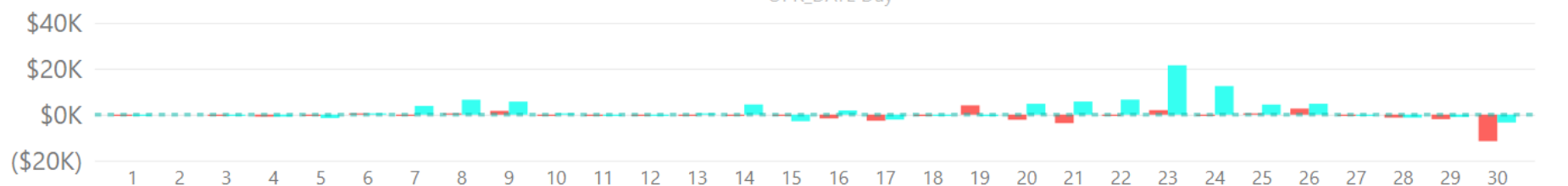
\$0.43

\$ / 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

September 2021 Cost of Loss Component

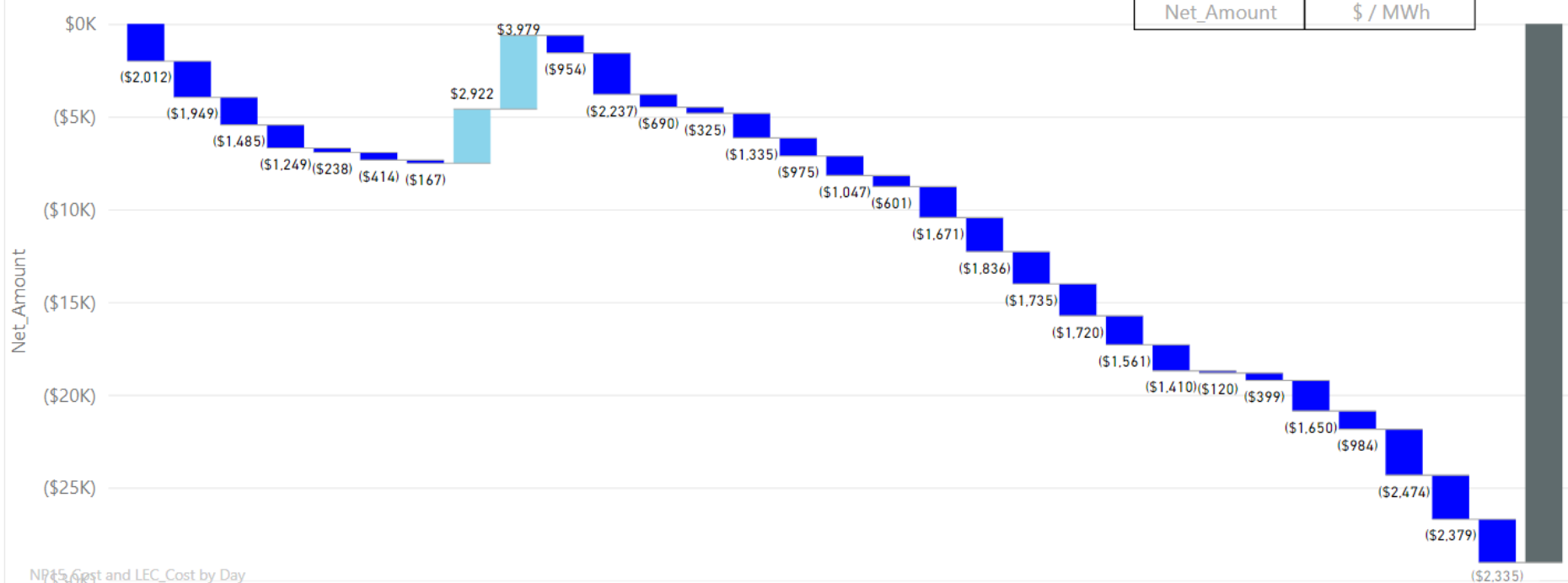
(\$29,048)

(\$0.15)

Net_Amount

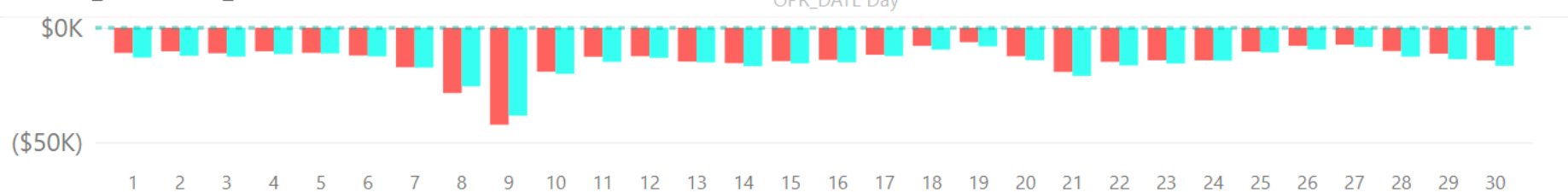
\$ / MWh

● Increase ● Decrease ● Total



NP15_Cost and LEC_Cost by Day

● NP15_Cost ● LEC_Cost

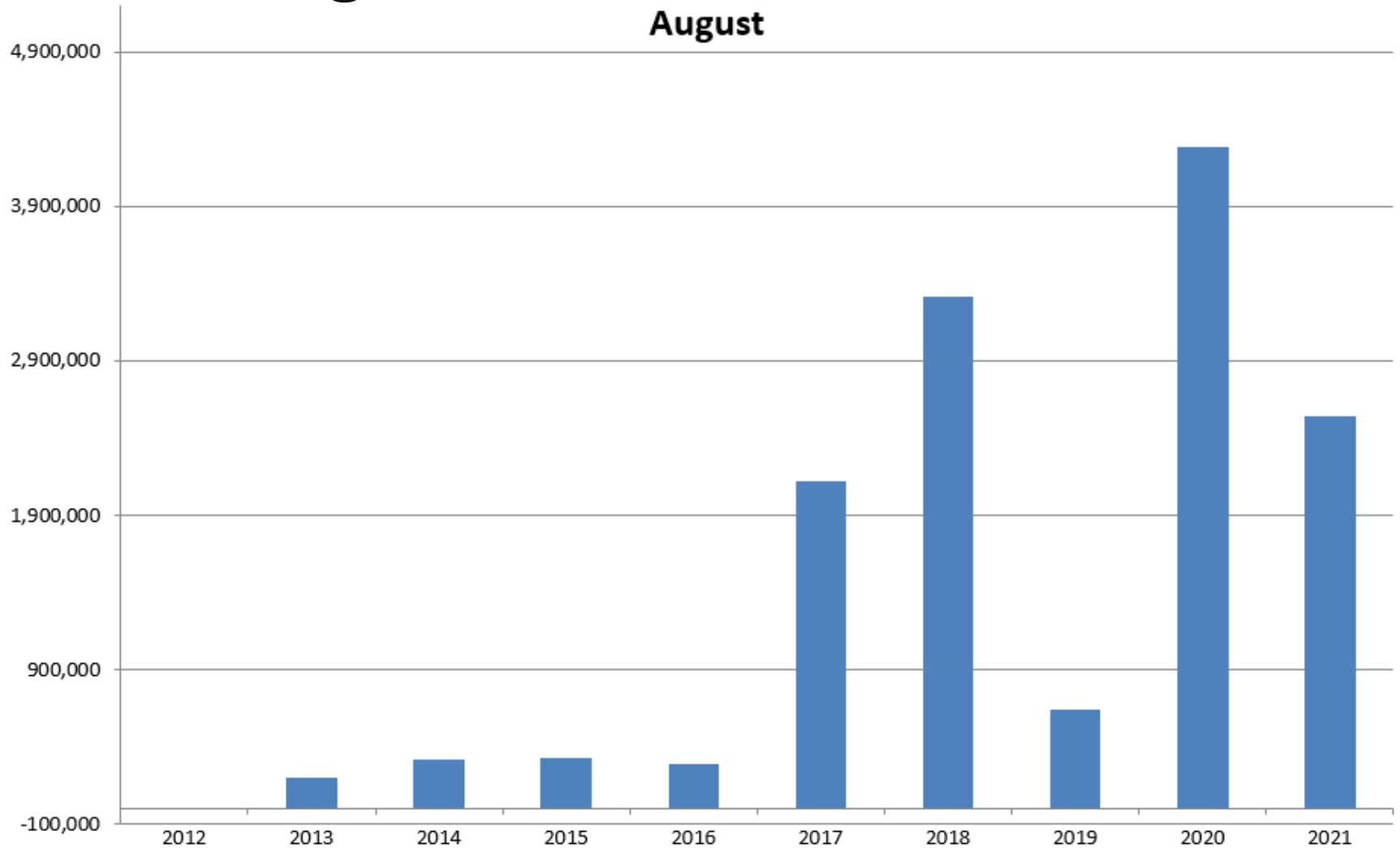


August Asset Report

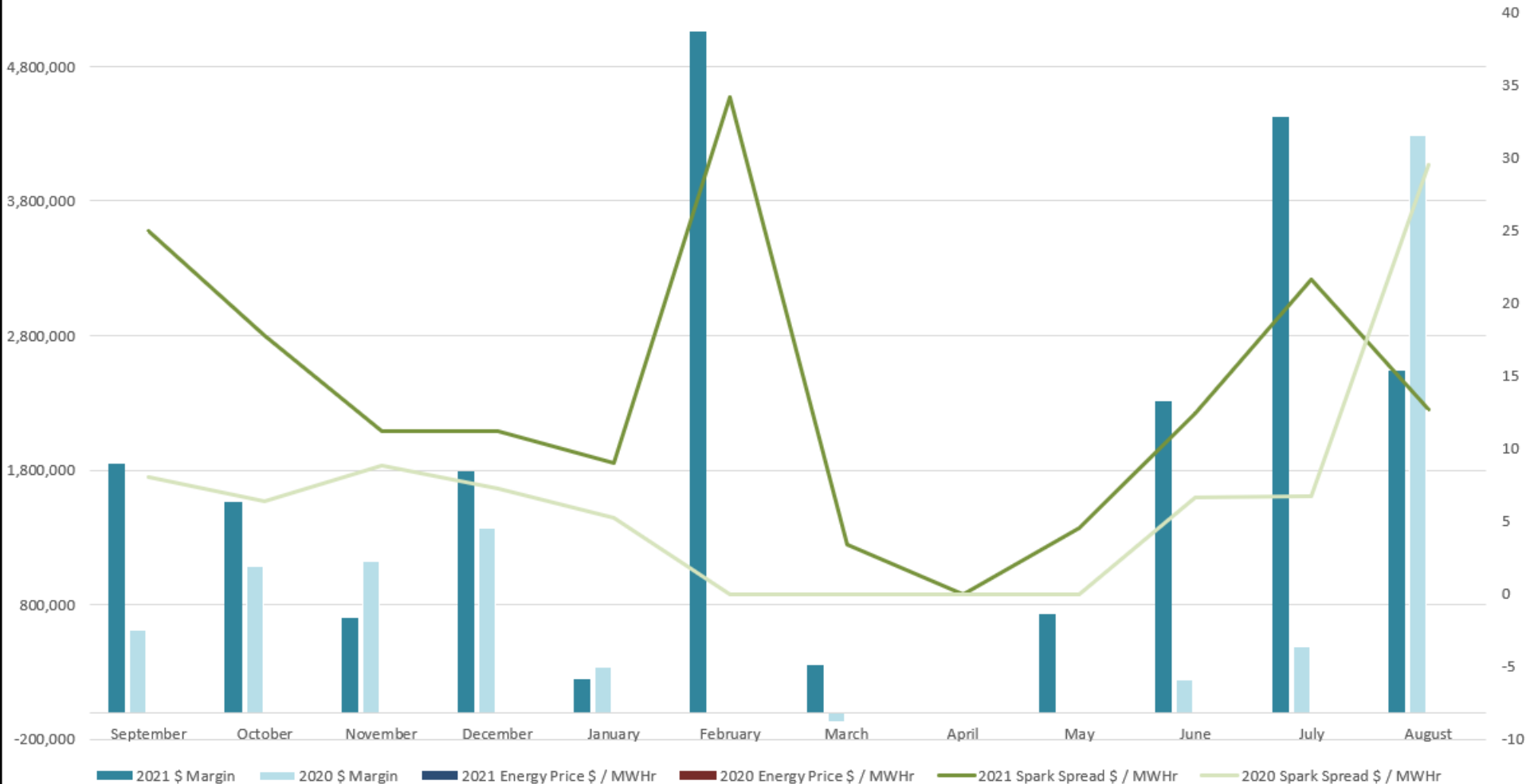
| | | Most Recent | | Above / (below) | Percent Difference | |
|--------------------|------------|--------------|--------------|---------------------------|-----------------------|-----------------|
| | Actual | Forecast | Budget | Forecast | Above / (below) | |
| Revenue | 13,271,811 | 19,873,975 | 7,893,559 | (6,602,165) | -33% | Soft market |
| VOM | 10,171,044 | 9,643,919 | 4,768,468 | 527,125 | 5% | High fuel price |
| Fixed | 1,247,653 | 1,136,164 | 1,136,164 | 111,489 | 10% | |
| Projects | 206,099 | 417,244 | 417,244 | (211,145) | -51% | |
| A&G | 229,105 | 208,180 | 208,180 | 20,925 | 10% | |
| Debt | 2,197,050 | 2,167,355 | 2,167,355 | 29,695 | 1.37% | |
| Net Cost | (779,140) | 6,301,113 | (803,852) | (7,080,254) | -112% | |
| | | | | | | |
| Net Annual Cost | | (19,752,457) | (33,283,101) | \$13,530,644 | | |
| | | | | Below budget by 40.65% | | |

Historical Margins

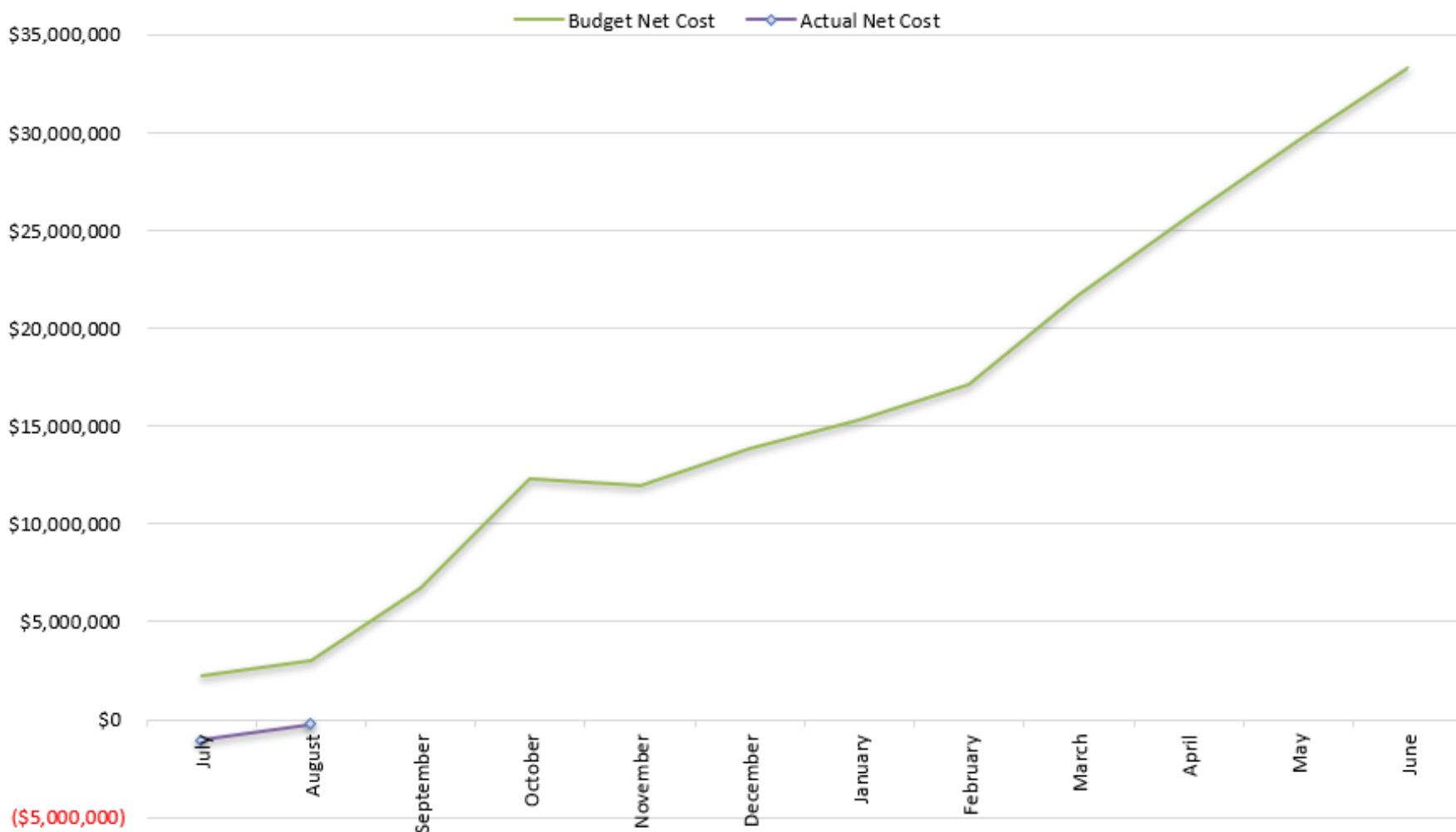
August



Historical Monthly Comparison



Cummulative Net Cost



Lodi Energy Center
Monthly Budget Analysis
Expenditures
Report Date: 10/05/2021

| | July | August | September | October | November | December | January | February | March | April | May | June | Year | FY2021 Budget | Percent Used | Comments |
|--------------------------------------|-------------|-------------|-------------|---------------|-------------|-------------|---------------|-------------|---------------|---------------|---------------|---------------|----------------|------------------|------------------------|------------------------------------|
| VOM | 9,973,134 | 10,171,044 | 8,856,094 | 10,138,513 | 8,542,443 | 9,356,134 | 10,704,183 | 7,894,579 | 21,232 | 835,849 | 21,261 | 7,252,476 | 83,766,941 | 44,037,328 | 190.2% | |
| Capacity Factor | 91% | 89% | 96% | 93% | 91% | 94% | 94% | 84% | 0% | 0% | 0% | 79% | 67% | 65% | 103.0% | Ran less than planned |
| Fuel Consumed (mmBTU, estimated) | 1,420,025 | 1,389,734 | 1,496,855 | 1,501,564 | 1,424,445 | 1,515,859 | 1,513,864 | 1,264,362 | 0 | 0 | 0 | 1,233,982 | 12,760,690 | 6,475,833 | 197.1% | |
| Avg Fuel Cost (\$/mmBTU) | 5.29 | 5.56 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3.86 | 1.57 | 4.72 | 33.2% | Fuel price 21% higher |
| Power Produced (MWhr, estimated) | 204,130 | 200,395 | 207,897 | 208,551 | 197,840 | 210,536 | 210,259 | 175,606 | 0 | 0 | 0 | 171,386 | 1,786,599 | 945,377 | 189.0% | |
| Avg Power Price (\$/MWhr) | 72.84 | 66.18 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 47.12 | 20.27 | 52.25 | 38.8% | Energy price 25% less than planned |
| Operations / Variable / LTSA | 208,331 | 139,261 | 195,423 | 1,348,276 | 185,969 | 197,875 | 1,487,111 | 165,641 | 21,232 | 835,849 | 21,261 | 540,812 | 5,347,041 | 3,601,753 | 148.5% | |
| Fuel (estimated) | 7,516,063 | 7,721,496 | 6,666,885 | 6,692,116 | 6,400,632 | 6,987,872 | 7,008,376 | 5,800,522 | 0 | 0 | 0 | 4,766,786 | 59,560,747 | 31,029,301 | 192.0% | |
| AB32 GHG Offset (estimated) | 1,754,343 | 1,752,725 | 1,759,475 | 1,765,011 | 1,674,362 | 1,781,813 | 1,779,469 | 1,486,192 | 0 | 0 | 0 | 1,450,482 | 15,203,871 | 6,268,971 | 242.5% | |
| CA ISO Charges (estimated) | 494,397 | 557,562 | 234,311 | 333,110 | 281,481 | 388,574 | 429,227 | 442,224 | 0 | 0 | 0 | 494,397 | 3,655,283 | 3,137,303 | 116.5% | |
| Routine O&M (Fixed) | 1,370,254 | 1,247,653 | 981,164 | 1,107,031 | 1,005,030 | 970,163 | 1,218,484 | 978,161 | 973,162 | 1,112,528 | 978,663 | 981,398 | 12,923,690 | 12,766,299 | 101.2% | |
| Maintenance / Fixed | 410,514 | 180,863 | 216,134 | 350,000 | 250,000 | 216,134 | 216,134 | 216,134 | 216,134 | 350,000 | 216,134 | 216,134 | 3,054,314 | 2,989,071 | 102.2% | |
| Administration | 4,749 | 2,109 | 18,023 | 18,023 | 18,023 | 18,023 | 18,023 | 18,023 | 18,023 | 18,023 | 18,023 | 18,024 | 187,089 | 216,277 | 86.5% | |
| Mandatory Costs | 32,768 | 120,740 | 15,000 | 7,000 | 5,000 | 4,000 | 20,000 | 12,000 | 7,000 | 12,500 | 12,500 | 15,245 | 263,753 | 312,245 | 84.5% | |
| Inventory Stock | 13,076 | 253,650 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 266,726 | - | 0.0% | |
| Labor | 652,467 | 426,770 | 464,645 | 464,645 | 464,645 | 464,645 | 696,967 | 464,645 | 464,645 | 464,645 | 464,645 | 464,645 | 5,958,009 | 6,040,384 | 98.6% | |
| Insurance | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,374 | 131,368 | 1,576,482 | 1,576,482 | 100.0% | |
| Power Management & Settlements | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,306 | 125,303 | 1,503,669 | 1,503,669 | 100.0% | |
| Other Costs | 0 | 6,841 | 10,682 | 10,683 | 10,682 | 10,681 | 10,680 | 10,679 | 10,680 | 10,680 | 10,681 | 10,679 | 113,648 | 128,171 | 88.7% | |
| Projects | 163,427 | 206,099 | 417,244 | 417,244 | 417,244 | 417,244 | 417,244 | 417,244 | 417,244 | 417,244 | 417,244 | 417,226 | 4,541,948 | 5,006,910 | 90.7% | |
| Maintenance Reserve | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,259 | 156,253 | 1,875,102 | 1,875,102 | 100.0% | |
| Operations & Maintenance Projects | 7,168 | 49,840 | 114,610 | 114,610 | 114,610 | 114,610 | 114,610 | 114,610 | 114,610 | 114,610 | 114,610 | 114,598 | 1,203,096 | 1,375,308 | 87.5% | |
| Capital Projects | 0 | 0 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 146,375 | 1,463,750 | 1,756,500 | 83.3% | |
| A&G | 159,749 | 229,105 | 208,180 | 208,180 | 208,180 | 208,180 | 208,180 | 208,180 | 208,180 | 208,180 | 208,180 | 208,174 | 2,470,648 | 2,498,154 | 98.9% | |
| Administrative & General (Allocated) | 134,398 | 198,391 | 177,777 | 177,777 | 177,777 | 177,777 | 177,777 | 177,777 | 177,777 | 177,777 | 177,777 | 177,774 | 2,110,556 | 2,133,321 | 98.9% | |
| Generation Services Shared | 25,351 | 30,714 | 30,403 | 30,403 | 30,403 | 30,403 | 30,403 | 30,403 | 30,403 | 30,403 | 30,403 | 30,400 | 360,092 | 364,833 | 98.7% | |
| Total O&M Cost | 11,666,564 | 11,853,901 | 10,462,682 | 11,870,968 | 10,172,897 | 10,951,721 | 12,548,090 | 9,498,164 | 1,619,818 | 2,573,801 | 1,625,347 | 8,859,274 | 103,703,228 | 64,308,691 | 161.3% | |
| Debt Service | 2,197,050 | 2,197,050 | 2,167,356 | 5,008,658 | -673,947 | 2,167,356 | 2,167,355 | 2,167,357 | 2,167,354 | 2,167,355 | 2,167,357 | 2,167,355 | 26,067,656 | 26,008,267 | 100.2% | |
| Revenues | 14,889,851 | 13,271,811 | 14,210,905 | 11,890,181 | 10,623,424 | 12,652,265 | 13,233,415 | 10,842,782 | 32,153 | 32,153 | 32,152 | 8,307,334 | 110,018,427 | 57,033,857 | 192.9% | |
| ISO Energy Sales (estimated) | 14,868,316 | 13,262,248 | 13,735,108 | 11,246,945 | 9,893,919 | 11,391,116 | 11,706,949 | 9,754,139 | 0 | 0 | 0 | 8,075,393 | 103,934,134 | 49,394,211 | 210.4% | |
| Other Income | 21,535 | 9,563 | 475,797 | 643,236 | 729,505 | 1,261,149 | 1,526,466 | 1,088,643 | 32,153 | 32,153 | 32,152 | 231,941 | 6,084,293 | 7,639,646 | | |
| Net | \$1,026,237 | (\$779,140) | \$1,580,867 | (\$4,989,444) | \$1,124,474 | (\$466,812) | (\$1,482,030) | (\$822,738) | (\$3,755,019) | (\$4,709,003) | (\$3,760,552) | (\$2,719,295) | (\$19,752,457) | (\$33,283,101) | Below budget by 40.65% | |



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LEC Treasurer's Report

AGENDA ITEM NO.: 8

Date: October 11, 2021
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended August 31, 2021

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 \$763.

Investments - The carrying value of the LEC's investment portfolio totaled \$35,896,249 at month end. The current market value of the portfolio totaled \$35,941,545.

The overall portfolio had a combined weighted average interest rate of 0.732% with a bond equivalent yield (yield to maturity) of 0.595%. Investments with a maturity greater than one year totaled \$13,065,000. During the month \$4,512,322 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 remained unchanged at 0.05% and rates on one year T-Bills also remained unchanged at 0.07%.

To the best of my knowledge and belief, all securities held by LEC as of August 31, 2021 are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

Environmental Analysis

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

Respectfully submitted,

MONTY HANKS
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH
Treasurer-Controller

Attachments

LODI ENERGY CENTER

TREASURER'S REPORT

AUGUST 31, 2021

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**Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
August 31, 2021**

| | CASH | INVESTMENTS | TOTAL | PERCENT | INVESTMENTS at MARKET |
|---------------------------------|---------------|----------------------|----------------------|----------------|--------------------------|
| MANDATORY FUNDS | | | | | |
| Debt Service Account | \$ 763 | \$ 11,431,212 | \$ 11,431,975 | 31.85% | \$ 11,430,684 |
| Debt Service Reserve | - | 12,713,271 | 12,713,271 | 35.42% | 12,757,750 |
| O & M Reserve | - | 11,666,621 | 11,666,621 | 32.50% | 11,667,966 |
| | <u>763</u> | <u>35,811,104</u> | <u>35,811,867</u> | <u>99.76%</u> | <u>35,856,400</u> |
| ADDITIONAL PROJECT FUNDS | | | | | |
| GHG Cash Account | - | 85,145 | 85,145 | 0.24% | 85,145 |
| Participant Deposit Account | - | - | - | - | - |
| | <u>\$ 763</u> | <u>\$ 35,896,249</u> | <u>\$ 35,897,012</u> | <u>100.00%</u> | <u>\$ 35,941,545</u> |

NOTE A -Investment amounts shown at book carrying value.

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
August 31, 2021

| | RECEIPTS | | | EXPENDITURES | | | CASH INCREASE / (DECREASE) |
|---------------------------------|------------------|------------------|---------------------|---------------------|-----------------------|----------------------------------|----------------------------------|
| | OPS/CONSTR | INTEREST | INVESTMENTS | OPS/CONSTR | INVESTMENTS | INTER-COMPANY/ FUND TRANSFERS | |
| | | (NOTE B) | (NOTE A) | | (NOTE B) | | |
| MANDATORY FUNDS | | | | | | | |
| Debt Service Account | \$ - | \$ 19 | \$ 1,229 | \$ - | \$ (2,168,808) | \$ 2,167,444 | \$ (116) |
| Debt Service Reserve | - | 650 | 1,291,896 | - | (1,292,546) | - | - |
| O & M Reserve | - | 10,919 | 1,096,301 | - | (1,107,220) | - | - |
| | - | 11,588 | 2,389,426 | - | (4,568,574) | 2,167,444 | (116) |
| ADDITIONAL PROJECT FUNDS | | | | | | | |
| GHG Cash Account | 68,748 | - | - | (125,000) | 56,252 | - | - |
| Participant Deposit Account | - | - | - | - | - | - | - |
| TOTAL | \$ 68,748 | \$ 11,588 | \$ 2,389,426 | \$ (125,000) | \$ (4,512,322) | \$ 2,167,444 | \$ (116) |

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, 2021

| | | | (NON-CASH) DISC/(PREM) AMORT | (NON-CASH) GAIN/(LOSS) ON SALE | INVESTMENTS | |
|---------------------------------|---------------------|-----------------------|------------------------------------|--------------------------------------|-------------|--------------------------|
| | PURCHASED | SOLD OR MATURED | | | TRANSFERS | INCREASE / (DECREASE) |
| MANDATORY FUNDS | | | | | | |
| Debt Service Account | \$ 2,168,808 | \$ (1,229) | \$ 250 | \$ - | \$ - | \$ 2,167,829 |
| Debt Service Reserve | 1,292,546 | (1,291,896) | (1,145) | - | - | (495) |
| O & M Reserve | 1,107,220 | (1,096,301) | (2,739) | - | - | 8,180 |
| | <u>4,568,574</u> | <u>(2,389,426)</u> | <u>(3,634)</u> | <u>-</u> | <u>-</u> | <u>2,175,514</u> |
| ADDITIONAL PROJECT FUNDS | | | | | | |
| GHG Cash Account | (56,252) | - | - | - | - | (56,252) |
| Participant Deposit Acct. | - | - | - | - | - | - |
| TOTAL | <u>\$ 4,512,322</u> | <u>\$ (2,389,426)</u> | <u>\$ (3,634)</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 2,119,262</u> |

Less Non- Cash Activity

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

Net Change in Investment --Before Non-Cash Activity

3,634

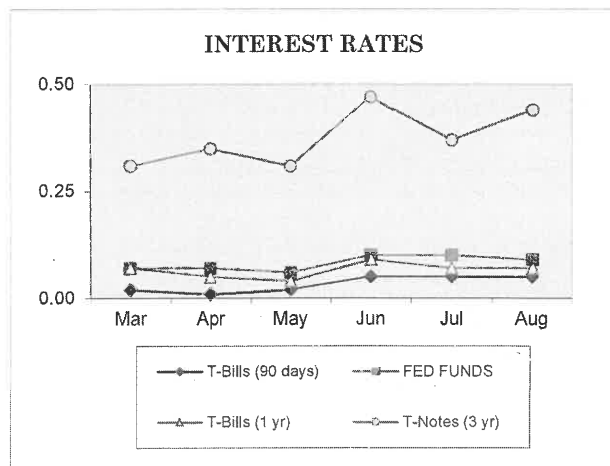
\$ 2,122,896

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Lodi Energy Center
Interest Rate/Yield Analysis
August 31, 2021**

| | WEIGHTED AVERAGE INTEREST RATE | BOND EQUIVALENT YIELD |
|-------------------------|---|--------------------------------------|
| OVERALL COMBINED | 0.732% | 0.595% |
| Debt Service Account | 0.031% | 0.031% |
| Debt Service Reserve | 0.997% | 0.878% |
| O & M Reserve | 1.133% | 0.841% |
| GHG Cash Account | 0.322% | 0.322% |

| KEY INTEREST RATES | | |
|---------------------------|----------------|-----------------------|
| | CURRENT | PRIOR YEAR |
| Fed Funds (Overnight) | 0.09% | 0.09% |
| T-Bills (90da.) | 0.05% | 0.11% |
| Agency Disc (90da.) | 0.07% | 0.17% |
| T-Bills (1yr.) | 0.07% | 0.13% |
| Agency Disc (1yr.) | 0.07% | 0.14% |
| T-Notes (3yr.) | 0.44% | 0.18% |



**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
August 31, 2021**

| 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 | \$ - | \$ - | \$ - | \$ - | \$ 4,100 | \$ 10,000 | \$ - | \$ 14,100 | 39.33% |
| Corporate Bonds (MTN) | - | 495 | - | 595 | - | 1,565 | - | 2,655 | 7.41% |
| Municipal Bonds | - | 500 | - | - | - | 1,500 | - | 2,000 | 5.58% |
| US Bank Trust Money Market | 2,372 | - | - | - | - | - | - | 2,372 | 6.62% |
| Commercial Paper | - | - | - | - | - | - | - | - | 0.01% |
| Investment Trusts (LAIF) | 1,637 | - | - | - | - | - | - | 1,637 | 4.57% |
| Investment Trusts (CAMP) | - | - | - | - | - | - | - | - | 0.01% |
| U.S.Treasury Market Acct. * | 6 | - | - | - | - | - | - | 6 | 0.02% |
| U.S.Treasury Bill/Note | - | 12,573 | - | - | 509 | - | - | 13,082 | 36.49% |
| Certificates of Deposit | - | - | - | - | - | - | - | - | 0.00% |
| Total Dollars | \$ 4,015 | \$13,568 | \$0 | \$595 | \$ 4,609 | \$13,065 | \$0 | \$ 35,852 | 100.00% |
| Total Percents | 11.19% | 37.84% | 0.00% | 1.66% | 12.86% | 36.44% | 0.00% | 100.00% | |

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

08/31/2021

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 | 168 | 0.010 | | 168 | | 1 | 0.010 | 168 | SYS79004 | 79004 | 168 |
| U.S. Treasury | USBT | 4,988,000 | 0.030 | 07/23/2021 | 4,987,476 | 11/26/2021 | 86 | 0.030 | 4,987,401 | 912796H77 | 27240 | 4,987,643 |
| U.S. Treasury | USBT | 722,000 | 0.035 | 08/27/2021 | 721,936 | 11/26/2021 | 86 | 0.035 | 721,913 | 912796H77 | 27266 | 721,940 |
| Fund Total and Average | | \$ 5,710,168 | 0.031 | | \$ 5,709,550 | | 86 | 0.031 | \$ 5,709,482 | | | \$ 5,709,751 |

LEC Issue #2 2010B DS Fund

| | | | | | | | | | | | | |
|------------------------|------|--------------|-------|------------|--------------|------------|----|-------|--------------|-----------|-------|--------------|
| US Bank Trust | USB | 889 | 0.010 | | 889 | | 1 | 0.010 | 889 | SYS79012 | 79012 | 889 |
| U.S. Treasury | USBT | 2,940,000 | 0.030 | 07/23/2021 | 2,939,691 | 11/26/2021 | 86 | 0.030 | 2,939,647 | 912796H77 | 27241 | 2,939,789 |
| U.S. Treasury | USBT | 780,000 | 0.035 | 08/27/2021 | 779,931 | 11/26/2021 | 86 | 0.035 | 779,906 | 912796H77 | 27267 | 779,935 |
| Fund Total and Average | | \$ 3,720,889 | 0.031 | | \$ 3,720,511 | | 86 | 0.031 | \$ 3,720,442 | | | \$ 3,720,613 |

LEC Issue#1 2017A DS Fund

| | | | | | | | | | | | | |
|------------------------|------|---------------|-------|------------|---------------|------------|----|-------|---------------|-----------|-------|---------------|
| U.S. Treasury | USBT | 1,334,000 | 0.030 | 07/23/2021 | 1,333,860 | 11/26/2021 | 86 | 0.030 | 1,333,840 | 912796H77 | 27242 | 1,333,904 |
| U.S. Treasury | USBT | 667,000 | 0.034 | 08/27/2021 | 666,941 | 11/26/2021 | 86 | 0.035 | 666,920 | 912796H77 | 27268 | 666,944 |
| Fund Total and Average | | \$ 2,001,000 | 0.032 | | \$ 2,000,801 | | 86 | 0.032 | \$ 2,000,760 | | | \$ 2,000,848 |
| GRAND TOTALS: | | \$ 11,432,057 | 0.031 | | \$ 11,430,892 | | 86 | 0.031 | \$ 11,430,684 | | | \$ 11,431,212 |

*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 08/31/2021



Northern California Power Agency
Treasurer's Report

08/31/2021

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 | 267 | 0.010 | | 267 | | 1 | 0.010 | 267 | SYS79005 | 79005 | 267 |
| Federal Home Loan Ba | USB | 4,100,000 | 2.125 | 08/28/2017 | 4,168,306 | 08/10/2022 | 282 | 1.760 | 4,164,042 | 313379Q69 | 26463 | 4,111,067 |
| U.S. Treasury | USBT | 509,000 | 0.035 | 07/23/2021 | 508,835 | 08/16/2022 | 288 | 0.036 | 508,746 | 912796J42 | 27244 | 508,855 |
| Federal Farm Credit | USBT | 4,430,000 | 0.840 | 03/02/2021 | 4,430,000 | 03/02/2026 | 1,643 | 0.840 | 4,421,406 | 3133EMSK9 | 27199 | 4,430,000 |
| Federal Home Loan Ba | USBT | 150,000 | 0.875 | 08/27/2021 | 150,528 | 08/12/2026 | 1,745 | 0.799 | 150,776 | 3130AN4T4 | 27270 | 150,527 |
| Fund Total and Average | | \$ 9,185,267 | 1.370 | | \$ 9,257,936 | | 962 | 1.206 | \$ 9,245,237 | | | \$ 9,200,716 |

LEC Iss#1 2010B BABS Subs Resv

| | | | | | | | | | | | | |
|------------------------|-----|--------------|-------|------------|--------------|--|---|-------|--------------|----------|-------|--------------|
| US Bank Trust | USB | 2,369,809 | 0.010 | 07/01/2021 | 2,369,809 | | 1 | 0.010 | 2,369,809 | SYS79006 | 79006 | 2,369,809 |
| Fund Total and Average | | \$ 2,369,809 | 0.010 | | \$ 2,369,809 | | 1 | 0.010 | \$ 2,369,809 | | | \$ 2,369,809 |

LEC Issue #2 2010B DSR BABS

| | | | | | | | | | | | | |
|------------------------|------|---------------|-------|------------|---------------|------------|-----|-------|----------------|-----------|-------|---------------|
| US Bank Trust | USB | 841 | 0.010 | | 841 | | 1 | 0.010 | 841 | SYS79013 | 79013 | 841 |
| U.S. Treasury | USBT | 1,142,000 | 0.035 | 08/27/2021 | 1,141,899 | 11/26/2021 | 86 | 0.035 | 1,141,863 | 912786H77 | 27271 | 1,141,905 |
| Fund Total and Average | | \$ 1,142,841 | 0.035 | | \$ 1,142,740 | | 86 | 0.035 | \$ 1,142,704 | | | \$ 1,142,746 |
| GRAND TOTALS: | | \$ 12,701,917 | 0.997 | | \$ 12,770,485 | | 704 | 0.878 | \$ 12,757,750. | | | \$ 12,713,271 |

*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 08/31/2021

Callable Dates:

Inv # 27199 FFCB Anytime



Northern California Power Agency
Treasurer's Report

08/31/2021

LEC O & 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 | | 1,551,917 | 0.322 | | 1,551,917 | | 1 | 0.322 | 1,551,917 | SYS70047 | 70047 | 1,551,917 |
| First American Govt. | USBGC | 5,907 | 0.002 | | 5,907 | | 1 | 0.002 | 5,907 | SYS70041 | 70041 | 5,907 |
| Toyota Motor Credit | USBGC | 495,000 | 1.800 | 02/03/2020 | 495,995 | 10/07/2021 | 36 | 1.555 | 495,757 | 89236TGJ8 | 26953 | 495,119 |
| Memphis Center City | USBGC | 500,000 | 5.530 | 04/27/2020 | 533,880 | 11/01/2021 | 61 | 1.000 | 504,405 | 58607ECD4 | 26986 | 503,737 |
| US Bank, N.A. | USBGC | 595,000 | 2.650 | 05/31/2019 | 598,290 | 05/23/2022 | 264 | 2.456 | 604,461 | 90331HPC1 | 26822 | 595,804 |
| Caterpillar Financia | USBGC | 465,000 | 3.250 | 02/03/2020 | 495,569 | 12/01/2024 | 1,187 | 1.776 | 506,729 | 14912L6G1 | 26952 | 486,252 |
| Nashville Met Gov | USBGC | 500,000 | 0.610 | 02/18/2021 | 500,000 | 07/01/2025 | 1,399 | 0.610 | 498,615 | 592112UB0 | 27176 | 500,000 |
| Federal National Mtg | USBGC | 1,000,000 | 0.600 | 07/30/2020 | 1,001,000 | 07/29/2025 | 1,427 | 0.579 | 999,150 | 3136G4D75 | 27047 | 1,000,783 |
| Federal Farm Credit | USBGC | 2,000,000 | 0.670 | 08/04/2020 | 2,000,000 | 08/04/2025 | 1,433 | 0.670 | 1,997,000 | 3133EL2S2 | 27054 | 2,000,000 |
| Federal National Mtg | USBGC | 1,000,000 | 0.600 | 08/18/2020 | 1,000,000 | 08/18/2025 | 1,447 | 0.600 | 998,950 | 3136G4G72 | 27057 | 1,000,000 |
| Federal Farm Credit | USBGC | 750,000 | 0.530 | 09/29/2020 | 750,000 | 09/29/2025 | 1,489 | 0.530 | 746,288 | 3133EMBH4 | 27083 | 750,000 |
| Federal Farm Credit | USBGC | 670,000 | 0.530 | 09/29/2020 | 670,000 | 09/29/2025 | 1,489 | 0.530 | 666,684 | 3133EMBJ0 | 27084 | 670,000 |
| Apple Inc. | USBGC | 500,000 | 0.700 | 02/17/2021 | 500,000 | 02/08/2026 | 1,621 | 0.699 | 497,145 | 037833EB2 | 27170 | 500,000 |
| JP Morgan | USBGC | 500,000 | 1.200 | 04/30/2021 | 500,000 | 04/30/2026 | 1,702 | 1.200 | 495,490 | 48128G3G3 | 27222 | 500,000 |
| MassMutual Global Fu | USBGC | 1,000,000 | 1.200 | 08/02/2021 | 1,007,220 | 07/16/2026 | 1,779 | 1.050 | 998,420 | 57629WDE7 | 27250 | 1,007,103 |
| Bank of America Corp | USBGC | 100,000 | 1.250 | 08/26/2021 | 100,000 | 08/26/2026 | 1,820 | 1.250 | 100,038 | 06048WN22 | 27259 | 100,000 |
| Fund Total and Average | | \$ 11,632,824 | 1.133 | | \$ 11,711,778 | | 1112 | 0.841 | \$ 11,667,966 | | | \$ 11,666,622 |
| GRAND TOTALS: | | \$ 11,632,824 | 1.133 | | \$ 11,711,778 | | 1112 | 0.841 | \$ 11,667,966 | | | \$ 11,666,622 |

*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 08/31/2021

Callable Dates:

| Inv # | |
|-------|----------------------------------|
| 26822 | USB |
| 27047 | Anytime starting 4/22/2022 |
| 27054 | Quarterly starting 7/29/2022 |
| 27057 | Anytime |
| 27083 | Quarterly starting 8/18/2022 |
| 27084 | Anytime starting 9/29/2021 |
| 27170 | Anytime |
| 27222 | Anytime starting 1/8/2026 |
| 27259 | Annually starting 4/30/2023 |
| | Semi-annually starting 8/26/2022 |



Northern California Power Agency
Treasurer's Report

08/31/2021

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 | | 85,145 | 0.322 | | 85,145 | | 1 | 0.322 | 85,145 | SYS70046 | 70046 | 85,145 |
| Fund Total and Average | | \$ 85,145 | 0.322 | | \$ 85,145 | | 1 | 0.322 | \$ 85,145 | | | \$ 85,145 |
| GRAND TOTALS: | | \$ 85,145 | 0.322 | | \$ 85,145 | | 1 | 0.322 | \$ 85,145 | | | \$ 85,145 |

*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 08/31/2021



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 9

Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: August 31, 2021 Financial Reports (Unaudited)

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

| | August | |
|--|-----------------------|-----------------------|
| | 2021 | 2020 |
| ASSETS | | |
| CURRENT ASSETS | | |
| Cash and cash equivalents | \$ 85,145 | \$ 73,312 |
| Accounts receivable | | |
| Others | - | 6,548,955 |
| Interest receivable | 63 | 151 |
| Inventory and supplies - at average cost | 2,451,616 | 2,212,653 |
| Prepaid insurance | 386,636 | 220,388 |
| Due from (to) Agency, net | 37,819,921 | 15,793,150 |
| TOTAL CURRENT ASSETS | 40,743,381 | 24,848,609 |
| RESTRICTED ASSETS | | |
| Cash and cash equivalents | 7,247,736 | 6,101,256 |
| Investments | 28,570,581 | 25,832,494 |
| Interest receivable | 69,165 | 50,454 |
| TOTAL RESTRICTED ASSETS | 35,887,482 | 31,984,204 |
| ELECTRIC PLANT | | |
| Electric plant in service | 410,208,081 | 409,933,948 |
| Less: accumulated depreciation | (111,376,525) | (97,233,888) |
| TOTAL ELECTRIC PLANT | 298,831,556 | 312,700,060 |
| OTHER ASSETS | | |
| Regulatory assets | 27,502,567 | 29,035,465 |
| TOTAL OTHER ASSETS | 27,502,567 | 29,035,465 |
| TOTAL ASSETS | 402,964,986 | 398,568,338 |
| DEFERRED OUTFLOWS OF RESOURCES | | |
| Unamortized excess cost on advance refunding of debt, net | 1,130,316 | 1,453,684 |
| Asset retirement obligations | 188,297 | 183,559 |
| TOTAL DEFERRED OUTFLOWS OF RESOURCES | 1,318,613 | 1,637,243 |
| TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES | \$ 404,283,599 | \$ 400,205,581 |

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

| | August | |
|--|-----------------------|-----------------------|
| | 2021 | 2020 |
| LIABILITIES & NET POSITION | | |
| CURRENT LIABILITIES | | |
| Accounts and retentions payable | \$ 7,747,772 | \$ 3,322,749 |
| Operating reserves | 16,306,658 | 15,481,925 |
| Current portion of long-term debt | 12,880,000 | 12,515,000 |
| Accrued interest payable | 3,284,109 | 3,365,530 |
| TOTAL CURRENT LIABILITIES | 40,218,539 | 34,685,204 |
| NON-CURRENT LIABILITIES | | |
| Operating reserves and other deposits | 99,006 | 73,285 |
| Asset retirement obligations | 188,297 | 183,559 |
| Long-term debt, net | 293,655,000 | 306,535,000 |
| TOTAL NON-CURRENT LIABILITIES | 293,942,303 | 306,791,844 |
| TOTAL LIABILITIES | 334,160,842 | 341,477,048 |
| DEFERRED INFLOWS OF RESOURCES | | |
| Regulatory credits | 39,895,212 | 40,208,499 |
| NET POSITION | | |
| Invested in capital assets, net of related debt | 285,578 | 2,330,508 |
| Restricted | 19,890,103 | 15,989,851 |
| Unrestricted | 10,051,864 | 199,675 |
| TOTAL NET POSITION | 30,227,545 | 18,520,034 |
| TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION | \$ 404,283,599 | \$ 400,205,581 |

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

| | | Two Months Ended August | |
|--|----|--------------------------------|--------------------|
| | | 2021 | 2020 |
| SALES FOR RESALE | | | |
| Participants | \$ | 14,497,571 | \$ 13,660,018 |
| Other | | 28,235,197 | 12,029,533 |
| TOTAL SALES FOR RESALE | | 42,732,768 | 25,689,551 |
| OPERATING EXPENSES | | | |
| Operations | | 20,272,024 | 6,285,823 |
| Depreciation | | 2,358,342 | 2,356,356 |
| Purchased power | | 878,193 | 354,853 |
| Maintenance | | 825,180 | 583,854 |
| Administrative and general | | 1,015,760 | 989,806 |
| Transmission | | 178,003 | 131,023 |
| Intercompany (sales) purchases | | 56,066 | 32,897 |
| TOTAL OPERATING EXPENSES | | 25,583,568 | 10,734,612 |
| NET OPERATING REVENUES | | 17,149,200 | 14,954,939 |
| OTHER REVENUES (EXPENSES) | | | |
| Interest expense | | (2,237,885) | (2,300,095) |
| Interest income | | 29,932 | (129,139) |
| Other | | 1,131,013 | 429,230 |
| TOTAL OTHER REVENUES (EXPENSES) | | (1,076,940) | (2,000,004) |
| FUTURE RECOVERABLE AMOUNTS | | (2,305,741) | (94,838) |
| INCREASE IN NET POSITION | | 13,766,519 | 12,860,097 |
| NET POSITION | | | |
| Beginning of year | | 16,461,026 | 5,659,937 |
| End of period | \$ | 30,227,545 | \$ 18,520,034 |

**Lodi Energy Center
FY 2022 Operating Costs
As of August 31, 2021**

| | Annual Budget | Actual | Remaining | YTD % Remaining | Notes |
|--|----------------------|-----------------------|----------------------|--------------------|-------|
| Variable Costs | | | | | |
| Variable | \$ 3,601,753 | \$ 347,592 | \$ 3,254,161 | 90% | |
| Fuel & LDC Costs | 31,029,301 | 15,191,317 | 15,837,984 | 51% | A |
| GHG Allowance Costs | 6,268,971 | 3,519,249 | 2,749,722 | 44% | A |
| CA ISO Charges | 470,645 | 178,003 | 292,642 | 62% | B |
| CA ISO Energy Purchases | 2,666,658 | 878,193 | 1,788,465 | 67% | B |
| Total Variable Costs | 44,037,328 | 20,114,354 | 23,922,974 | 54% | |
| Routine O&M Costs | | | | | |
| Fixed O&M | 2,989,071 | 591,377 | 2,397,694 | 80% | C |
| Administration | 216,277 | 6,858 | 209,419 | 97% | |
| Mandatory Costs | 312,245 | 153,507 | 158,738 | 51% | D |
| Inventory Stock | - | 266,726 | (266,726) | 0% | E |
| Routine O&M Costs without Labor | 3,517,593 | 1,018,468 | 2,499,125 | 71% | |
| Labor | 6,040,384 | 1,079,139 | 4,961,245 | 82% | |
| Total Routine O&M Cost | 9,557,977 | 2,097,607 | 7,460,370 | 78% | |
| Other Plant Costs | | | | | |
| Debt Service | 26,008,267 | 4,394,099 | 21,614,168 | 83% | |
| Insurance | 1,576,482 | 262,747 | 1,313,735 | 83% | |
| Other Costs | 128,171 | 6,841 | 121,330 | 95% | |
| Generation Services Shared | 364,833 | 56,066 | 308,767 | 85% | |
| Administrative & General (Allocated) | 2,133,321 | 332,789 | 1,800,532 | 84% | |
| Power Management Allocated Costs | 1,503,669 | 250,611 | 1,253,058 | 83% | |
| Total Other Plant Costs | 31,714,743 | 5,303,153 | 26,411,590 | 83% | |
| Total O&M Costs | 85,310,048 | 27,515,114 | 57,794,934 | 68% | |
| Projects | | | | | |
| Operations & Maintenance | 1,375,308 | 57,008 | 1,318,300 | 96% | |
| Capital | 1,756,500 | - | 1,756,500 | 100% | |
| Maintenance Reserve | 1,875,102 | 312,517 | 1,562,585 | 83% | |
| Total Projects | 5,006,910 | 369,525 | 4,637,385 | 93% | |
| Annual Cost | 90,316,958 | 27,884,639 | 62,432,319 | 69% | |
| Less: Third Party Revenue | | | | | |
| Interest Income | 385,845 | 31,096 | 354,749 | 92% | |
| ISO Energy Sales | 49,394,211 | 26,967,050 | 22,427,161 | 45% | F |
| Ancillary Services Sales | 1,152,080 | 1,268,147 | (116,067) | 0% | F |
| GHG Allowance Credits | 6,101,721 | 3,402,749 | 2,698,972 | 44% | F |
| | 57,033,857 | 31,669,042 | 25,364,815 | 44% | |
| Net Annual Cost to Participants | \$ 33,283,101 | \$ (3,784,403) | \$ 37,067,504 | 111% | |

| | | | |
|-----------------------------|----------------------|----------------------|----------------------|
| Total Variable Costs | 44,037,328 | 20,114,354 | 23,922,974 |
| Total Fixed Costs | 46,279,630 | 7,770,285 | 38,509,345 |
| | \$ 90,316,958 | \$ 27,884,639 | \$ 62,432,319 |

| | | |
|--|----------|-----------|
| Net Cumulative Generation (MWh) | 945,377 | 403,322 |
| Total O&M Cost Per MWh | \$ 90.24 | \$ 68.22 |
| Net Annual Cost Per MWh | \$ 35.21 | \$ (9.38) |

Footnotes:

General - The plant ran 31 days during the month.

A - Higher than budget fuel and GHG costs due to higher generation; actual YTD of 403,322 MWh vs budget of 202,643 MWh.

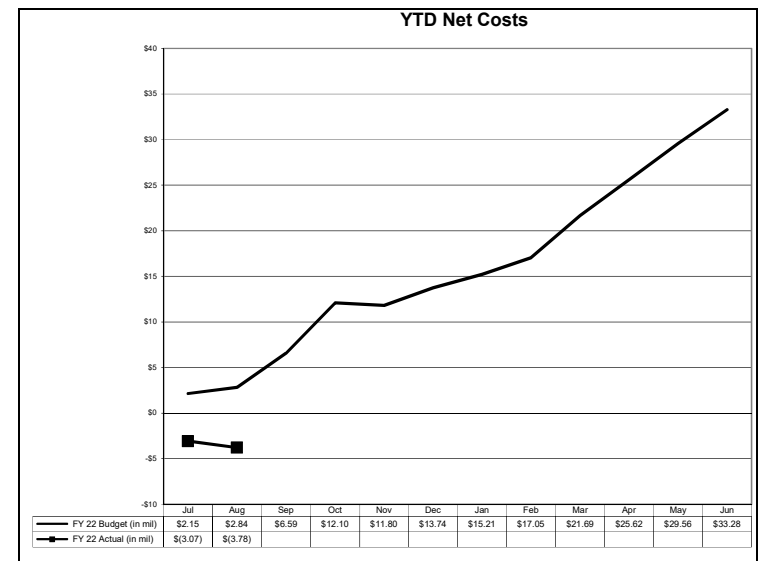
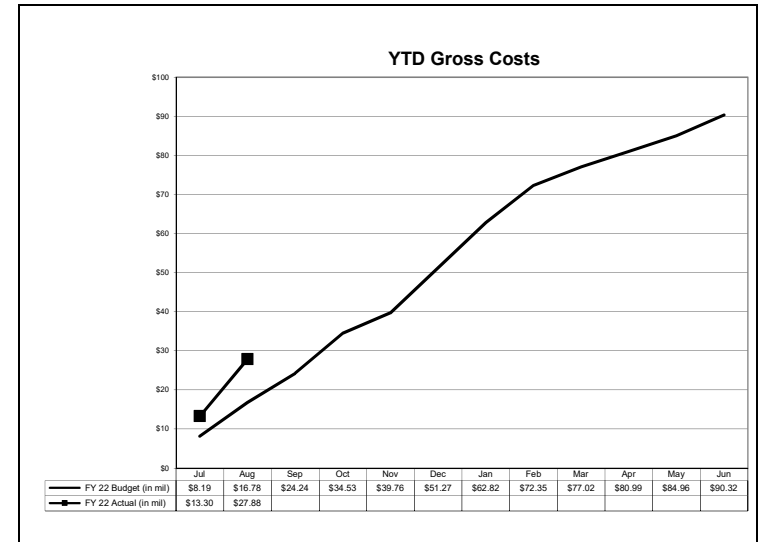
B - Higher CAISO costs due to higher generation.

C - Expenditure for material and parts for annual maintenance in Spring 2022. Costs are expected to levelize by year end.

D - Expenditure for annual permit fees. Costs are expected to levelize by year end.

E - Non-budgeted costs for inventory and supplies for future use. Purchases made due to long lead time to get the parts.

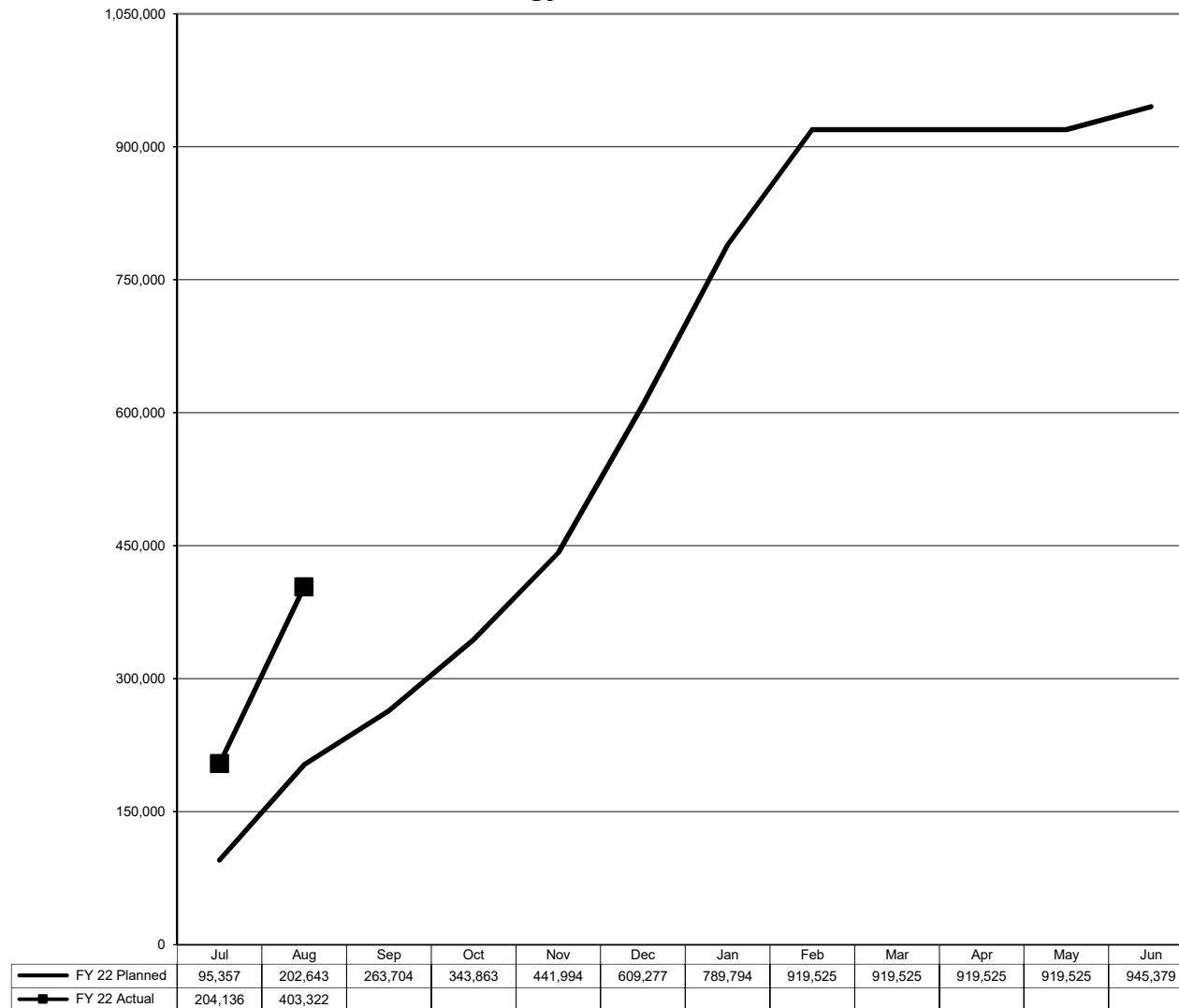
F - Higher than expected revenue due to higher generation.



**Annual Budget
LEC Generation Analysis
Planned vs. Actual
FY 2022**

In MWh

Lodi Energy Center





Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 10

Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

| NCPA All Resources Bill Imports GHG Obligation Report (Cumulative) | | | | | | | | | | | | | | |
|--|---------|---------|-------|-----------|---------|------------|---------|--------|---------|--------|--------|---------|--------|-----------|
| October 2021 | | | | | | | | | | | | | | |
| IDENTIFIER | AZU L&P | BART | Biggs | CDWR | Gridley | Healdsburg | Lodi | Lompoc | MID | Plumas | PWR | SVP | Ukiah | Total |
| Allocation Percentages | | | | | | | | | | | | | | |
| Generation Entitlement Share(%) | 2.79% | 6.60% | 0.27% | 33.50% | 1.96% | 1.64% | 9.50% | 2.04% | 10.71% | 0.79% | 2.67% | 25.75% | 1.79% | 100.00% |
| Obligation Accounts | | | | | | | | | | | | | | |
| Current MT Compliance Obligation (MTO) Balance (MT) | 42,838 | 101,498 | 4,121 | 515,170 | 30,208 | 25,264 | 145,965 | 31,272 | 164,762 | 12,084 | 41,028 | 395,988 | 27,457 | 1,537,655 |
| Current MT Compliance Instrument Account (MTA) Balance (MT) | 42,838 | 101,954 | 4,461 | 619,667 | 30,410 | 25,632 | 146,242 | 31,693 | 165,443 | 12,832 | 40,934 | 395,988 | 27,691 | 1,645,785 |
| MTA Shortfall (MT) | 0 | (456) | (340) | (104,497) | (202) | (368) | (277) | (421) | (681) | (748) | 94 | 0 | (234) | (108,130) |
| Monthly GHG Price \$/MT | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 | 27.57 |
| GHG Minimum Cash Compliance Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,592 | 0 | 0 | 2,592 |
| Current Month CCA Balance (\$)* | 66,202 | 0 | 155 | 0 | 1,197 | 5,188 | 841 | 0 | 0 | 0 | 64,819 | 0 | 2,879 | 141,281 |
| Net GHG Obligation (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Advance Funding for Allowances Auction Purchase (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total GHG Obligation and Advance Funding (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

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

| | CY 2021 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center | | | | | | | | | | | | | |
|--|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|
| | Actual | | | | | | | | Estimated | | | | CY 2021 | Cumulative |
| IDENTIFIER | January | February | March | April | May | June | July | August | September | October | November | December | Total | Total |
| | | | | | | | | | | | | | | |
| Energy (MWh) | 27,128 | 148,103 | 104,725 | 0 | 161,261 | 185,843 | 204,136 | 199,187 | 207,899 | 208,562 | 198,120 | 210,556 | 1,855,520 | 10,513,427 |
| Gas Schedule (MMBtu) | 202,597 | 1,035,991 | 736,486 | 0 | 1,134,237 | 1,299,690 | 1,425,158 | 1,393,256 | 1,613,298 | 1,618,444 | 1,537,409 | 1,633,912 | 13,630,478 | 76,169,340 |
| 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) | 10,933 | 55,907 | 39,744 | 0 | 61,209 | 70,138 | 76,909 | 75,187 | 87,062 | 87,339 | 82,966 | 88,174 | 735,568 | 4,118,529 |
| 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) | 983,067 | 1,038,974 | 1,078,718 | 1,078,718 | 1,139,927 | 1,210,065 | 1,286,974 | 1,362,161 | 1,449,223 | 1,536,562 | 1,619,528 | 1,707,702 | 1,707,702 | 1,707,702 |
| | | | | | | | | | | | | | | |
| Compliance Instrument Participant Transfers | | | | | | | | | | | | | | |
| Carryover Allowances | 37,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 37,000 | 69,263 |
| Auction Allowances | 7,406 | 0 | 14,000 | 2,216 | 6,923 | 128,666 | 178,486 | 49,089 | 40,720 | 0 | 0 | 0 | 427,506 | 3,923,424 |
| 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) | 44,406 | 0 | 14,000 | 2,216 | 6,923 | 128,666 | 178,486 | 49,089 | 40,720 | 0 | 0 | 0 | 464,506 | 3,992,687 |
| | | | | | | | | | | | | | | |
| NCPA Compliance Instrument Purchases | | | | | | | | | | | | | | |
| Auction Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| Secondary Market Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reserve Sale Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Offsets Purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Compliance Instrument NCPA Purchases (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 |
| | | | | | | | | | | | | | | |
| Compliance Instruments Internal Transfers (LEC from/to STIG) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | (678) |
| | | | | | | | | | | | | | | |
| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,405,361 |
| | | | | | | | | | | | | | | |
| Total Monthly Activity (MT) | 44,406 | 0 | 14,000 | 2,216 | 6,923 | 128,666 | 178,486 | 49,089 | 40,720 | 0 | 0 | 0 | 464,506 | 4,039,009 |
| Cumulative MT Account Balance (MTA) | 1,214,226 | 1,214,226 | 1,228,226 | 1,230,442 | 1,237,365 | 1,366,031 | 1,544,517 | 1,593,606 | 1,634,326 | 1,634,326 | 1,634,326 | 1,634,326 | 1,634,326 | 1,634,326 |
| MTA Shortfall (MT) | (231,159) | (175,252) | (149,508) | (151,724) | (97,438) | (155,966) | (257,543) | (231,445) | (185,103) | (97,764) | (14,798) | 73,376 | 73,376 | 73,376 |
| Current Month CCA Balance (\$) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 141,282 | 0 | 0 | 0 | 141,282 |
| Monthly GHG Price | 26.64 | 26.75 | 29.33 | 26.95 | 27.06 | 29.64 | 27.26 | 27.37 | 29.95 | 27.57 | 27.68 | 30.26 | | |



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 11

Meeting Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: ACCO Engineered Systems, Inc. – 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

Proposal

Approve the First Amendment to the Multi-Task General Services Agreement with ACCO Engineered Systems, Inc. for HVAC maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from November 17, 2021 to January 31, 2022, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

HVAC 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 ACCO Engineered Systems, Inc. effective November 17, 2016, for an amount not to exceed \$750,000, for use at all NCPA, NCPA Member, SCPPA, and SCPPA Member facilities. NCPA has utilized this vendor for the past five years for HVAC maintenance services at its CT plants, and this vendor has shown themselves to be competent and responsible.

The current agreement is set to expire on November 17, 2021. NCPA is currently in the process of obtaining bids for maintenance services for the CT facilities for the next five year term. NCPA now desires to enter into a First Amendment to the Multi-Task General Services agreement to extend the agreement expiration date to January 31, 2022 to allow NCPA additional time to obtain bids and negotiate terms of the agreement with the winning bidder. NCPA has agreements in place for similar services with ABM Building Solutions, Comfort Air, Inc., Creative Cooling Technologies, EMCOR Services Mesa Energy, Johnson Controls, Inc. and Pullman Heating & Cooling, 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 remain unchanged at not to exceed \$750,000 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:

Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with ACCO Engineered Systems, Inc.
- First Amendment to Multi-Task General Services Agreement with ACCO Engineered Systems, Inc.



RECEIVED

OCT 28 2016

**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND CONTRACTS DEPT.
ACCO ENGINEERED SYSTEMS, INC.**

This agreement for general services ("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 Acco Engineered Systems, Inc., a corporation with its office located at 6265 San Fernando Road, Glendale, CA 91201 ("Contractor") (together sometimes referred to as the "Parties") as of 11/17, 2016 ("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** SEVEN HUNDRED FIFTY THOUSAND dollars (\$750,000.00) 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

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 \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention 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 \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** [Intentionally omitted]
- 4.4 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, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.6 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.7 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.

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

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

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 all the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Contractor.** 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, SCLPA or SCLPA 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 Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 **Notices.** Any written notice to Contractor shall be sent to:

ACCO Engineered Systems, Inc.
Attention: Stephen Alwan
9290 Beatty Drive
Sacramento, CA 95826

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

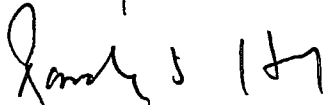
13.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") 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

Date

11/17/16



RANDY S. HOWARD,
General Manager

ACCO ENGINEERED SYSTEMS, INC.

Date

11-16-16



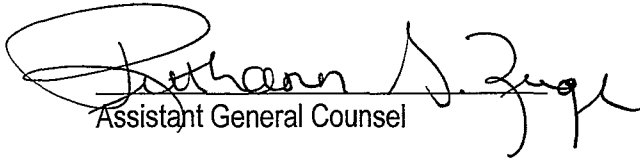
MICHAEL POTTS, *STEVEN TUTTLE*
Service Branch Manager *Senior Vice President*

Attest:



Assistant Secretary of the Commission

Approved as to Form:



Assistant General Counsel

EXHIBIT A

SCOPE OF WORK

ACCO Engineered Systems, Inc. ("Contractor") shall provide HVAC maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members:

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

- HVAC maintenance
- Swamp Cooler maintenance
- Chiller maintenance

Preventative maintenance services specific to CT facilities to include:

GENERAL

General Operation & condition
Unusual noise & vibration

REFRIGERATION SYSTEM ☒

Align & adjust drives, belts, couplings
Record refrigerant & oil pressures
Check refrigerant charge & controls
Inspect shaft seals & packing
Operation of capacity & safety controls

CENTRIFUGAL CHILLER ☐

Chilled & condenser water circuits
Purge system
Oil system – level, pressure & proper operation of oil cooler & differential
Operating pressures, temps. & vacuum
Capacity & safety controls, flow j
switches, full load test chiller, check for proper starter operation

WATER TREATMENT ☐

Closed loop(s) only ☐
Water analysis
Add chemicals
Adjust bleed rate
Drain, flush & clean sumps

AIR HANDLING SYSTEMS ☒

Lubricate fan bearings
Check fan belts & drive alignment
Check/clean drip pans and drains
Check expansion valves & bulb clamps
Check condition of fans, scrolls & coils

HEATING SYSTEM ☒

Condition of heat exchangers
Heating coils, traps, strainers & valves
Electric resistance heaters
Operating & safety controls
Condensate return pump
Burner operation and flue stack
Expansion tank

WATER PUMPS

Condenser ☐ Chilled ☐ Hot ☐
Lubricate pump bearings
Check operating pressures
Check drive alignment
Check seals and packing glands
Purge air from pumps

CENTRAL CONTROLS ☐

Check/calibrate thermostats, humidistats
Check automatic control valves, damper & vane operators & central control panels

CONTROL AIR COMPRESSOR ☐

Check drive belt tension & alignment
Compressor oil level
Drain condensate from receiver
Operation & adjustment of pressure switch/valve

ELECTRICAL ☒

Record voltage & motor amperage
Lubricate motor bearings
Magnetic starter connections
Control box covers

CONDENSING MEDIUM

Tower ☐ Evaporative ☒ Air Cooled ☐
Lubricate fan bearings
Check condenser coil for leaks & scale
Clean air intake screens
Operating & safety controls
Check sumps, chemicals & algae
Dampers, damper motors & linkage
Eliminators & spray nozzles

SERVICE PROGRAMS

☐ **ACCOGUARD:** ACCO will regularly & systematically examine, adjust & lubricate your system as required; and, as conditions warrant, will repair or replace moving parts to keep your system operating. The ACCOGUARD agreement includes normal maintenance & emergency service labor, parts & repairs.

☒ **ACCOCARE:** ACCO will regularly and systematically examine, adjust & lubricate your system as required. Under an ACCOCARE agreement all other service calls, including labor & replacement parts, will be done on proper NORTHERN CALIFORNIA POWER AGENCY authorization and billed as extra.

☐ **ACCOSERVE:** ACCO will regularly & systematically examine, adjust & lubricate your system as required. The ACCOSERVE contract includes labor portion of normal maintenance, emergency service and cost of labor for repairs. All parts and materials will be billed extra.

☐ **ACCOAUDIT:** ACCO will, at regular intervals, supervise your employees or make an inspection of your system and report findings in writing. ACCOAUDIT Agreement cost is based on estimated time spent, or fixed fee.

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:

Standard Hourly Rate (East Bay): \$149.00 (3% annual increase)

Standard Hourly Rate (Sacramento): \$135.00 (3% annual increase)

Overtime Hourly Rate (East Bay): 1.5 x standard rate

Overtime Hourly Rate (Sacramento): 1.5 x standard rate

Pricing specific for CT facilities preventative maintenance services mentioned in Exhibit A:

- Annual price (Year 1): \$13,875.00, invoiced quarterly at \$3,468.75
- Annual Price (Year 2): \$14,291.25, invoiced quarterly at \$3,572.81
- Annual Price (Year 3): \$14,719.99, invoiced quarterly at \$3,680.00
- Annual Price (Year 4): \$15,161.59, invoiced quarterly at \$3,790.40
- Annual Price (Year 5): \$15,616.44, invoiced quarterly at \$3,904.11

Pricing for services to be performed at other NCPA facilities, 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, Stephen Alwan, Service Sales Manager

(Name of person signing affidavit)(Title)

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

ACCO Engineered Systems, Inc.

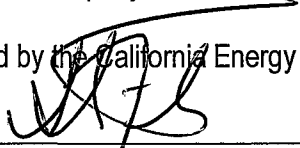
(Company name)

for contract work at

Lodi Energy Center, 12745 N. Thornton Road, Lodi, CA 95242

(Project name and location)

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



(Signature of officer or agent)

Dated this 16 day of November, 20 16.

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

NOT APPLICABLE - EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

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

DATED: 11/16/16

Name of Employer

Acco Engineered Systems

[Signature]

(Authorized Officer & Title)

STEVEN F. TUTTLE
Senior Vice President

(Address) 1133 Aladdin Ave

San Leandro, CA 94577



**FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND ACCO ENGINEERED SYSTEMS, INC.**

This First Amendment (“Amendment”) to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and ACCO Engineered Systems, Inc. (“Contractor”) (collectively referred to as “the Parties”) as of _____, 2021.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective November 17, 2016, (the “Agreement”) for Contractor to provide HVAC 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 extend the term of the Agreement from the original expiration date of November 17, 2021 to a new date of January 31, 2022; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 1.1—Term of Agreement** of the Agreement is deleted in its entirety and replaced with the following:

The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than January 31, 2022, whichever occurs sooner.

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

SIGNATURES ON FOLLOWING PAGE

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Date:_____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD, General Manager

Date:_____

ACCO Engineered Systems, Inc.

BRANDON ELLIS, Service Sales Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 12

Meeting Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: CH2M Hill Engineers, Inc. – First Amendment to Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

Proposal

Approve the First Amendment to the Multi-Task Professional Services Agreement with CH2M Hill Engineers, Inc. for compliance support services including biological monitoring and general compliance support, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$200,000 to \$500,000, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Compliance support for biological monitoring and general compliance support 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 Professional Services Agreement with CH2M Hill Engineers, Inc., effective April 23, 2018 for an amount not to exceed \$200,000, for use at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members

This agreement has been used by frequently by NCPA for CEC certification at its plants and biological monitoring for various projects, and this agreement is now running low on funds. To ensure sufficient funds are available for the remainder of the contract term, this amendment will increase the not to exceed amount from \$200,000 to \$500,000, for continued use at any facility owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

NCPA has agreements in place for similar services with EGS Consulting and Stratus Environmental.

Selection Process

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

Bids are awarded to the vendor providing the best overall value to NCPA. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

Upon execution, the total not to exceed amount of the agreement will increase from \$200,000 to \$500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task Professional Services Agreement with CH2M Hill Engineers, Inc.
- First Amendment to Multi-Task Professional Services Agreement with CH2M Hill Engineers, Inc.



**MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
CH2M HILL ENGINEERS, INC.**

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and CH2M Hill Engineers, Inc., a corporation with its office located at 2485 Natomas Park Drive, Suite 600, Sacramento, CA 95833 ("Consultant") (together sometimes referred to as the "Parties") as of April 23, 2018 ("Effective Date") in Roseville, California.

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

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

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

Section 2.

COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED TWO HUNDRED THOUSAND** dollars (\$200,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

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

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

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of one million dollars (\$1,000,000.00) each accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering loss or liability, including the cost of defense of action, for bodily injury, death, personal injury and property damage which may arise out of the operations of Consultant. The policy shall provide a limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be ISO Commercial General Liability form CG 0001 on "an occurrence" basis covering General Liability.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 for the term of this Agreement covering any loss or liability, including the cost of defense of action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a limit of \$1,000,000 each accident. This insurance shall provide liability covering motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.
- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 Professional Liability Insurance. Consultant shall retain sufficient revenues and/or capitalization to self-insure Consultant's professional liability under this contract and shall at all times be capable to covering any resulting liability to Agency based upon Consultant's work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000) aggregate to cover for the Consultant's errors and omissions. Consultant shall retain such revenues and/or capitalization for two (2) years after completion of the Services.

4.4 All Policies Requirements.

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

4.4.2 Cancellation of Coverage. Consultant shall provide at least thirty (30) days prior written notice to Agency of any cancellation.

4.4.3 Reserved.

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or Agency member for which the Services are to be performed.

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

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the proportionate extent arising out of the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.
- 5.3 Limitation of Liability.** Consultant's liability for Agency's damages will, in the aggregate, not exceed the greater of five hundred thousand dollars (\$500,000) or the coverage limits provided by the insurance policies carried by Consultant in accordance with Section 4 of this Agreement. In no event shall Consultant, its affiliated corporations, officers, employees, or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, including but not limited to loss of revenue or profits, suffered or incurred by Agency or any of its agents, including other contractors engaged at the project site, as a result of this Agreement or Consultant's performance or non-performance of services pursuant to this Agreement. Limitations of liability provided here will apply whether the Consultant's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include Consultant's officers, affiliated corporations, employees and subcontractors.

Section 6. STATUS OF CONSULTANT.

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

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

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

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

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

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant

itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

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

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

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

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

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are

necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

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

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

CH2M Hill Engineers, Inc.
Attention: Karen Parker
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

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

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

Date 4/23/18


RANDY S. HOWARD
General Manager

CH2M HILL ENGINEERS, INC.

Date APRIL 23, 2018


BRETT ISBELL
Designated Manager

Attest:


Assistant Secretary of the Commission

Approved as to Form:


General Counsel

EXHIBIT A

SCOPE OF SERVICES

CH2M Hill Engineers, Inc. ("Consultant") shall provide on-call compliance support for biological monitoring and general compliance support services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA), or SCPPA members.

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

- As identified in the Biological Resources Mitigation Implementation and Monitoring Plan ("BRMIMP") for the Project, biological monitoring will need to be conducted at the Project after construction is complete for the lifetime of the Project anytime there will be ground disturbance, or if biological resources (birds, wildlife, etc.) need to be relocated. Consultant will provide an on-call biological monitor for the Project.
- Regulatory compliance support such as review of permit conditions, changes in regulatory requirements, preparation of permit documentation, license amendments.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

2018 Hourly Rates

| Category | Rate |
|-----------------------------------|-----------|
| Principal | \$ 242.82 |
| Principal Technologist | \$ 209.04 |
| Sr. Project Manager | \$ 209.04 |
| Sr. Technologist | \$ 209.04 |
| Project Manager | \$ 195.74 |
| Engineer Specialist | \$ 195.74 |
| Project Engineer | \$ 166.38 |
| Associate Engineer | \$ 140.29 |
| Staff Engineer 2 | \$ 126.14 |
| Staff Engineer 1 | \$ 118.64 |
| Sr Engineering/Environmental Tech | \$ 126.14 |
| Jr Engineering/Environmental Tech | \$ 112.01 |
| GIS/Graphics | \$ 140.01 |
| Office/Clerical/Accounting | \$ 84.82 |

Expense Rates

| Task | Unit | 2018 Rate (\$) |
|--|--------------------------------|----------------------|
| Small Quantity In-house Reproduction | Each item | No cost |
| Other Direct Expenses | Each item | At cost |
| Overnight Mail | Each item | At cost |
| First Class Mail (for large mailings only) | Each item | At cost |
| Automobile Mileage (personal car) | Per mile | \$0.535 ^a |
| Travel & Living | Each item | At cost |
| Health & Safety | Per hour for H&S-trained staff | \$1.75 |

Expense Rates

| Task | Unit | 2018 Rate (\$) |
|--|-----------|-------------------------|
| CH2M-owned Field Equipment (e.g., GPS Units) | Each item | At CH2M's standard rate |
| Subcontractors and Outside Services | Each item | At cost |

^a Or established federal rate.

The hourly rates contained in this Exhibit B are subject to a calendar year escalation adjustment upon 30 days' advance written notice to Agency.

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, BRETT ISBELL, DESIGNATED MANAGER

(Name of person signing affidavit)(Title)

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

CH2M Hill Engineers, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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



(Signature of officer or agent)

Dated this 23RD day of APRIL, 20 18.

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



FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND CH2M HILL ENGINEERS, INC.

This First Amendment ("Amendment") to Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and CH2M Hill Engineers, Inc. ("Consultant") (collectively referred to as "the Parties") as of _____, 202__.

WHEREAS, the Parties entered into a Professional Services Agreement, effective April 23, 2018 (the "Agreement") for CH2M Hill Engineers, Inc. to provide compliance support for biological monitoring and general compliance support services at any facilities owned or operated by Agency, its 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 \$200,000 to a "NOT TO EXCEED" amount of \$500,000; 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 Consultant an amount **NOT TO EXCEED FIVE HUNDRED THOUSAND** dollars (\$500,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

SIGNATURES ON FOLLOWING PAGE

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Date:_____

NORTHERN CALIFORNIA POWER AGENCY

RANDY S. HOWARD, General Manager

Date:_____

CH2M HILL ENGINEERS, INC.

DAVID ALLARD, Manager of Projects

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 13

Meeting Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Black & Veatch Corporation – Second Amendment to Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

Proposal

Approve the Second Amendment to the Multi-Task Professional Services Agreement with Black & Veatch Corporation for consulting services related to project support and plant operations, with any non-substantial changes recommended and approved by the NCPA General Counsel, extending the expiration date from November 26, 2021 to January 31, 2022, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Consulting services related to project support and plant operations 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 Professional Services Agreement with Black & Veatch Corporation effective May 26, 2016.

We have been working on a renewal agreement with Black & Veatch, however this process is taking longer than anticipated. A First Amendment was executed on May 10, 2021 extending the agreement expiration date from May 26, 2021 to November 26, 2021. NCPA is currently utilizing Black & Veatch for hydrogen expertise support and consulting regarding Lodi's Lakehouse development project, neither of which is completed. This Second Amendment will extend the agreement expiration date from November 26, 2021 to January 31, 2022, to avoid any lapse in coverage while NCPA continues to work on the new agreement with Black & Veatch. NCPA has agreements in place for similar services with HDR Engineering, Inc., and Worley 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 remain unchanged at not to exceed \$1,500,000 over the remainder of the contract term. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Assistant General Manager
Generation Services

Attachments: (3)

- Multi-Task Professional Services Agreement with Black & Veatch Corporation
- First Amendment to Multi-Task Professional Services Agreement with Black & Veatch Corporation
- Second Amendment to Multi-Task Professional Services Agreement with Black & Veatch Corporation



FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND BLACK & VEATCH CORPORATION

This First Amendment ("Amendment") to the Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Black & Veatch Corporation ("Consultant") (collectively referred to as "the Parties") as of May 10, 2021.

WHEREAS, the Parties entered into a Multi-Task Professional Services Agreement dated effective May 26, 2016, (the "Agreement") for Consultant to provide consulting services related to project support and plant operations, as needed; and

WHEREAS, the Parties now desires to amend the Agreement to extend the term of the Agreement from the original expiration date of May 26, 2021 to a new date of November 26, 2021; and

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Section 1.1—Term of Agreement:** Section 1.1 of the Agreement is deleted in its entirety and replaced with the following:

The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than November 26, 2021, whichever occurs sooner.

2. **Other Terms and Conditions:** Except as expressly set forth in this Amendment, the Agreement is otherwise unmodified, and terms and conditions remain in full force and effect.

SIGNATURES ON NEXT PAGE

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Date: 5/10/21

NORTHERN CALIFORNIA POWER AGENCY


RANDY S. HOWARD, General Manager

Date: 4/5/2021

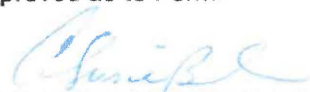
BLACK & VEATCH CORPORATION


JON R. FEICKERT,
Associate Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form


Susie Berlin, NCPA Outside Counsel



**MULTI-TASK
PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BLACK & VEATCH CORPORATION**

This agreement for professional services (this "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 Black & Veatch Corporation, a corporation with its office located at 11401 Lamar, Overland Park, KS 66211 ("Consultant") (together sometimes referred to as the "Parties") as of 5/26/2016, ~~2015~~ ⁹²¹ ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the range of services described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified in a Purchase Order or other written authorization.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

As used in this Section 1.2, "Warranty Period" means one (1) calendar year following completion of the Services, except that with regard to design, "Warranty Period" means one (1) calendar year following Substantial Completion of the related project; provided, however, that in no event will the Warranty Period extend beyond four years from Consultant's completion of the Services. "Substantial Completion" means the stage in which the progress of a project, or applicable portion thereof, is sufficiently complete such that the Agency can occupy or utilize the project or portion thereof for its intended purpose.

If, during the Warranty Period, it is shown there is an error in the Services caused solely by Consultant's failure to meet the standard of performance in this Section 1.2, and Agency has notified Consultant in writing of any such error within that period, Consultant shall re-perform, at no additional cost to Agency, such Services within the original scope of Services as may be necessary to remedy such error. Re-performed Services shall be warrantied for an additional year, not to exceed four years from the completion of the original Services.

If the Services include a technical review of work performed by Agency's contractors or consultants, Consultant shall provide such technical review in order for Agency to have a

greater degree of confidence that such work will conform generally to the contract documents between Agency and Agency's contractors or consultants. Agency's contractors and consultants shall remain solely responsible for the quality of the work that Consultant reviews, and Consultant's review shall not be deemed to be a warranty or guarantee from Consultant regarding the quality of the work reviewed. Agency agrees that its exclusive remedy for defective work by others that is reviewed by Consultant shall be from Agency's contractors and consultants who performed the work.

Consultant shall have no liability for defects in the Services attributable to Consultant's reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by Agency or third parties not under contract to Consultant (collectively, "Third Party Information"); provided, however, that (1) this provision shall not excuse Consultant's failure to perform the Services to the standard of care in this Section 1.2, and (2) where the scope of services includes checking or verifying the accuracy of Third Party Information, this provision shall not excuse Consultant from performing such checking or verifying to the standard of care in this Section 1.2.

The obligations and representations contained in this Section 1.2 are Consultant's sole warranty and guarantee obligations and Agency's exclusive remedy in respect of quality of the Services. EXCEPT AS PROVIDED IN THIS ARTICLE, CONSULTANT MAKES NO OTHER WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. This Section 1.2 governs, modifies, and supersedes any other terms in this Agreement which may be construed to address warranties or guarantees or the quality of the Services.

- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members ("Members").
- 1.5 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have fourteen (14) days from the date of the Agency's issuance of the

Purchase Order in which to respond in writing whether Consultant chooses to perform the Requested Services. If Consultant fails to respond within such time and agree to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement, and its Exhibits, the Purchase Order is deemed rejected and Agency shall not be bound by the Purchase Order issued to Consultant.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND** dollars (\$1,500,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable

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

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

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

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

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

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

4.1 Workers' Compensation. If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

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

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

4.3 Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount of one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on an "occurrence" basis, except that Consultant may maintain such insurance 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.

4.4 All Policies Requirements.

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

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

4.4.3 [Intentionally left blank.]

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPPA or Agency member for which the Services are to be performed.

4.5 Waiver of Subrogation. Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant

agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

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

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all third party claims for bodily injury (including death) or property damage to the extent arising out of the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. For the avoidance of doubt, claims of an employee of Agency or Consultant are deemed third party claims. Consultant shall bear all 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 ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence or willful misconduct of the Agency.

For the avoidance of doubt, this Section 5.2 shall not affect direct claims or actions (including, but not limited to, claims for property damage) by Agency against Consultant.

- 5.3 Limitation of Liability.** Having considered the risks and potential liabilities that may arise out of the Services, the benefits of the Services, and in specific consideration of the promises contained in this Agreement and other valuable consideration, receipt of which is acknowledged, Agency and Consultant allocate and limit such liabilities in accordance with

this Section 5.3. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law:

In no event shall Consultant be liable to Agency for any loss of profits or revenue; loss of use; loss of opportunity; loss of goodwill; cost of substitute facilities, goods or services; cost of capital; cost of replacement power; governmental and regulatory sanctions (other than sanctions imposed on Consultant by governmental and regulatory agencies); and claims of customers for such damages; or for any special, consequential, incidental, indirect, punitive, or exemplary damages in any way arising from or related to the performance of this Agreement;

The total cumulative liability of Consultant and any entity owned by, owning, controlled by, controlling or under common control of Consultant to Agency for all claims, losses, damages, and expenses in any way arising from or related to the performance of this Agreement shall not be greater than Two Million Dollars (\$2,000,000).

Releases, waivers and limitations expressed in this Agreement concerning liability and remedies shall apply even in the event of the fault, tort (including negligence), strict liability, breach of contractor warranty, or other basis of liability of the Party released or whose liability is limited or against whom remedies have been limited and shall extend to the officers, directors, partners, employees, licensors, agents, subcontractors, vendors and related entities of such Party.

Section 6. STATUS OF CONSULTANT.

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

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

the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

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

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

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

- 7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. TERMINATION AND MODIFICATION.

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

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

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

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

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

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement that Agency has paid for, or for which Agency pays pursuant to a final invoice;

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

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

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications,

records, files, or any other documents or materials, in electronic or any other form, that Consultant is required to deliver to Agency as a deliverable under this Agreement shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents. Nothing contained in this Section shall be construed as limiting or depriving Consultant of its rights to use its basic knowledge and skills to design or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the work to be performed pursuant to this Agreement.

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

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

9.4 Confidential Information and Disclosure.

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

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all

reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

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

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

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

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

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

Section 10 MISCELLANEOUS PROVISIONS.

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

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the

state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

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

Black & Veatch Corporation
Attention: Sean Kilgrow
10995 Gold Center Dr. Suite 100
Rancho Cordova, CA 95670

With copy to:

Black & Veatch Corporation
Attention: Carlos Araoz
10995 Gold Center Dr. Suite 100
Rancho Cordova, CA 95670

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 10.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:
- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

- 10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto, a Purchase Order, or the Consultant's Proposal, the Exhibits shall control.
- 10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide services to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this Section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

Section 11. SAFETY AND HAZARDOUS MATERIALS.

- 11.1 **Safety and Environmental Regulations.** Consultant shall be responsible for the safety of its own employees at all times during the performance of any Services. Consultant's safety program shall include all requisite components required under Federal, state and local regulations, and shall comply with all Agency or project site programs, if applicable.
- 11.1.1 Consultant shall not have control or charge of and shall not be responsible for: construction means, methods, techniques, sequences, or procedures of construction; the acts or omissions of Agency's contractors, vendors or suppliers; or the safety or environmental precautions and programs in connection with the work performed by Agency's contractors, vendors or

suppliers; provided, however, that this Section 11.1.1 shall not apply where the Services specified in a Purchase Order specifically include these responsibilities.

11.1.2 Consultant shall not be responsible for the adequacy or completeness of any other entity's safety or environmental programs, procedures, or precautions at the job site, and Consultant shall not have the authority to stop such other entity's work; provided, however, that this Section 11.1.2 shall not apply where the Services specified in a Purchase Order specifically include such responsibilities.

11.2 **Pre-Existing Contamination.** "Hazardous Waste" means any toxic or radioactive substance so defined under applicable federal, state or local laws or regulations. "Pre-Existing Contamination" is any Hazardous Waste present at the job site that was not brought onto such site by Consultant or at the direction of Consultant. Notwithstanding anything in this Agreement to the contrary, title to, ownership of, and legal responsibility and liability for Pre-Existing Contamination shall at all times remain with Agency. Agency agrees to release, defend, indemnify, and hold Consultant harmless from and against any and all liability and claims, including attorneys' fees, that may in any manner arise in any way directly or indirectly from such Pre-Existing Contamination.

Agency shall, at Agency's sole expense and risk, arrange for handling, storage, transportation, treatment, and delivery for disposal of Pre-Existing Contamination. Agency shall be solely responsible for obtaining a disposal site for Pre-Existing Contamination. Agency shall look to the disposal facility and transporter for any responsibility or liability arising from improper disposal or transportation of Pre-Existing Contamination. Consultant shall not have or exert any control over Agency in Agency's obligations or responsibilities as a generator in the storage, transportation, treatment, or disposal of any Pre-Existing Contamination. Agency shall complete and execute any forms or certificates relating to regulated activities, including generation, storage, handling, treatment, transportation, or disposal of Pre-Existing Contamination. In the event that Consultant executes or completes any such forms or certificates, Consultant shall be, and be deemed to have acted as, Agency's agent.

SIGNATURES ON FOLLOWING PAGE

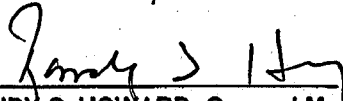
The Parties have executed this Agreement as of the date signed by the Agency.

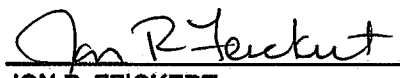
NORTHERN CALIFORNIA POWER AGENCY

BLACK & VEATCH CORPORATION


Date 5/31/16

Date 5/26/16


RANDY S. HOWARD, General Manager


JON R. FEICKERT, KAR
Power Generation Services Director

Attest:


Assistant Secretary of the Commission

Approved as to Form:

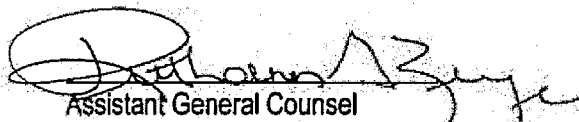

Assistant General Counsel

EXHIBIT A

SCOPE OF SERVICES

Black & Veatch Corporation ("Consultant") shall provide the Northern California Power Agency ("Agency") and, pursuant to Section 1.4 of the Agreement, Agency members, the Southern California Public Power Authority ("SCPPA"), and SCPPA members, with consulting services related to project support and plant operations as needed.

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

- Feasibility Studies
- Business Model Development
- Conceptual Design
- Cost Estimating
- Contract Planning
- Engineering Services (preliminary and detailed)
- Engineering Studies
- Execution Planning
- Operations and Maintenance Evaluation and Support
- Vendor Quality Assurance
- Construction Management
- Start-up and Commissioning Service
- Customer Information System Services
- Meter Data Management System Services
- Advanced Metering Infrastructure Services
- Smart Grid Solutions
- Technology Advisory Services
- Project Management Services
- Smart Grid Consulting Services

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

| HOURLY BILLING RATES (see Client Billings and Notes) | |
|--|----------|
| Title/Description/Hourly Billing Rate (\$USD) | |
| Project Administration | |
| Project accounting and office support including clerical, secretarial and billing. | |
| Project Administration | \$77.00 |
| Technicians and Technical Support | |
| Technical designers, drafters, and other technical support functions. | |
| Associate Technician / Designer | \$89.00 |
| Staff Technician / Designer | \$111.00 |
| Lead Technician/Designer | \$140.00 |
| Senior Technician/Designer | \$182.00 |
| Engineering and Management | |
| Engineering design, analysis, and management. Includes departmental and project assignments including project management, executives and engineering department management. | |
| Associate Engineers | \$99.00 |
| Staff Engineers | \$120.00 |
| Design Engineers | \$141.00 |
| Project Engineers | \$168.00 |
| Senior Engineers | \$199.00 |
| Engineering Managers | \$215.00 |
| Project Managers | \$225.00 |
| Senior Project Managers | \$253.00 |
| Executives | \$276.00 |
| Estimating, Project Controls and Procurement | |
| Professionals who assess the cost related to projects, track the cost associated with a project, and perform planning and scheduling functions related to projects. These professionals also provide procurement support activities. | |
| Staff Professional | \$118.00 |
| Lead Professional | \$148.00 |
| Senior Professional | \$230.00 |
| Specialized Staff | |
| Specialist staff such as scientists, geologists, environmental consultants, lawyers, equipment or technology experts, and construction specialists. | |
| Associate Specialist | \$92.00 |
| Specialist | \$118.00 |
| Lead Specialist | \$164.00 |
| Senior Specialist | \$220.00 |

Client Billings: Client shall pay to Engineer for the performance of the Services the sum of the following amounts unless the compensation is otherwise stated in the specific task assignment.

1. Labor cost will be billed as actual hours charged to this project by Black & Veatch personnel and in accordance with the rates above.
2. Typical and customary home office expenses, including computer related expenses (network server charges, PC usage charges, software and design application charges, printing, plotting, and server storage), reprographic services, document production, fax, telephone, postage/courier, etc. will be billed at a rate of \$8.00 per hour of direct billed labor.
3. Expenses for travel and lodging will be billed at actual cost. These expenses include cost such as air-fare, personal mileage, lodging, meals, motor vehicles rental, telephone, special rental equipment, etc.
4. Cost of 3rd party services and for non-customary office costs such as production printing will be billed at actual cost plus 10%.
5. Field assignments of longer than 60 days will be billed as actual hours charged to this project by Black & Veatch personnel in accordance with the rate sheet plus uplift as determined by current field services policy. Expenses for field assignments can be per diem, actual expenses, or a combination of both as specific to the assignment.
6. Overtime applies only to non-exempt personnel as defined by the US Federal Wage and Hour Law. Overtime will be billed as actual hours charged to this project by Black & Veatch personnel in accordance with the rate sheet plus 50%.
7. Any other professionals not specifically identified above will be placed in the most appropriate category above based on function and experience.

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

The rates above are subject to one (1) annual adjustment upon thirty (30) days' prior written notice to Agency.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Consultants

I, Jon R Feuckert Power Generation Services Director
(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

BLACK & VEATCH CORPORATION

for contract work at LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI CA 95242

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

Jon R Feuckert
(Signature of officer or agent)

KAR

Dated this 26 day of May, 2016.

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.

2598203.10

Attachment A. Billing Rates and Expense Schedule - 2019

CONFIDENTIAL ^{Note 2}

Black & Veatch
Billing Rates and Expense Schedule
for
Home Office Consulting Engineering Services
Calendar Year 2019

HOURLY BILLING RATES (see Client Billings and Notes)

Title/Description/Hourly Billing Rate (\$USD)

Project Administration

Project accounting and office support including clerical, secretarial and billing.

Project Administration \$77.00

Technicians and Technical Support

Technical designers, drafters, and other technical support functions.

Associate Technician / Designer \$91.00

Staff Technician / Designer \$113.00

Lead Technician/Designer \$143.00

Senior Technician/Designer \$188.00

Engineering and Management

Engineering design, analysis, and management. Includes departmental and project assignments including project management, executives and engineering department management.

Associate Engineers \$102.00

Staff Engineers \$122.00

Design Engineers \$141.00

Project Engineers \$170.00

Senior Engineers \$202.00

Engineering Managers \$218.00

Project Managers \$235.00

Senior Project Managers \$266.00

Executives \$292.00

Professionals and Professional Support

Professionals who assess and track the cost related to projects, perform planning and scheduling functions related to projects, provide procurement and construction support, provide permitting support, and support other project related activities.

Associate Professional \$87.00

Staff Professional \$140.00

Lead Professional \$192.00

Senior Professional \$235.00

Specialized Staff

Specialist staff that provide legal, scientific, economic, and related services.

Associate Specialist \$100.00

Staff Specialist \$127.00

Lead Specialist \$172.00

Senior Specialist \$235.00

Client Billings: Client shall pay to Engineer for the performance of the Services the sum of the following amounts unless the compensation is otherwise stated in the specific task assignment.

1. Labor cost will be billed as actual hours charged to this project by Black & Veatch personnel and in accordance with the rates above.
2. Typical and customary home office expenses, including computer related expenses (network server charges, PC usage charges, software and design application charges, printing, plotting, and server storage), reprographic services, document production, fax, telephone, postage/courier, etc. will be billed at a rate of \$9.25 per hour of direct billed labor.
3. Expenses for travel and lodging will be billed at actual cost. These expenses include cost such as air-fare, personal mileage, lodging, meals, motor vehicles rental, telephone, special rental equipment, etc.
4. Cost of 3rd party services and for non-customary office costs such as production printing will be billed at actual cost plus 10%.
5. Field assignments of longer than 60 days will be billed as actual hours charged to this project by Black & Veatch personnel in accordance with the rate sheet plus uplift as determined by current field services policy. Expenses for field assignments can be per diem, actual expenses, or a combination of both as specific to the assignment.
6. Overtime applies only to non-exempt personnel as defined by the US Federal Wage and Hour Law. Overtime will be billed as actual hours charged to this project by Black & Veatch personnel in accordance with the rate sheet plus 50%.
7. Any other professionals not specifically identified above will be placed in the most appropriate category above based on function and experience.

Notes:

1. Billing rates are subject to annual adjustment on each January 1.
2. This Rate Sheet contains information that may be privileged, confidential and exempt from disclosure under applicable law. Any unauthorized disclosure, copying, or distribution of this document or any of its contents is prohibited.



**SECOND AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND BLACK & VEATCH
CORPORATION**

This Second Amendment ("Amendment") to the Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Black & Veatch Corporation ("Consultant") (collectively referred to as "the Parties") as of _____, 2021.

WHEREAS, the Parties entered into a Multi-Task Professional Services Agreement dated effective May 26, 2016, (the "Agreement") for Consultant to provide consulting services related to project support and plant operations; and

WHEREAS, the Parties entered into a First Amendment to the Multi-Task Professional Services Agreement on May 10, 2021 to extend the expiration date from May 26, 2021 to November 26, 2021; and

WHEREAS, the Agency now desires to amend the Agreement to extend the term of the Agreement from the current expiration date of November 26, 2021 to a new date of January 31, 2022; and

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

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

NOW, THEREFORE, the Parties agree as follows:

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

The term of this Agreement shall begin on the Effective Date and shall end when the Consultant completes the Services, or no later than January 31, 2022, whichever occurs sooner.

2. **Other Terms and Conditions:** Except as expressly set forth in this Amendment, the Agreement is otherwise unmodified, and terms and conditions remain in full force and effect.

SIGNATURES ON NEXT PAGE

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Date: _____

NORTHERN CALIFORNIA POWER AGENCY

Date: _____

BLACK & VEATCH CORPORATION

RANDY S. HOWARD, General Manager

**JON R. FEICKERT,
Associate Vice President**

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Stephen C. Pearson, Assistant Counsel



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 14

Meeting Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Evoqua Water Technologies, LLC – 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

Proposal

Approve the First Amendment to the Multi-Task General Services Agreement with Evoqua Water Technologies, LLC for condensate polisher resin regeneration, DI mixed bed vessel rental and regeneration, RO & UF membrane cleaning and other water treatment support services, with any non-substantial changes recommended and approved by the NCPA General Counsel or her designee, modifying the warranty language in Sections 12.1 and 12.2 and adding emergency delivery pricing in Exhibit B, for continued use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

Background

Condensate polisher resin regeneration, DI mixed bed vessel rental and regeneration, RO & UF membrane cleaning and other water treatment support 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 Evoqua Water Technologies, LLC effective November 1, 2020.

Per Section 12.1 of the Agreement, “For the Lodi Energy Center Condensate Polishers, Contractor will guarantee, by way of an amendment to the Agreement, a throughput amount to be determined and mutually agreed upon...”. Discussions were had between Evoqua and NCPA and a throughput amount of 28,000,000 gallons was mutually agreed upon. This First Amendment will modify the warranty language in Sections 12.1 and 12.2 and add emergency delivery pricing to Exhibit B.

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

Environmental Analysis

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

Submitted by:

Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with Evoqua Water Technologies, LLC
- First Amendment to Multi-Task General Services Agreement with Evoqua Water Technologies, LLC



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
EVOQUA WATER TECHNOLOGIES, 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 Evoqua Water Technologies, LLC, a Delaware limited liability company with its office located at 210 Sixth Avenue, Suite 3300, Pittsburgh, PA 15222 ("Contractor") (together sometimes referred to as the "Parties") as of November 1, 2020 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

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 thirty (30) 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 thirty (30) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency. Additionally, invoices with errors will be returned to Contractor for correction. Contractor shall have thirty (30) days to resubmit corrected invoices. Any invoices not properly corrected or invoices that take longer than thirty (30) days to return, the Contractor is deemed to have waived its right to collect its final payment for the Requested Work from agency.

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

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

4.3 Professional Liability Insurance. Not Applicable.

4.4 Pollution Insurance. Not Applicable.

4.5 All Policies Requirements.

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

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

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

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

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

4.6 Contractor's Obligation. Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are

and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and from and against all third party losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), for personal injury, death or damage to tangible property to the extent caused by negligence 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.** 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. Contractor warrants the services for ninety (90) days from performance ("Warranty Period").
- 11.2 Deficiencies in Work.** If Agency gives prompt written notice of breach of this warranty to Contractor within the Warranty Period, Contractor shall be obligated at its own expense, and as Agency's sole and exclusive remedy, 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. Unless otherwise agreed to in writing by Contractor, (i) Agency shall be responsible for any labor required to gain access to the work so that Contractor can assess the available remedies and (ii) Agency shall be responsible for all costs of installation of repaired or replaced work. If Contractor determines that any claimed breach is not, in fact, covered by this warranty, Agency shall pay Contractor its then customary charges for any repair or replacement made by Contractor. Contractor's warranty is conditioned on Agency (a) operating and maintaining the work in accordance with Contractor's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Contractor. Contractor's warranty does not cover damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Contractor) and (ii) media goods (such as, but not limited to, resin, membranes, or granular activated carbon media) once media goods are installed.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, to the extent assignable, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work

Section 12. Mix Bed Guarantee

- 12.1 Warranty.** Any deviations from the requirements, assumptions or conditions contained of this section 12 will void the warranty. Agency must ensure that all conditions set forth in this section, including all the feedwater water parameters listed in Exhibit A, ("Incoming Water") are met including Agency provided materials, equipment, facilities, utilities, and other things, described herein. This warranty shall be deemed void if Agency fails to meet any of the following obligations pertaining to media use and the system in which media is used.

For Lodi Energy Center Condensate Polishers, Contractor will guarantee, by way of an amendment to the Agreement, a throughput amount to be determined and mutually agreed upon, based upon the process as defined by the Throughput Volume Determination Plan by May 31, 2021 as per the treated water specifications outlined in Exhibit A ("Effluent Water"). If the parties are unable to mutually agree to the throughput amount by the date specified, the throughput guarantee will be void and Contractor will have no responsibility or liability as it relates to the throughput guarantee.

The warranty shall be deemed void if the Agency fails to meet the following influent water conditions:

- Feed water must not contain any oxidizing agents including, without limitation, chlorine, ozone or permanganate.
- Sequestrants, cleaning or treatment chemicals, and any other chemicals used in the system must be compatible with the media.
- Influent water to each vessel shall be free of entrained air to the extent that entrained air could disrupt media beds in any system.
- Bacteria levels in the influent and influent delivery mechanisms such as, for example, piping and manifolds in any well, shall be <5 cfu/ml. If Contractor Water Technologies is requested to backwash and sanitize a specific media bed after the start of a particular run then Condition a. applies. Furthermore, the detection of bacteria at any level in the influent and influent delivery mechanisms may compromise the media bed life. Therefore, Contractor assumed no responsibility or liability relating to the bacteriological quality of the incoming water or within the wells and shall bear no costs relating to media sterilization due to bacteria in the incoming water or elsewhere in the wells.
- Should any of the sodium, chloride, sulfate, phosphate, silica, specific conductivity, ammonia, total organic carbon, temperature range, temperature peak, and total iron values exceed the feedwater water parameters listed in Exhibit A, the warranted treatment volume will be adjusted and a new Warranty would be provided.

This section 12.1 does not require Agency to do any additional monitoring.

- 12.2 Remedies.** The sole remedy for each of Contractor's vessel that fails to reach 50% of this mix bed guarantee is a full credit for the regeneration cost will be applied to Agency's account. If a vessel reaches 50%-100% throughput, then a pro-rated credit for the regeneration cost will be applied to the Agency's account.

For example, if the throughput is 21,000,000 gallons, then the Agency would only pay for 70% of the price.

12.3 System Operation and Maintenance. Agency agrees, at its own expense, to at all times maintain the system as necessary for Contractor to fulfill its obligations hereunder. The design parameters (system, equipment and peripheral components) must be consistent with sound engineering practice and the system is operated within the design parameters. The system shall be operated and maintained in accordance with the written parameters provided in this supplied Media Bed Life Warranty. The warranty shall be deemed void if the Agency fails to meet the following system conditions:

- The media must be operationally protected against excessive hydraulic changes including, without limitation, water hammer, and rapid pressure swings.
- The system shall not be backwashed or the beds otherwise hydraulically altered once a service run has started, as this will reduce the expected throughput.
- The media must be maintained in a clean condition and must not be contaminated by particulate matter, colloidal or precipitated solids, biological growth or foreign materials (including but not restricted to cationic surfactants, solvents, soluble oils, free oils, lipids, and high molecular weight natural polymers.
- Agency must keep media moist at all times after installation.
- Media loss from the bed will be excluded from this warranty. Without limitation, loss of media due to failure of distributors, media traps, or other procedures are the responsibility of the Agency.
- Warranty does not apply if media bed is removed from service before the throughput is reached. Prematurely removing media for reasons including, without exceeding effluent water specifications, uranium loading or high differential pressure will void the warranty.

12.4 Water Monitoring. Agency is responsible for ensuring that frequent, adequate system performance data are routinely recorded in a systematic format that is regularly reviewed. Agency agrees to provide conductivity data on a daily basis, as well as total volume treated. Agency agrees to make this data available to Contractor on a reasonable basis at Contractor's reasonable request. Contractor reserves the right to obtain copies of calibration records for requested parameters.

12.5 Disputes. Should premature breakthrough occur, Contractor reserves the right to inspect installed media bed to investigate effects of flow characteristics. Inspection will include but not be limited to inspection of top of media bed to

ensure that no visible shifting or channeling has occurred, and the collection of water samples and spent media. Should it be determined by Evoqua that premature breakthrough has occurred due to improper operation, warranty will be void.

- 12.6** THE FOREGOING SETS FORTH CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTY AND REMEDY WITH RESPECT TO MEDIA BED LIFE. THIS IS NOT A PERFORMANCE GUARANTEE. CONTRACTOR LIABILITY UNDER THIS WARRANTY SHALL BE LIMITED TO DIRECT DAMAGES ONLY AND SHALL NOT EXCEED THE ANNUAL PRICE PAID TO CONTRACTOR UNDER THE CONTRACT. CONTRACTOR RESERVES THE RIGHT TO UPDATE THIS BED LIFE GUARANTEE ON A YEARLY BASIS.

FURTHERMORE, THE DETECTION OF BACTERIA AT ANY LEVEL IN THE INFLUENT AND INFLUENT DELIVERY MECHANISMS MAY COMPROMISE THE BED LIFE. THEREFORE, EVOQUA ASSUMES NO RESPONSIBILITY OR LIABILITY RELATING TO THE BACTERIOLOGICAL QUALITY OF THE INCOMING WATER OR WITHIN THE WELLS AND SHALL BEAR NO COSTS RELATING TO MEDIA STERILIZATION DUE TO BACTERIA IN THE INCOMING WATER OR ELSEWHERE IN THE WELLS.

- 12.7** THE WARRANTIES SET FORTH IN SECTIONS 11 AND 12 ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. CONTRACTOR MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE

Section 13. 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.

- 13.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 13.2** 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.
- 13.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

- 13.4** 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.
- 13.5** 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.
- 13.6** 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.
- 13.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 13.8** 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.
- 13.9** 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.
- 13.10** 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 13.1, 13.2, 13.4, 13.5, and 13.6 hereof.

Section 14. MISCELLANEOUS PROVISIONS.

- 14.1 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.

- 14.2 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.
- 14.3 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.
- 14.4 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.
- 14.5 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.
- 14.6 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.*
- 14.7 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.
- 14.8 Notices.** Any written notice to Contractor shall be sent to:

Evoqua Water Technologies LLC
Attention: Branch Manager
1440 Venture Lane
Turlock, CA 95380

With a Copy to:
Evoqua Water Technologies LL
Attention: General Counsel
210 Sixth Avenue, Suite 3300
Pittsburgh, PA 15222

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

- 14.9 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.
- 14.10 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.
- 14.11 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:
- 14.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 14.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 14.11.3** 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.
 - 14.11.4** 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.

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

14.11.6 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.*

14.12 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.

14.13 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.

14.14 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.

14.15 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.

Section 15. LIMITATION OF LIABILITY.

NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, CONTRACTOR SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND EXCEPT FOR INDEMNITY OBLIGATIONS FOR THIRD PARTY CLAIMS FOR PERSONAL INJURY, DEATH OR DAMAGE TO TANGIBLE PROPERTY TO EXTENT OF CONTRACTOR'S NEGLIGENCE, CONTRACTOR'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE CONTRACT, SHALL NOT EXCEED ONE MILLION DOLLARS PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER

THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

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

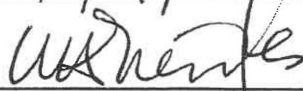
NORTHERN CALIFORNIA POWER AGENCY

EVOQUA WATER TECHNOLOGIES, LLC

Date 11/3/20

Date 10/29/2020





RANDY S. HOWARD,
General Manager

WILLIAM MERTES,
Director of Operations

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Evoqua Water Technologies, LLC ("Contractor") shall provide condensate polisher resin regeneration, DI mixed bed vessel rental and regeneration, RO & UF membrane cleaning, and other water treatment support 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:

CT Facilities services to include, but not be limited to the following:

Lodi Energy Center – Condensate Polisher

These units will be provided on a rental and exchange basis that will be charged \$100 per month per vessel rental and \$1,458.00 per exchange. The estimated exchange frequency is one (1) vessel per month but this number could change based on the feedwater to the vessels and resin performance. A minimum of two vessels are to be shipped for regeneration at any one time which will still allow for there to be sufficient resin capacity on site for the demineralization process. One vessel is to be in service, with one in standby and one in on-site inventory.

BOTTLE TYPES AND FUNCTIONS*

| Num. | Vessel Size | Resin Type | Bottle Function |
|------|----------------------|------------|---|
| 5 | 60 ft3 Steel Vessels | Mixed Bed | Removal of dissolved solids to produce de-ionized water |

*Note: These vessels remain the property of Evoqua.

FEEDWATER/TREATED WATER SPECIFICATIONS

I. Condensate polisher feed water characteristics:

| Parameter | Feed water | Unit |
|----------------------------------|-------------------|-------|
| Sodium | < 3 | ug/L |
| Chloride | < 3 | ug/L |
| Sulfate | < 3 | ug/L |
| Phosphate | < 3 | ug/L |
| Silica | < 10 | ug/L |
| Specific Conductivity | < 30 | uS/cm |
| Ammonia (as NH3) | < 5 | mg/L |
| Total Organic Carbon | < 300 | ug/L |
| Temperature Range, normal | 70-120 | °F |
| Temperature - peak during bypass | 160 for 30-60 min | °F |
| Total Iron | < 0.2 | mg/L |

ii. Treated Water Specification:

| Parameter | Feed water | Unit |
|----------------------------------|-------------------|-------|
| Sodium | < 1 | ug/L |
| Chloride | < 1 | ug/L |
| Sulfate | < 1 | ug/L |
| Phosphate | < 1 | ug/L |
| Silica | < 5 | ug/L |
| Specific Conductivity | < 0.1 | uS/cm |
| Temperature Range, normal | 90 | °F |
| Temperature - peak during bypass | 160 for 30-60 min | °F |

REGENERATION PROCEDURE QUALITY CONTROL, AND TROUBLESHOOTING

To provide increased reliability based on proximity, Evoqua worked to establish a reliable regeneration procedure specific for the NCPA condensate polisher resin that could be completed at our facility in Milpitas, CA. The general (approximately 8 hour) regeneration procedure is included below. Dedicated NCPA resin is regenerated alone and is not intermingled with our float resin or resin from another customer. The regeneration procedure is proprietary but we can share a more detailed summary upon request.

Procedure

- Vessel arrival and logging
- Resin separation anion/cation
- Inspect individual resin volume
- Add either or both anion and cation resin from NCPA maintained heel if necessary
- NaOH 50% anion soak – Extended
- HCl 36% cation soak – Extended
- Quality Check
 - <5ppb silica
 - >10 meg ohm resistivity

Quality Control and Troubleshooting

NCPA charges are received and segregated from all other resin as the first step to our quality control and tracking. Following the regeneration above, the following steps are completed to ensure that the resin processed meets the quality specification and run length anticipated:

- High purity DI Water rinse
- Measure rinse water for resistivity targeting >10megohm
- When resistivity target is reached – test rinse water for silica target is <5ppb
- Transfer to vessel, apply batch label, and make ready for shipment.

Troubleshooting is a subjective exercise based on the resin application and the issues being observed. However, a general approach to assessing performance includes:

- Interfacing with Operations to determine system performance
- Determining correct vessel resin volumes
- Vessel inlet/outlet water sampling
- Resin capacity testing

To ensure resin capacity, in addition the resin sampling associated with the current short run troubleshooting, we will conduct annual resin sampling before and after regeneration. Samples to be collected in Milpitas and transferred to Rockford for analysis.

A quality control report will be attached to and provided with the return of each vessel. The quality report will document the date and time the regeneration process started and finished, rinse water Silica, resistivity and chlorides, individual resin volumes as received, volume of resin added, heel volume remaining. Failure to provide the quality report will deem the vessel has not been regenerated. No charge will be incurred for such a vessel and it will be sent back unused for regeneration.

Agency's exhausted resin may be stored at Contractor's facility.

Lodi Energy Center – CT2 (STIG) Mixed Bed Polisher

These units and resin will be provided on a rental and exchange basis that will be charged \$265 per month per vessel rental and \$875.00 per exchange. The estimated exchange frequency is not readily predictable but based on historical data, we anticipate two (2) vessels per month. A minimum of two vessels are to be shipped for regeneration at any one time which will still allow for there to be sufficient resin capacity on site for the demineralization process.

BOTTLE TYPES AND FUNCTIONS*

| Num. | Vessel Size | Resin Type | Bottle Function |
|------|----------------------|------------|---|
| 8 | 60 ft3 Steel Vessels | Mixed Bed | Removal of dissolved solids to produce de-ionized water |

*Note: These vessels remain the property of Evoqua.

CT1 – Lodi Peaker / Alameda Peaker Mixed Bed Polisher

These units and resin will be provided on a rental and exchange basis that will be charged \$18.75 per month per bottle rental and \$62.00 per exchange. The estimated exchange frequency is not readily predictable but based on historical data, we anticipate 64 bottles per year.

BOTTLE TYPES AND FUNCTIONS*

| Facility | Num. | Bottle Size | Resin Type | Bottle Function |
|----------|------|---------------------|------------|---|
| Lodi | 16 | 3.6 ft3 FRP Bottles | Mixed Bed | Removal of dissolved solids to produce de-ionized water |
| Alameda | 16 | 3.6 ft3 FRP Bottles | Mixed Bed | Removal of dissolved solids to produce de-ionized water |

*Note: These vessels remain the property of Evoqua.

Deionized Mixed Bed Vessel and Bottle Specifications

| Parameter | Unit | CT2 (STIG) | CT1 Lodi Peaker | CT1 Alameda Peaker |
|-------------|------------|---------------------|-----------------|--------------------|
| Quantity | No. | 6 (4 in svc 2 stby) | 12 | 16 |
| Volume | Cubic Feet | 60 | 3.6 | 3.6 |
| Resistivity | Meg Ohm/cm | >10 | >10 | >10 |
| Silica | Ug/L | <20 | <20 | <20 |

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:

CT Facilities costs:

| <u>Cost Summary</u> | |
|------------------------------------|------------------------------|
| <u>Item</u> | <u>Estimated Annual Cost</u> |
| Condensate Polisher Rental | \$6000/year |
| Condensate Polisher Regen | \$14,175/year |
| 60 cu. ft. DI Vessel Rental | \$25,440/year |
| 60 cu. ft. DI Vessel Regen | \$15,750/year* |
| 3.6 cu. ft DI Vessel Rental | \$7,200/year |
| <u>Estimated Annual Total Cost</u> | <u>\$68,565/yr</u> |

*based on historical exchange frequency

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, William A. Meites

(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

Evoqua Water Technologies, 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.

William A. Meites
(Signature of officer or agent)

Dated this Oct 29 day of _____, 20 20.

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

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, William A. Meites

(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,

Evoqua Water Technologies, LLC

(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.

William A. Meites
(Signature of officer or agent)

Dated this 08 29 day of _____, 2020

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)

EXHIBIT F

Throughput Volume Determination Plan

SUMMARY

Due to the high variability of throughput volumes observed over the past several years, a mutually equitable throughput guarantee could not be determined and included in the current contract renewal. Through review of the data and discussions between Evoqua and NCPA Operations staff, a plan was developed to determine and address the causes of the variability. With the variability addressed, we are confident a mutually agreeable throughput volume guarantee can be determined.

APPROACH

Evoqua observed a recent resin slurry operation, performed by NCPA. At the end of the slurry process, a significant amount of exhausted resin remained in the vessel, visually estimated to be between 10% - 15% of the resin load. Exhausted resin, when later mixed with regenerate resin, will impact the subsequent run by increasing leakage of inorganic constituents. In order to verify that this is the cause of short runs, a mutually-agreed-upon approach was developed to ensure all resin is removed during the slurry process. For the data to be meaningful, the effort will target three consecutive slurry/regeneration events. Historically, for successful runs, the average run time has been about 2.5 months. However, the duration is highly variable based upon plant operation. As a result, the process of generating the necessary data will take several months to complete.

ACTIONS

During each of the next three vessel slurry/regen operations:

- Contact Evoqua prior to initiating sluicing to allow for Evoqua participation
- NCPA to confirm all resin is removed during the sluicing process, preferably with photographs
- Evoqua to grab samples of spent resin prior to and after regeneration for analysis. Analysis will define the level of exhaustion on receipt and validate the efficacy of the regeneration process by measuring the H/OH conversion %.
- Evoqua to photo-verify removal of all resin from transport vessel prior to regeneration.
- Evoqua to quantify that the volume and ratio of spent resin received, and after regeneration. The target regenerated resin volume is 54 cuft with a 2:1 ratio of cation to anion.
- If required, Evoqua will add resin as required to meet the target volume and ratio
- NCPA to track analytical data (NCPA LEC Steam Cycle Chemistry Log) on a periodic basis, as well as total throughput achieved (Condensate Polisher Log) and share that data with Evoqua for mutual verification

Additional step for short run:

- Open 20" manway to inspect resin bed PRIOR to sluicing
- o Due to the high velocity operation, bed mixing is possible, and inspection may provide insight into this possible contributor to a short run

CONCLUSION

Data review after the conclusion of the three controlled vessel change outs will be used to identify a mutually agreeable throughput guarantee.

FIRST AMENDMENT TO MULTI-TASK GENERAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND EVOQUA WATER TECHNOLOGIES, LLC

This First Amendment ("Amendment") to the Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Evoqua Water Technologies, LLC ("Contractor") (collectively referred to as "the Parties") as of _____, 2021.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement dated effective November 1, 2020, (the "Agreement") for Contractor to provide condensate polisher resin regeneration, DI mixed bed vessel rental and regeneration, RO & UF membrane cleaning, and other water treatment support services; and

WHEREAS, the Agency now desires to amend the Warranty and Remedies language set forth in Sections 12.1 and 12.2 to the Agreement; and

WHEREAS, the Agency now desires to amend the pricing set forth in Exhibit B to the Agreement; 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 12.1 Warranty** is amended and restated to read as follows:

Any deviations from the requirements, assumptions or conditions contained of this section 12 will void the warranty. Agency must ensure that all conditions set forth in this section, including all the feedwater water parameters listed in Exhibit A, ("Incoming Water") are met including Agency provided materials, equipment, facilities, utilities, and other things, described herein. This warranty shall be deemed void if Agency fails to meet any of the following obligations pertaining to media use and the system in which media is used.

For Lodi Energy Center Condensate Polishers, Contractor will guarantee 28,000,000 gallons throughput.

The warranty shall be deemed void if the Agency fails to meet the following influent water conditions:

- a. Feed water must not contain any oxidizing agents including, without limitation, chlorine, ozone or permanganate.
- b. Sequestrants, cleaning or treatment chemicals, and any other chemicals used in the system must be compatible with the media.
- c. Influent water to each vessel shall be free of entrained air to the extent that entrained air could disrupt media beds in any system.

- d. Bacteria levels in the influent and influent delivery mechanisms such as, for example, piping and manifolds in any well, shall be <5 cfu/ml. If Contractor Water Technologies is requested to backwash and sanitize a specific media bed after the start of a particular run then Condition a. applies. Furthermore, the detection of bacteria at any level in the influent and influent delivery mechanisms may compromise the media bed life. Therefore, Contractor assumed no responsibility or liability relating to the bacteriological quality of the incoming water or within the wells and shall bear no costs relating to media sterilization due to bacteria in the incoming water or elsewhere in the wells.
- e. Should any of the sodium, chloride, sulfate, phosphate, silica, specific conductivity, ammonia, total organic carbon, temperature range, temperature peak, and total iron values exceed the feedwater water parameters listed in Exhibit A, the warranted treatment volume will be adjusted and a new Warranty would be provided.

This section 12.1 does not require Agency to do any additional monitoring.

2. **Section 12.2 Remedies** is amended and restated to read as follows:

The sole remedy for each of Contractor's vessel that fails to reach 50% of this mix bed guarantee is a full credit for the regeneration cost will be applied to Agency's account. If a vessel reaches 50%-100% throughput, then a pro-rated credit for the regeneration cost will be applied to the Agency's account. For example, if the throughput is 21,000,000 gallons, then the Agency would only pay for 75% of the price.

3. **Exhibit B – COMPENSATION SCHEDULE AND HOURLY FEES** is amended and restated to read in full as set forth in the Attached Exhibit B.
4. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

Date:_____

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

EVOQUA WATER TECHNOLOGIES, LLC

RANDY S. HOWARD, General Manager

AARON BOLES, Area/District Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

CT Facilities costs:

| <u>Cost Summary</u> | |
|------------------------------------|------------------------------|
| <u>Item</u> | <u>Estimated Annual Cost</u> |
| Condensate Polisher Rental | \$6000/year |
| Condensate Polisher Regen | \$14,175/year |
| 60 cu. ft. DI Vessel Rental | \$25,440/year |
| 60 cu. ft. DI Vessel Regen | \$15,750/year* |
| 3.6 cu. ft DI Vessel Rental | \$7,200/year |
| <u>Estimated Annual Total Cost</u> | <u>\$68,565/yr</u> |

*based on historical exchange frequency

The rate for weekend and emergency delivery of tanks to CT1, CT2 and LEC, not due to fault of Contractor, will be \$150/hour with a four (4) hour minimum.

Pricing for services to be performed at other NCPA facilities, NCPA Member or SPCPA 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.



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 15

Date: October 11, 2021

To: Lodi Energy Center Project Participant Committee

Subject: Hometown Connections, Inc. – First Amendment to Five Year Multi-Task Consulting Services Agreement Applicable to Northern California Power Agency (NCPA), NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

Proposal

Approve the First Amendment to the Multi-Task Consulting Services Agreement with Hometown Connections, Inc. for various consulting related tasks including but not limited to organization assessments, strategic planning, market research, and training, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed to \$1,000,000, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, the Southern California Public Power Authority (SCPPA), or SCPPA Members.

Background

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

On July 19, 2019, NCPA entered into a five-year Multi-Task Consulting Services Agreement with HCI, for services to the Agency and/or its Members in an amount not-to-exceed \$250,000. Since inception, HCI's contract has been used six times by NCPA Members (Redding (3), Alameda, Lompoc, and Truckee Donner) nearing the not-to-exceed limit. Due to expressed Member interest, the Agency now desires to amend the agreement to increase the total compensation from the not-to-exceed amount of \$250,000 to a not-to-exceed amount of \$1,000,000 over the term. NCPA's investment in HCI as a founding member in 2018 was for just this purpose – to provide access to technology and services and integrated solutions that are specifically designed to help public power utilities succeed in the communities they serve.

Selection Process

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

required.

Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$1,000,000 over the remaining term of the agreement. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Monty Hanks
Assistant General Manager
Administrative Services

Attachments:

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



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND HOMETOWN CONNECTIONS, INC.

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Hometown Connections, Inc., a Delaware charitable nonstock corporation created by its Members, with its office located at 12081 W. Alameda Pkwy, #464, Lakewood, CO 80228-2701 ("HCI" or "Consultant") (together sometimes referred to as the "Parties") as of 7/19/, 2019 ("Effective Date") in Roseville, California.

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

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

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

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

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

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

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

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

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

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

4.3 Professional Liability Insurance. Intentionally omitted

4.4 All Policies Requirements.

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

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

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

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

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

4.5 Consultant's Obligation. Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this

Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONSULTANT.

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

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the

payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

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

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

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

- 6.4 **Certification as to California Energy Commission.** This agreement is not intended for use at NCPA's Lodi Energy Center.

Section 7. LEGAL REQUIREMENTS.

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1 Immediately terminate the Agreement;
- 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

- 8.4.3** Retain a different consultant to complete the Services not finished by Consultant; and/or
- 8.4.4** Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

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

or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

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

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

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

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

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

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

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

Section 10. MISCELLANEOUS PROVISIONS.

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

Mr. Tim Blodgett, President and CEO
Hometown Connections, Inc.
12081 W. Alameda Pkwy., #464
Lakewood, CO 80228-2701

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 10.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:
- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

- 10.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

Date 7/19/2019

Wally Haul for

RANDY S. HOWARD, General Manager

HOMETOWN CONNECTIONS, INC.

Date 7/22/19

TL Blodgett

TIM L. BLODGETT, President and CEO

Attest:

[Signature]

Assistant Secretary of the Commission

Approved as to Form:

[Signature]

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

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

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

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

Subcontractors utilized by Consultant include:

- Phyllis E. Currie
- Thomas Nanney
- Paul H. Allen, P.E.
- Susan Ryba

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

The hourly rates and or compensation break down and an estimated amount of expenses will be quoted at the time services are requested.

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



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

This First Amendment (“Amendment”) to Multi-Task Consulting Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Hometown Connections, Inc. (“Consultant”) (collectively referred to as “the Parties”) as of _____, 2021.

WHEREAS, the Parties entered into a Multi-Task Consulting Services Agreement dated effective July 19, 2019, (the “Agreement”) for Hometown Connections, Inc. to provide consulting services based on public power best practices including organization assessment, strategic planning, compensation studies, management consulting, training and workshop services, and other services as requested; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a “NOT TO EXCEED” amount of \$250,000 to a NOT TO EXCEED amount of \$1,000,000; and

WHEREAS, the Parties now desire to amend the Scope of Services set forth in Exhibit A to the Agreement to update the listed subcontractors utilized by Consultant; 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 Consultant an amount **NOT TO EXCEED** one million dollars (\$1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

The remainder of Section 2 of the Agreement is unchanged.

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

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

Date:_____

HOMETOWN CONNECTIONS, INC.

RANDY S. HOWARD, General Manager

TIM L. BLODGETT, President and CEO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

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

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

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

Subcontractors utilized by Consultant include:

- Phyllis E. Currie
- Susan Ryba



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 16

Date: October 11, 2021
To: Lodi Energy Center Project Participant Committee
Subject: Approval of Major Insurance Renewals for Policy Year 2022

Proposal

LEC PPC delegate authority to the General Manager to negotiate and bind policy year 2022 property and liability coverages at a not-to-exceed amount of \$1,300,000. This authority includes a not-to-exceed of \$1,100,000 for property insurance and \$200,000 for liability insurance.

Background

Property Program

Last year when the Agency embarked on the 2021 insurance marketing, it was a challenging renewal process. The property insurance market continued to harden and the Agency was faced with the catastrophic loss of the LEC turbine with insurers paying out \$44 million for the claim. The Agency found itself in a difficult position where we had to increase our not-to-exceed authority three times. As a result, the property premium almost doubled from the prior year.

Despite this setback, the Agency made a commitment to the Members to hit the 'reset' button on our approach to marketing our insurance program and included it in our 2021-2026 Strategic Plan to "*Develop a strategy for long-term, cost-effective insurance coverage.*" The Agency terminated the agreement with our insurance broker, Aon Risk Solutions, and issued an RFP to five capable firms. The Agency selected Alliant Insurance Services to serve as our insurance brokerage consultant.

Each insurance policy and the related insurance market conditions are reviewed before the renewal date and remarketed as requirements for qualified insurers experienced in underwriting the applicable insurance risk. Current property and liability insurance coverage expire on December 15 and December 31, 2021, respectively. NCPA met with Alliant in August 2021 to strategize how to approach the markets this year and decided on the following:

1. Find new markets to bid on our program
2. Focus on further strengthening our current market relationships
 - a. When safe, schedule onsite visits, tours and in-person meetings
 - b. Attend industry conferences
 - c. Communicate frequently throughout the year
3. Enhance program effectiveness
 - o Focus on concurrency in terms and conditions
 - o Remain open to evaluating alternative levels of insurance for NCPA
 - o Appraise assets in 2022, as currently scheduled

In September 2021, Alliant scheduled 13 meetings with nine US and twelve London underwriters; both incumbent and new markets. Overall, the meetings went well but feedback from our incumbents made it clear the market is still facing another year of premium increases due to market conditions and the continued recovery of the LEC loss. Most underwriters quoted that we would see a “meaningful” or “significant” rate increase in excess of 20% and some indicated to expect higher deductibles. LEC’s share of the property premium was \$1,290,000 in 2021. A minimum increase of 20% would mean a premium increase of \$258,000 as shown in the table below.

| | Expiring Policy | | | Estimated Renewal | |
|-------------------|------------------|--------------|--------------------|-------------------|--------------------|
| | % of Program | Full Premium | Net Premium | Full Premium | Net Premium |
| AEGIS | 39% | \$3,500,000 | \$1,365,000 | \$4,200,000 | \$1,638,000 |
| AIG | 20% | \$7,450,000 | \$1,490,000 | \$8,940,000 | \$1,788,000 |
| Swiss Re | 10% | \$4,077,670 | \$407,767 | \$4,893,204 | \$489,320 |
| Munich Re | 10% | \$3,555,261 | \$355,526 | \$4,266,313 | \$426,631 |
| Lloyds Syndicates | 10% | \$5,520,100 | \$552,010 | \$6,624,120 | \$662,412 |
| Starr Tech | 3.50% | \$6,443,196 | \$225,512 | \$7,731,835 | \$270,614 |
| EIM | 3% | \$3,500,000 | \$105,000 | \$4,200,000 | \$126,000 |
| Helvetia | 2.50% | \$5,417,500 | \$135,438 | \$6,501,000 | \$162,525 |
| AEGIS Lloyds | 2% | \$3,462,138 | \$69,243 | \$4,154,566 | \$83,091 |
| Terrorism | | | \$49,960 | | \$59,952 |
| | 100% | | \$4,755,455 | | \$5,706,546 |
| | | | | | |
| | LEC Share | | \$1,290,000 | | \$1,548,000 |

New Market - FM Global

Shortly after the last renewal, staff reached out to FM Global directly given their significant experience and strong reputation in the property insurance market. Founded in 1835, FM Global insures more than a third of the Fortune 1000 companies and total assets in excess of \$25 billion. FM Global takes an engineering-first approach helping their clients be resilient against natural disasters— and this philosophy matched our core principles. FM Global is guided by the belief that most losses are preventable and they will dig deep to understand each business’ needs to help reduce risk.

We marketed our program to them in 2018, but never understood why they did not provide our broker with a quote. We learned very quickly that they perform their own Loss Control analysis and do not rely on other firms reports when evaluating risk—meaning FM Global’s robust underwriting process takes more time to complete than others in the industry. Since the marketing of NCPA’s program starts just three months prior to expiration of our program, this was not enough time to coordinate site visits for FM Global engineers. In order to have FM Global quote the program, NCPA held weekly meetings beginning in February and eventually scheduled site visits in April, May and June. After FM Global completed its review, a meeting with the Plant Managers was held to review findings and recommendations. This was the critical last step prior to FM Global providing a quote. To put this in perspective, AEGIS, the current incumbent with a 39% share, scheduled virtual loss control visits. Feedback received from the Plant Managers regarding the loss control process was more positive with the FM Global team than the AEGIS team.

A comparison of key terms in the expiring program and FM Global's proposal is detailed in the table below:

| | Expiring | Est. Renewal | 100% of Account | | |
|--|--|-----------------|--------------------------------|--------------------|--------------------|
| | Stacked Program | Stacked Program | FM Global Option 1 | FM Global Option 2 | FM Global Option 3 |
| Premium | \$4,755,455 | \$5,706,546 | \$3,402,621 | \$3,692,561 | \$4,094,315 |
| LEC Share* | \$1,290,000 | \$1,548,000 | \$923,020 | \$1,001,671 | \$1,403,425 |
| | | | | | |
| Policy Limit | \$325,000,000 | | \$500,000,000 | | |
| Business Interruption** | \$0 | | \$0 | \$0 | \$50,000,000 |
| Earth Movement | \$75,000,000 | | \$40,000,000 | \$75,000,000 | \$75,000,000 |
| Flood | \$75,000,000 (aggregate) | | \$100,000,000 (per occurrence) | | |
| Debris Removal | lesser of \$25,000,000 or 25% of loss | | | | |
| Decontamination Costs | \$5,000,000 | | | | |
| Demolition | \$25,000,000 | | | | |
| Water Damage | \$5,000,000 | | | | |
| | | | | | |
| Deductibles | | | | | |
| Property | 3.5% @ \$5m, 2.5% @ \$2.5m 54% @ \$1m, 40% @ \$500k; Total \$978k | | \$1,000,000 | | |
| LEC Turbines | 3.5% @ \$5m, 3% @ \$2.5m 84% @ \$2m, 10% @ \$1m; Total \$2.018m | | | | |
| Flood | 3.5% @ \$5m, 2.5% @ \$2.5m 54% @ \$1m, 40% @ \$500k; Total \$978k | | | | |
| Wildfire | \$10,000,000 | | \$1,000,000 | | |
| | | | | | |
| Term | One Year | | Two Year | | |
| *Assumes allocation based on percentage of AV | | | | | |
| **Option 3 includes BI for LEC. BI is purchased by Hydro & Geo | | | | | |

As shown in the table, FM Global's proposal has several enhancements in critical areas such as providing a policy limit of \$500 million versus \$325 million and higher limits in other sublimits. In addition to the policy enhancements and reduced premium, FM Global provides other value-added services that help reduce NCPA risk, truly making this a partnership. Loss control visits and engineering services are included at no additional charge. For example, if staff engages in a large or complex project, the FM Global team of engineers are ready to assist with plan review services providing their input based on their experiences and data fact sheets, where applicable.

The remaining markets have been directed to provide their indications by the week of October 18th. Unless they can competitively quote, match (or improve) policy coverages, and provide similar value-added services, staff plans to bind property coverages with FM Global.

FM Global's proposal includes three options for the LEC PPC members to consider. Staff recommends selecting Option 2, keeping the Earth Movement at \$75 million. While the likelihood of an earthquake is unknown, the policy limit is based on an aggregate total. Damage from one earthquake could use the majority, if not all, of the \$40 million aggregate offered in Option 1 very quickly, limiting available protection and increasing potential exposure if another earthquake impacts one of our other facilities during the same policy period. In addition, staff does not see the value of adding Business Interruption insurance in Option 3 due to the LEC being scheduled for a 3-month outage in 2022, a new engine, and a 60-day deductible. However, the LEC PPC can provide their input and recommendation for Commission approval.

If Option 2 is selected, staff recommends a not-to-exceed authority of \$1.1 million providing sufficient room to bind coverage.

Casualty Program

Alliant Insurance Services plans to target an aggressive marketing of the primary liability program to ensure best in class pricing, terms, and conditions. Since LEC has no transmission lines and is not located in one of the CPUC's wildfire threat tiers, liability insurance is much easier and more cost effective to obtain. Last year, staff sought a not-to-exceed amount of \$209,100 and the actual premium was \$150,369. While Alliant is estimating an increase of 15% to the program (resulting in a new premium of around \$173,000), staff recommends establishing a not-to-exceed of \$200,000 to provide sufficient flexibility for the General Manager to bind coverage.

Fiscal Impact

The total cost of the policy year 2022 insurance programs is an estimated, not-to-exceed of \$1,300,000 for property and liability insurance premiums. The LEC PPC is estimated to save almost \$300,000 in property premiums over the expiring program in 2022. The Liability coverage is expected to increase approximately 15%. Staff will return in January with a final report of coverages and premiums.

Environmental Analysis

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

Submitted by:

Monty Hanks
AGM Administrative Services