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Lodi, CA 95242

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LEC PPC Agenda

Date: November 4, 2020

Subject: November 9, 2020 Lodi Energy Center Project Participant Committee Meeting

Location: 651 Commerce Drive, Roseville, CA 95678 OR via Teleconference

Time: 10:00 a.m.

***This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, Governor Newsom's Emergency Declaration related to COVID-19, and Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by LEC PPC 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, Executive Order N-29-20, 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 October 12, 2020 Regular Meeting Minutes

MONTHLY REPORTS

4. Operational Report for October 2020 – (Rafael Santana)

5. Market Data Report for October 2020 – Verbal Report (Zakary Liske)

6. Monthly Asset Report for September 2020 – (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 September 2020 – Accept by all Participants

9. Financial Report for September 2020 – 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. ORR Protection Systems, Inc. First Amendment to MTGSA** – Staff is seeking a recommendation for approval of a First Amendment to the Multi-Task General Services Agreement with ORR Protection Systems, Inc., increasing the not to exceed amount from \$1,500,000 to \$3,000,000, with no change to the contract term, for continued use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 12. Process Innovations, Inc. First Amendment to MTCSA** – Staff is seeking a recommendation for approval of a First Amendment to transfer assignment of Five Year Multi-Task Consulting Services Agreement for OSISoft PI support services to Brandenburg Holdings, LLC dba Process Innovations/Process Plugins, and approval of related Standard Software License Agreement, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members..
- 13. Tesco Controls, Inc. MTGSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task General Services Agreement with Tesco Controls, Inc. for integrated electrical and process control systems services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members.
- 14. FY2020 Annual Billing Settlements** – Staff is seeking a recommendation for approval of the FY2020 Annual Billing Settlements for the period of July 1, 2019 through June 30, 2020.

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

- 15. 2021 Insurance Renewal** – Staff is seeking a recommendation for approval of the NCPA Major Insurance renewals for 2021.
- 16. APPA DEED Grant Agreement** – Staff is seeking a recommendation for approval of a Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement with the American Public Power Association (APPA), with any non-substantial changes recommended and approved by the NCPA General Counsel, to accept a grant of \$48,450 to be used toward completing a Green Hydrogen Electrolyzer Feasibility Study. And grant APPA non-exclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, market and support, in all mediums including APPA's website, all information, materials and work product, including reports, abstracts, videos, guidebooks, software programs, documentation, and other deliverables, created pursuant to this Grant (collectively, the "Work").
- 17. Appointment of a New Chairperson for LEC PPC Committee** – Election of new Chairperson to conduct the business of the LEC Project Participant Committee.
- 18. Appointment of a New Vice Chair for LEC PPC Committee** – Election of a new Vice Chair to conduct the business of the LEC Project Participant Committee.

INFORMATIONAL/ DISCUSSION ITEMS

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.

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

ADJOURNMENT

Next Regular Meeting: December 7, 2020 at 10:00 a.m.

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

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LEC PPC Meeting Minutes

Date: October 12, 2020

Time: 11:00am

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 11:06am by Chairman Jiayo Chiang. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Alqaser	Present	33.5000%
Gridley - Eckert	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	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	7	85.1858%
Absent	6	14.8142%
Quorum by #:	Yes	
Quorum by GES:	Yes	

Meeting Date:

October 12, 2020

Public Forum

Chairman Chiang 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 September 14, 2020 were considered. The LEC PPC considered the following motion:

Date: 10/12/2020

Motion: The PPC approves the minutes from the September 14, 2020 regular LEC PPC meeting.

Moved by:

SVP

Seconded by:

CDWR

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	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:		Motion Passes

MONTHLY REPORTS

4. Operational Reports for September 2020

Rafael Santana presented the Operational Report for September 2020. There were no OSHA recordable accidents and no NERC/WECC violations. There were forced outages in September due to a bad vibration probe on the exhaust of the gas turbine and a loose positioner on the steam pressure-regulating valve between 9/12/2020-9/16/2020. The next planned outage is April 2021. Planning continues for the steam turbine and generator six-week major outage in 2022/2023.

The operational report reflected monthly production of 145,060 MWH, 559 service hours, and equivalent operating availability of 98.6%. The report set for the Capacity Factor @ 302MW Pmax of 64.6%. There were 6 hot starts, 14 warm starts, and 0 cold starts during the month.

5. Market Data Report for September 2020

Zackary Liske mentioned the operating and financial settlement results for the month. LEC was committed to CAISO 18 out of 30 available days. Most runs were between 6-11 hours in the afternoons and evenings and 6 days straight runs in the month of September. There were 12 days not committed.

6. Monthly Asset Report

Michael DeBortoli presented the monthly asset report for August 2020. Michael mentioned August was a strong month for revenues and the fixed costs are on track with the forecast for LEC. LEC continues to track with the budget. This is the second strongest August in LEC's history.

7. Bidding Strategies Report

Jesse Shields presented the Bidding Strategies Report for September 2020. 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 8-17)

The consent calendar was considered. Chairman Chiang 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: 10/12/2020

Motion: The PPC approves the Consent Calendar items consisting of agenda items no.:
8. Treasurer's Report for August 2020; **9.** Financial Report for August 2020; **10.**

GHG Reports (excerpted from the Monthly ARB); **11.** Evoqua Water Technologies MTGSA for water services including condensate polisher/DI mix bed vessel services, not to exceed \$1,000,000, for use at all NCPA facilities and Members/SCPPA; **12.** Ancon Marine dba Ancon MTGSA for specialized high pressure cleaning services, not to exceed \$2,000,000, for use at all NCPA facilities and Members/SCPPA; **13.** Rege Construction, Inc. MTGSA for maintenance services including grading, excavation and paving, not to exceed \$1,000,000, for use at all NCPA facilities and Members/SCPPA; **14.** Brian Davis dba Northern Industrial Construction MTGSA for miscellaneous maintenance services including welding and safety/fire watch services, not to exceed \$2,500,000, for use at all NCPA facilities and Members/SCPPA; **15.** MP Environmental Services, Inc. MTGSA for removal and replacement of sulfur bins, phase separators, and vacuum truck services, not to exceed \$3,000,000, for use at all NCPA facilities; **16.** Pure Process Filtration, Inc. MTEMS for filters and filter storage, not to exceed \$1,000,000, for use at NCPA CT's facilities only; **17.** PMOA Schedule 1.00, Exhibit 5 update to reflect the current CAISO GMC rates.

Moved by:
Seconded by:

CDWR
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	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:	Motion Passes	

BUSINESS ACTION ITEMS

18. NCPA CT Facilities – 2022 LEC Major Outages Parts Purchase

Rafael Santana reviewed the proposal for the LEC major parts purchase with the Committee for the 2022 outage. The Siemens OEM, parts for the gas turbine and steam turbine generators as described in the Long Term Program (LTP), will come from LEC's Maintenance Reserve Funds.

Date: 10/12/2020

Motion: Staff is seeking a recommendation for approval of funds to purchase parts as per the Long Term Program (LTP) agreement between NCPA and Siemens, for a total not to exceed amount of \$2,500,000, and approval for these funds to come from the LEC Maintenance Reserve Fund.

Moved by: SVP
Seconded by: Azusa

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	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:	Motion Passes	

19. NCPA CT Facilities – First Amendment to Second Amended and Restated Ground Lease

Michael DeBortoli reviewed the proposal to amend the Second Amendment and Restated Ground Lease to the Committee. The request is to increase the lease payment for the LEC Annex Land Improvement Project to store the 2022 LEC major outage parts. Melissa Price mentioned the increase to the lease goes into effect once approved and executed by the City of Lodi and NCPA.

Date: 10/12/2020

Motion: Staff is seeking approval of a First Amendment to the Second Amended and Restated Ground Lease with the City of Lodi, adding additional Annex area to lease, increasing the total annual lease payments to \$1,040,620, with no change to the agreement term, for use at NCPA's CT facilities.

Moved by:

SVP

Seconded by:

CDWR

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	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:	Motion Passes	

20. NCPA CT Facilities – LEC Annex Land Improvement Project

Michael DeBortoli reviewed the proposal for the LEC Annex Land Improvement Project with the Committee. The request described the additional annex land needed for the 2022 LEC major outage part storage. Vice Chairman Ghassan Alqaser confirmed this project is for long-term storage.

Date: 10/12/2020

Motion: Staff is seeking a recommendation for approval for the LEC Annex Land Improvement Project, granting authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the project in accordance with NCPA procurement policies and procedures, without further approval by the Commission, for a total not to exceed project amount of \$300,000, including approval for this project to be funded from the LEC Maintenance Reserve.

Moved by: CDWR

Seconded by: 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	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Absent	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	7	85.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	14.8142%
Result:	Motion Passes	

21. – Amendment to LEC PMOA Schedule 11

Tony Zimmer pulled this item from discussion.

INFORMATIONAL ITEMS

22. FY2020 Annual Billing Settlements Review

Sondra Ainsworth presented information on the FY2020 annual billing statement results. The preliminary results indicate the forced outage produced less O&M expenses and a lower production of generation. The Committee was presented with details to O&M, Labor, Other Costs and Projects.

Sondra shared the next steps with the Committee. Accounting will bring this back for approval at the November 9th LEC PPC Meeting. It will then be presented for approval at the December 3rd Commission Meeting.

23. Additional Operational Updates

Joel Ledesma provided a status update on PG&E's application for recovery of 2011-2015 capital expenditures and the CPUC filing process.

Michael DeBortoli presented a PowerPoint presentation about the hydrogen market in the world. Michael mentioned the advancements in commercial industry applications for hydrogen.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, November 9, 2020 at 10:00am.

The meeting was adjourned at 12:03 pm.

Submitted by: Melissa Conrad

Lodi Energy Center Project Participant Committee

Operational Report

Agenda Item No.: 4

Date: 11/09/2020

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:

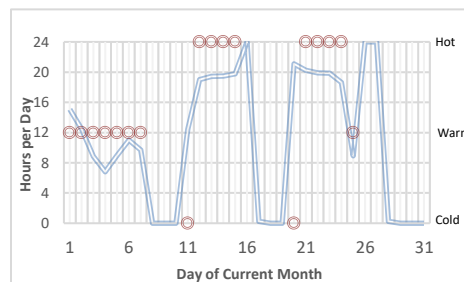
- 10/17 @ 00:13 - 10/19 @ 14:22: PG&E Gas Supply Outage, OMS 9271927
- 10/28 @ 00:00 - 23:59: Steam Leak Repair, OMS 9335388

Planned Outage Summaries:

- April 1-30, 2021 Planned Outage
- 2022/2023 ST and Gen – Major Inspection (6 weeks outage)

Generating Unit Statistics:**Date:** 10/1/2020

1. Monthly Production	145,060	MWH
2. Productivity Factor		
a. Service Hours	559	Hours
b. Service Factor	75.2%	%
c. Capacity Factor @ 302MW Pmax	64.6	%
3. Equivalent Operating Availability (EOA)	98.6	%
4. Forced Outage Rate (FOR)	1.8	%



5. Heat Rate Deviation

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

MW Range	PMOA HR BTU/kw-Hr	Average HR BTU/kw-Hr	Deviation %	Production MWH	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	6,940	1.02%	49,110	\$13,818
Seg. 3 275 - 284	6971	6,976	0.07%	50,119	\$963
Seg. 4 250 - 275	7081	7,006	-1.06%	20,842	-\$6,283
Seg. 5 225 - 250	7130	7,109	-0.29%	11,641	-\$958
Seg. 6 200 - 225	7200	7,200	0.00%	2,614	\$2
Seg. 7 175 - 225	7450	7,549	1.32%	3,861	\$1,523
Seg. 8 165 - 175	7760	7,873	1.46%	2,680	\$1,217
	7,164	7,236	0.25%	140,868	\$10,281

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	-1	1	\$22
Seg. 3 275 - 284	0	-1	1	\$27
Seg. 4 250 - 275	1	-2	2	\$65
Seg. 5 225 - 250	1	-2	2	\$66
Seg. 6 200 - 225	2	-8	10	\$274
Seg. 7 175 - 225	4	-14	18	\$559
Seg. 8 165 - 175	0	-1	1	\$21
	7	-28	35	\$1,034

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	6	14	0
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	91	122	0
Start Time Deviation (%)	21%	11%	0%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,089	1,086	0
Fuel Deviation (%)	-16%	-40%	0%
Costs of Fuel Deviations (\$)	-\$5,065	-\$39,970	\$0



LEC PPC Meeting

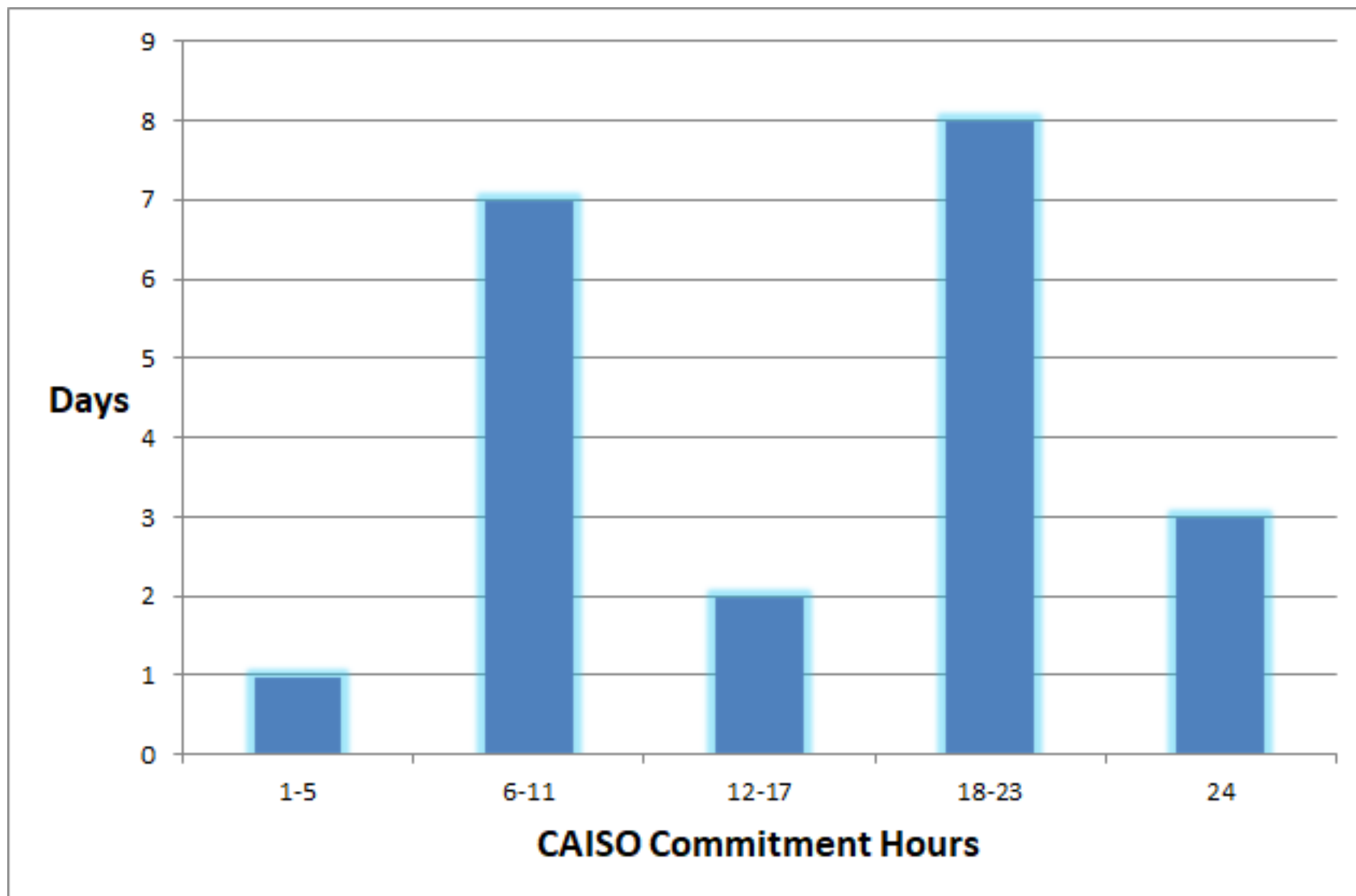
November 9, 2020

**October 2020 Market Financial
Results**

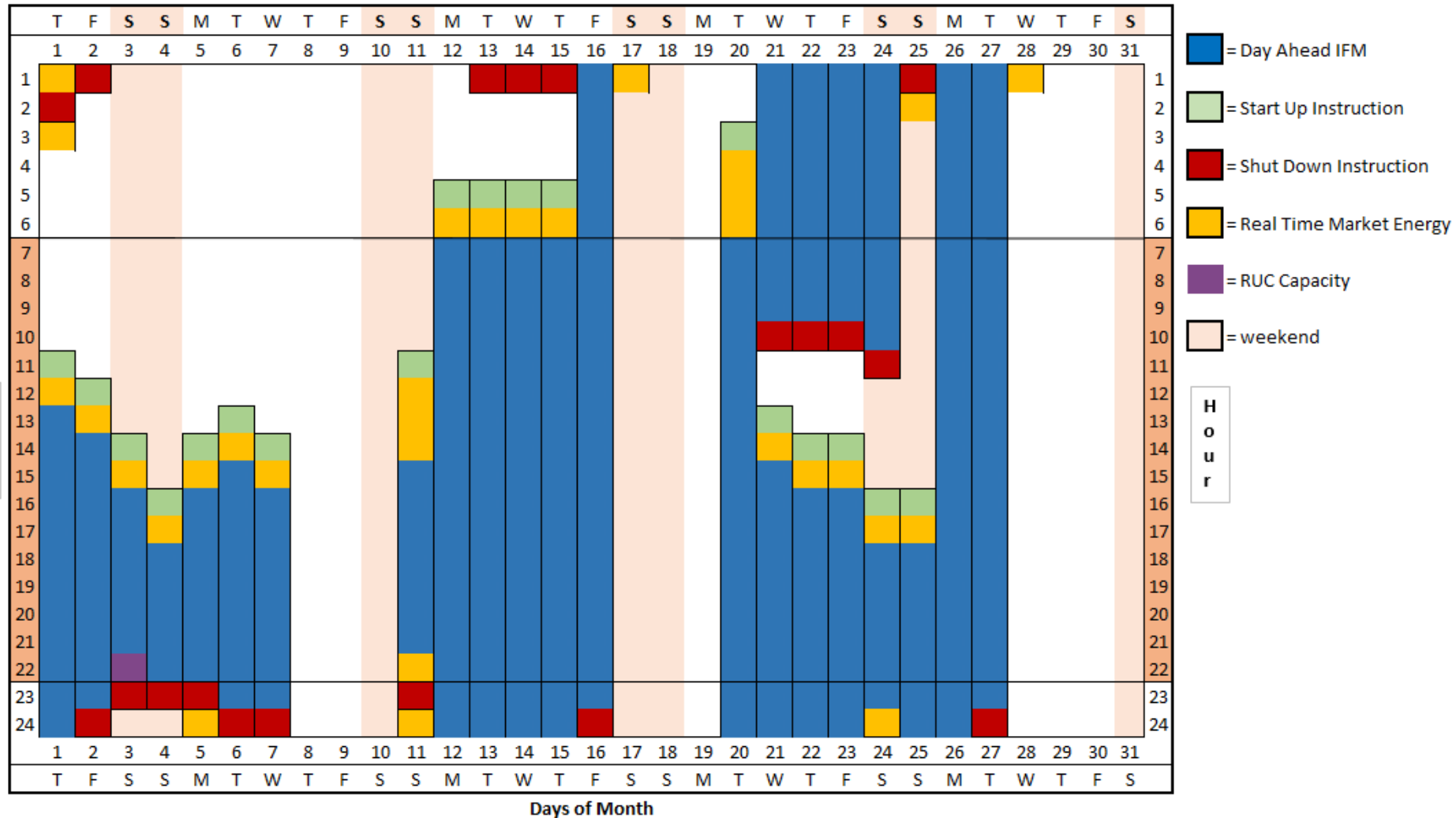
LEC Operational Results for October 2020

- Resource Adequacy Availability Metrics:
 - 85.71% - Monthly Assessment Generic Performance
 - 85.51% - Monthly Assessment Flexible Performance Vs
 - 96.5% Availability Standard
- RAAIM Non-Availability Charge Amount:
 - \$41,682 for Generic RA based on claimed 125.31 mw
 - \$ 5,142 for Flexible RA based on claimed 16.48 mw
- LEC was committed by CAISO for Market energy 21 of 31 available days
 - 7 days unavailable due to forced outage
 - 10/7 - 10/9 due to PG&E gas line inspection
 - 10/28 - 10/31 due to steam leaks in steam turbine
 - 3 days not committed due to economics

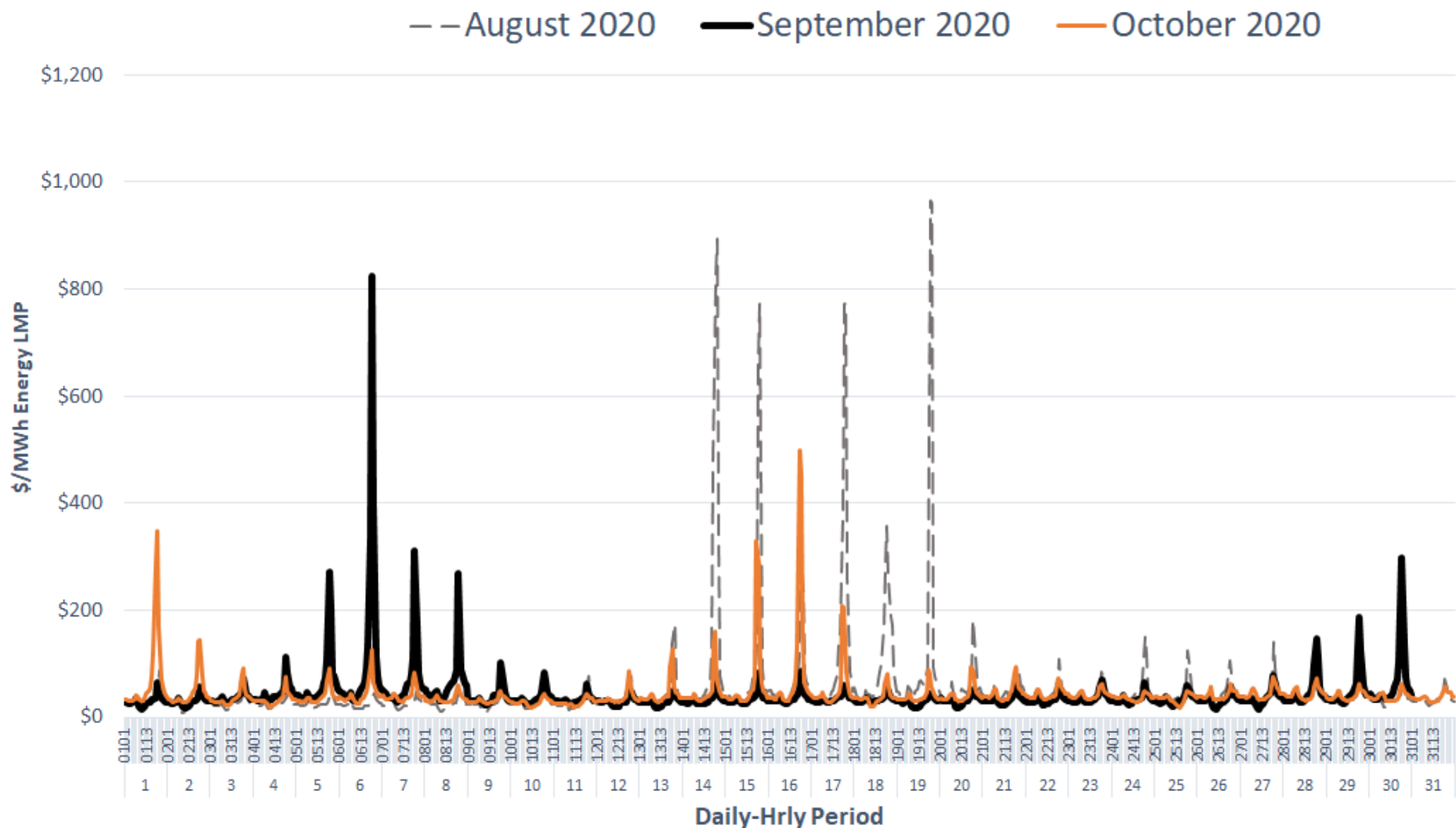
Frequency Tabulation of Daily CAISO commitment hours for October 2020



Daily CAISO Commitment Runs for October 2020



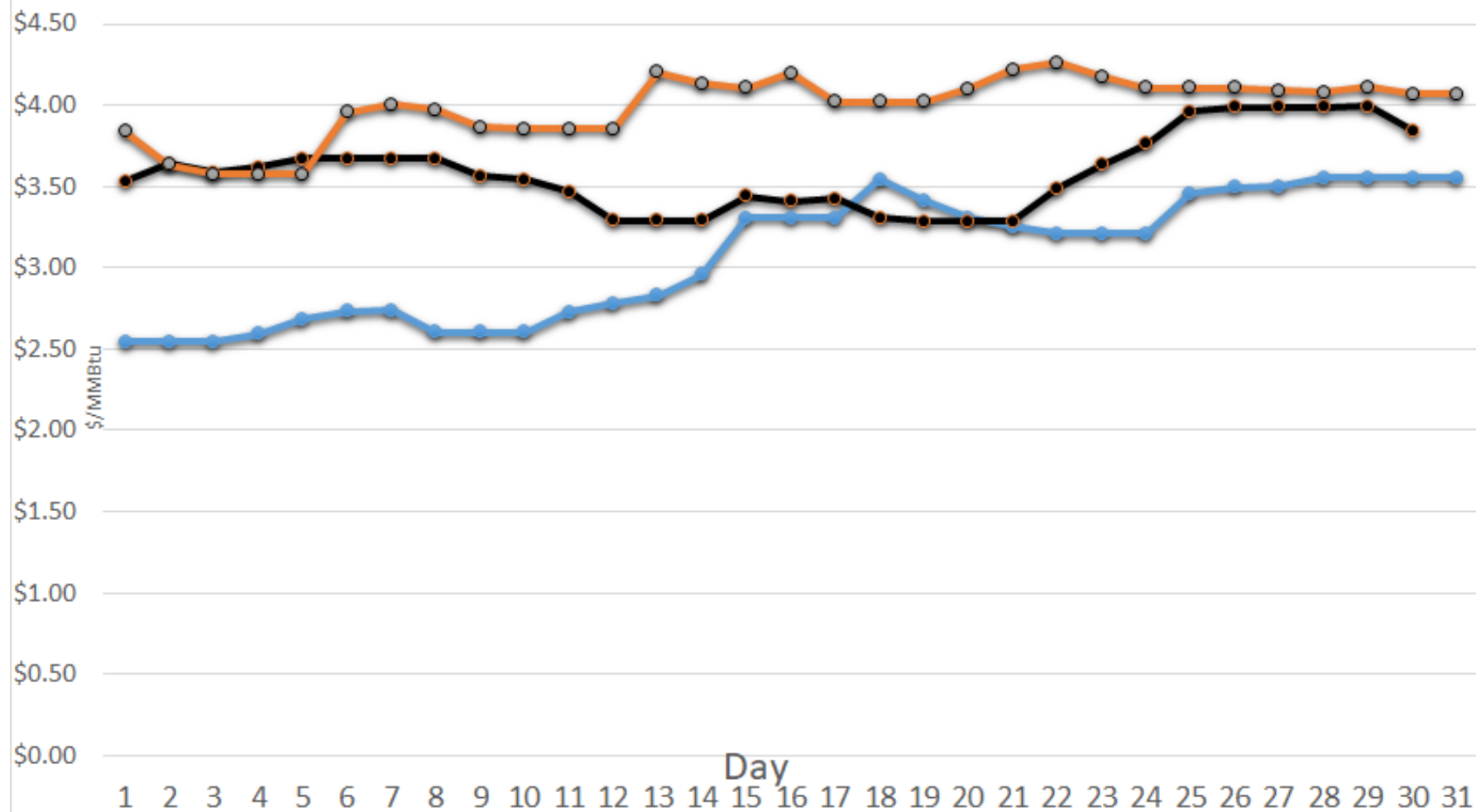
DA Energy LMP values by Month



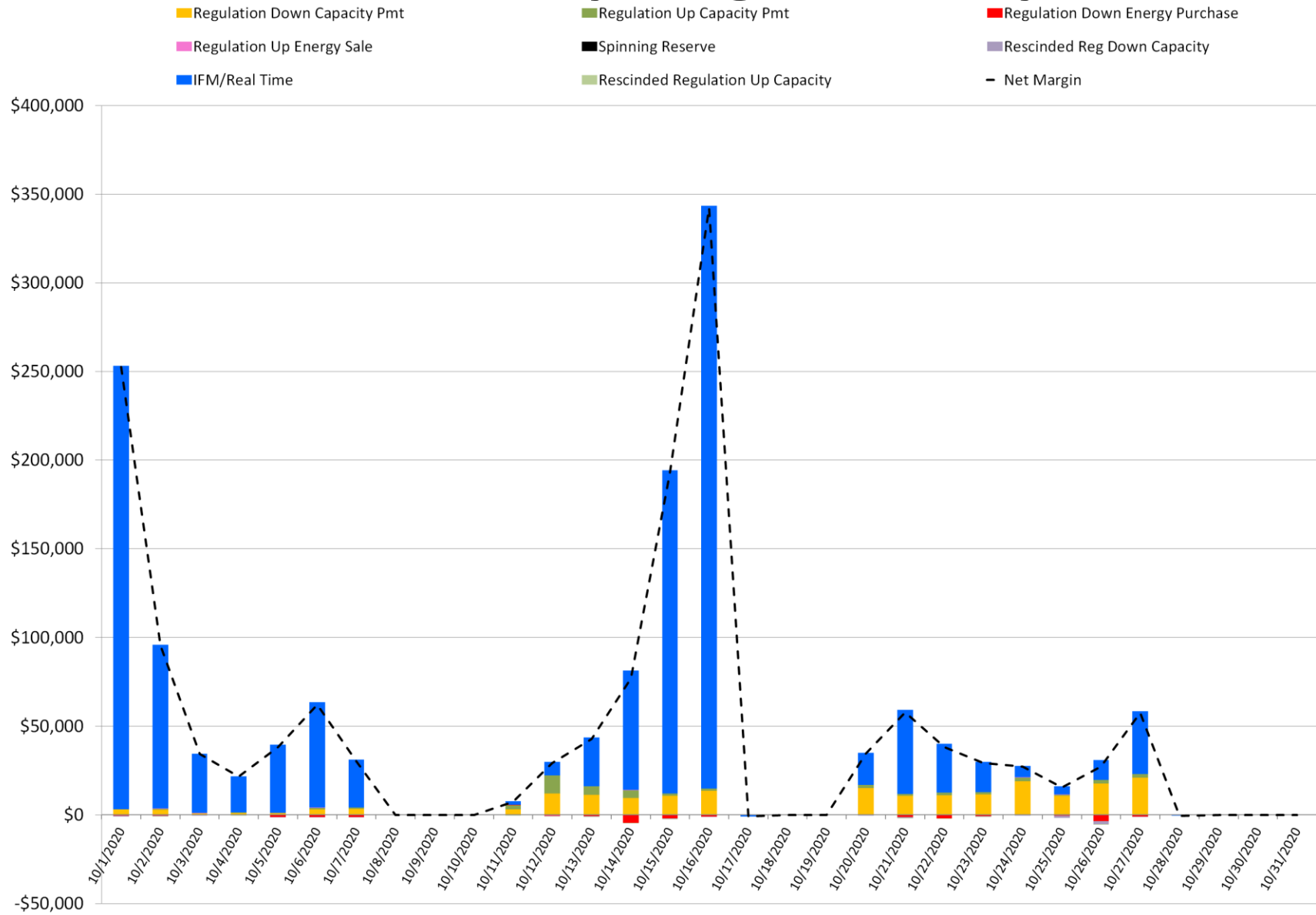
October 2020 Daily PG&E City Gate Gas Index

Daily PG&E CityGate Index Prices by Month

August 2020 September 2020 October 2020



October 2020 LEC Daily Margin Profile by Product



October 2020 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$ 4,910,800	
Regulation Up Capacity	\$ 38,600	
Regulation Down Capacity	\$ 192,600	
Spinning Reserve	\$ -	
Total Gross LEC Revenue		\$ 5,142,000
LEC CAISO GMC Costs	\$ (35,700)	
CAISO Energy & Capacity Buyback Costs	\$ (114,400)	
Total Monthly LEC Fuel Cost	\$ (2,556,000)	
Total Monthly GHG Obligation	\$ (588,300)	
Variable Operations & Maintenance Cost	\$ (280,600)	
Total Costs		\$ (3,575,000)
Net Cumulative Monthly Margin		\$ 1,567,000
Average Margin \$/MWh	\$	17.8

Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net_Amount by Day

● Increase ● Decrease ● Total

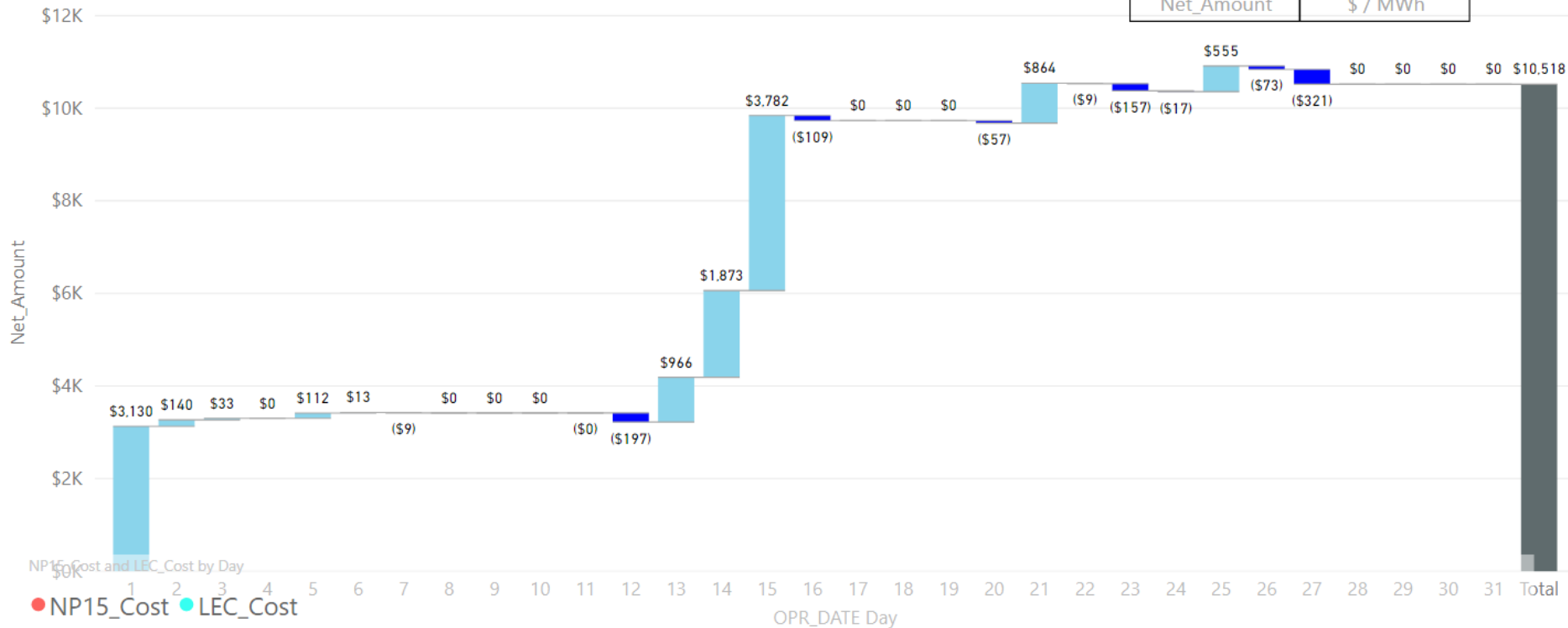
October 2020 Cost of Congestion Component

\$10,518

Net_Amount

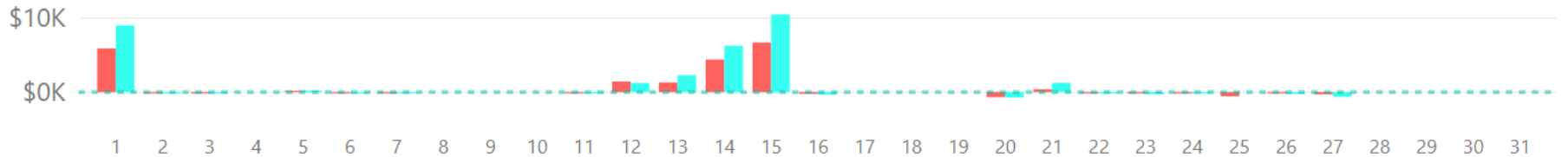
\$0.12

\$ / 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

October 2020 Cost of Loss Component

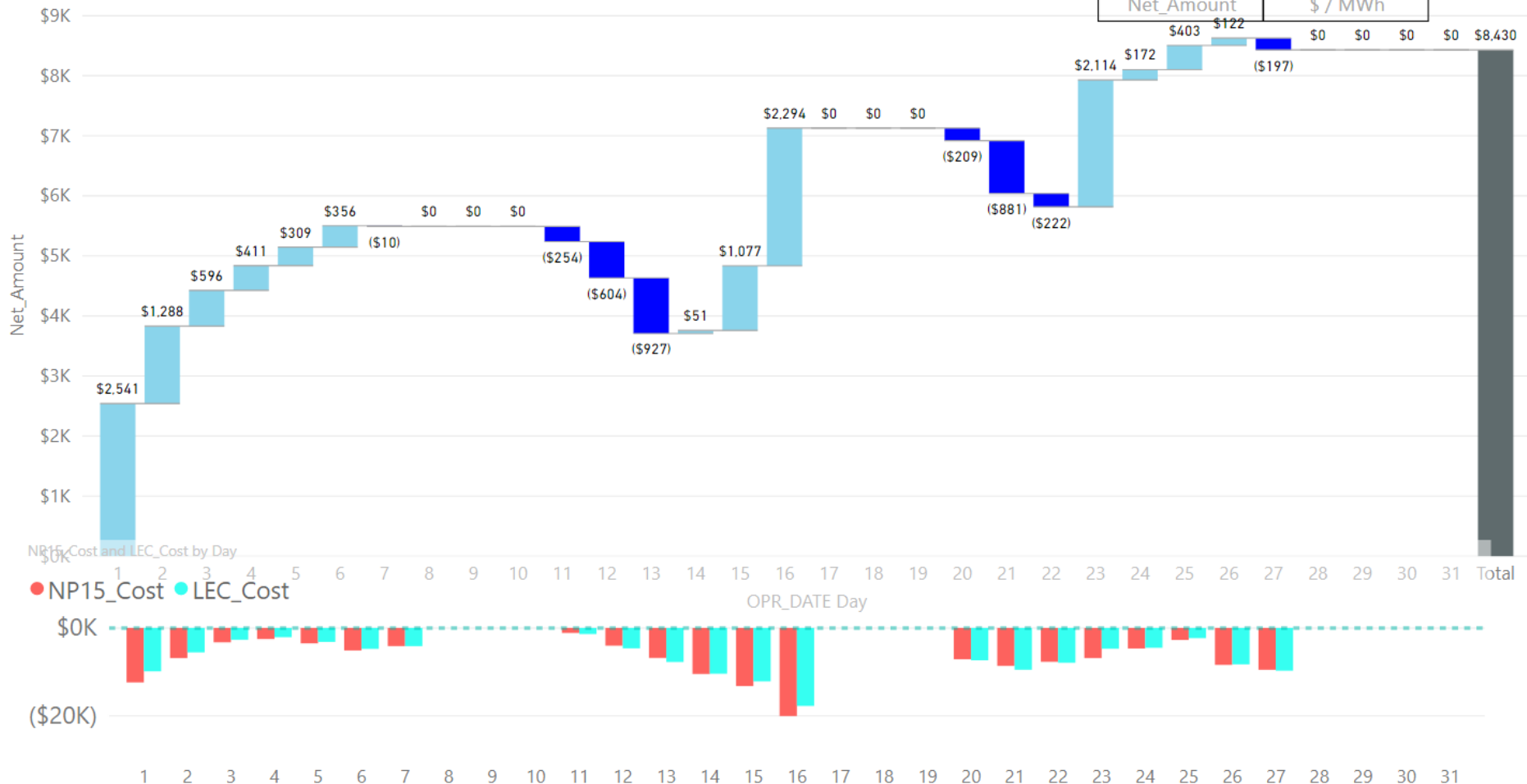
● Increase ● Decrease ● Total

\$8,430

\$0.10

Net_Amount

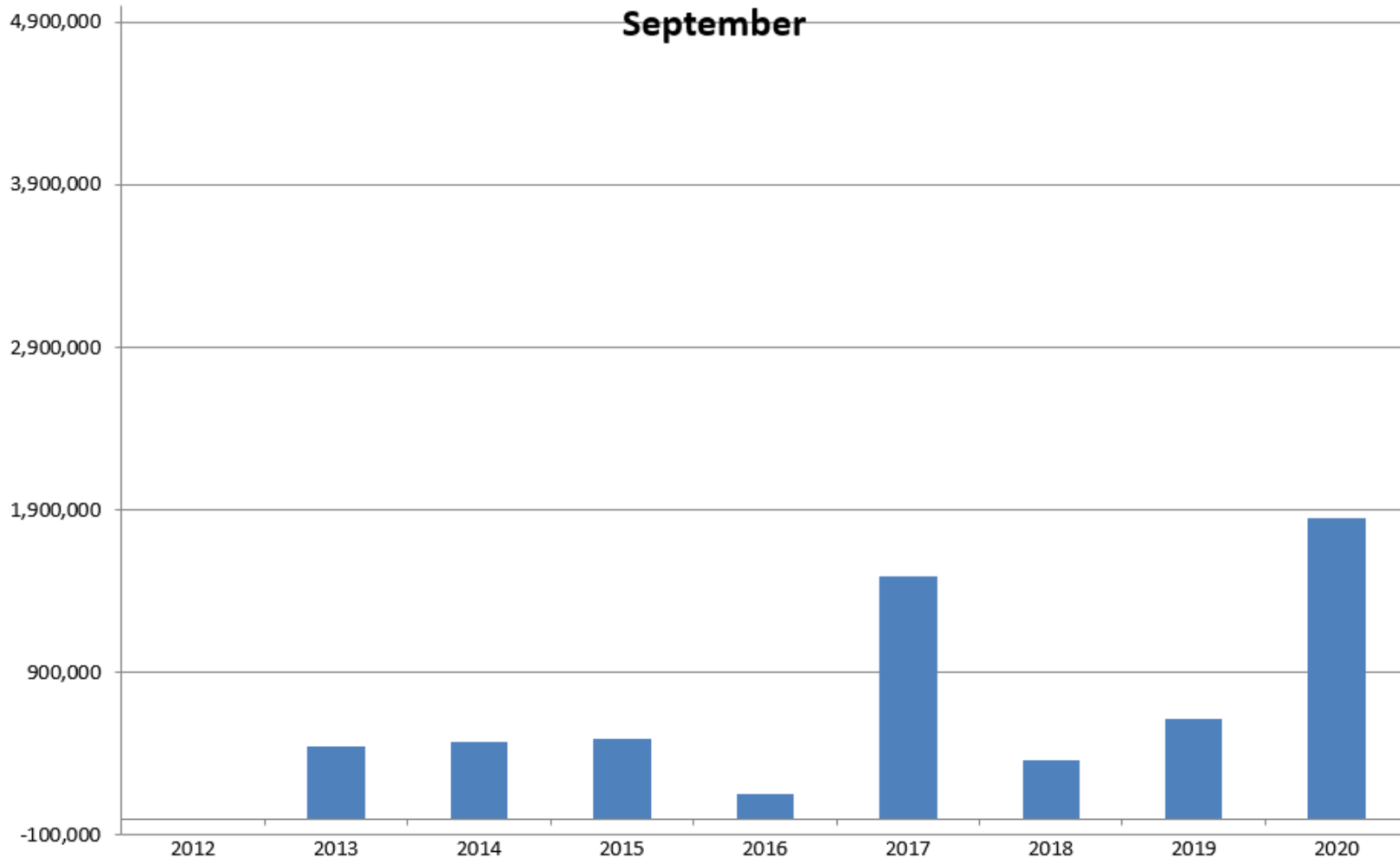
\$ / MWh



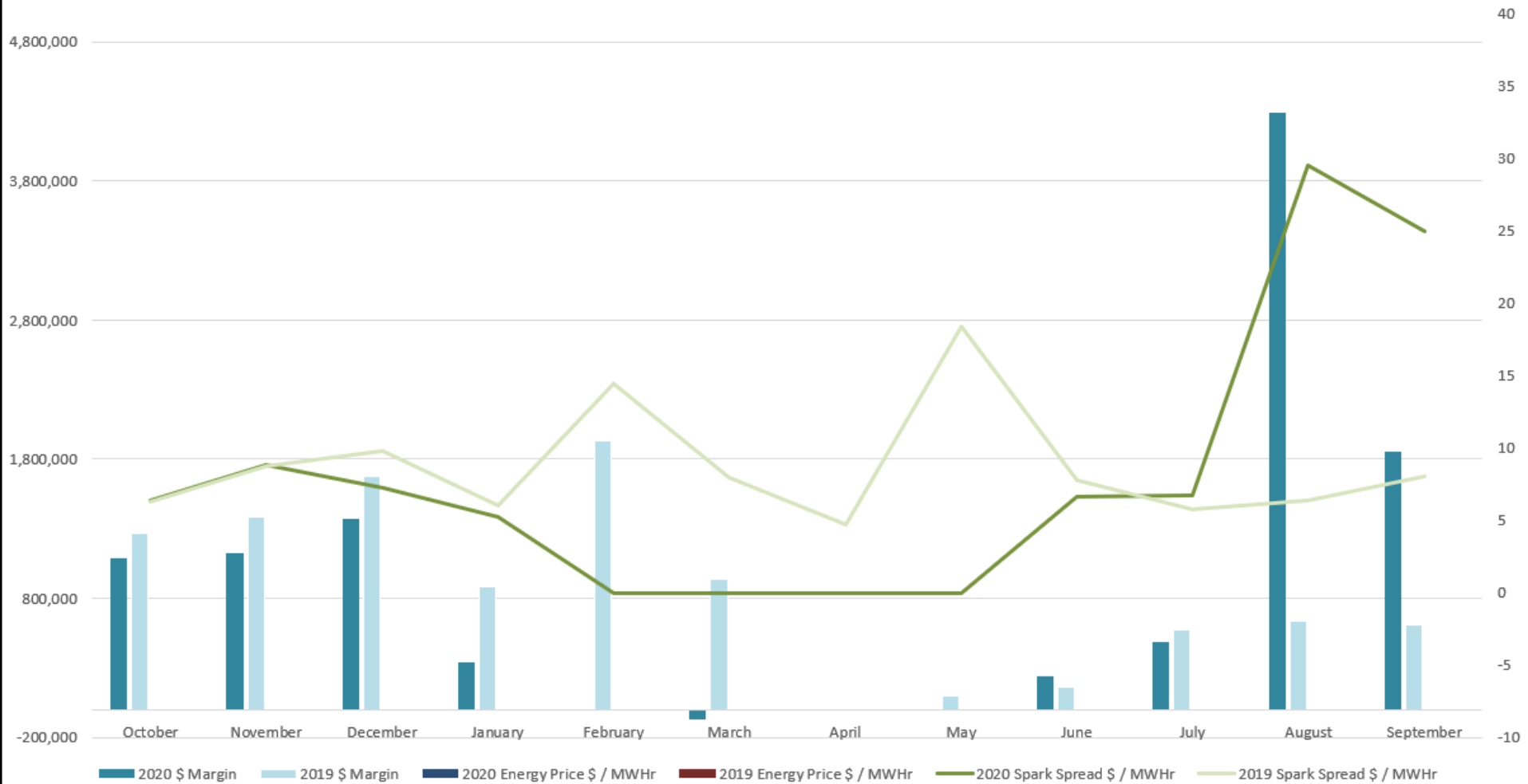
September Asset Report

		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	4,797,711	8,949,819	7,499,624	(4,152,108)	-46%	
VOM	2,926,963	5,604,458	5,266,931	(2,677,494)	-48%	
Fixed	964,942	905,408	830,547	59,534	7%	
Projects	153,194	218,194	218,194	(65,000)	-30%	
A&G	197,156	222,637	222,637	(25,481)	-11%	
Debt	2,168,653	2,168,653	2,168,653	0	0.00%	
Net Cost	(1,613,197)	(169,531)	(1,207,338)	(1,443,666)	852%	
Net Annual Cost		(32,182,549)	(27,923,503)	(\$4,259,047)		
				Above budget by 15.25%		

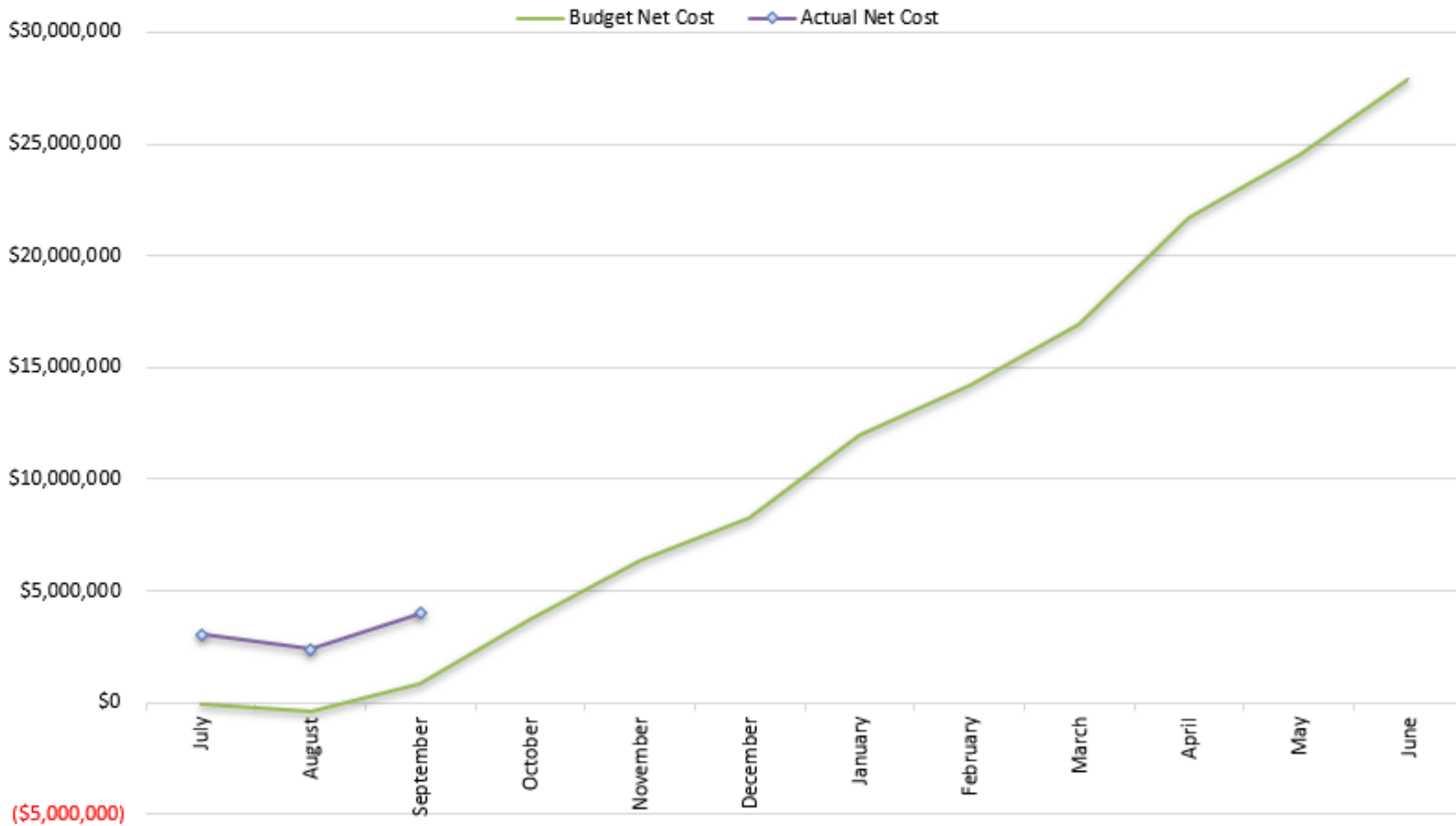
Historical Margins



Historical Monthly Comparison



Cumulative Net Cost



Lodi Energy Center
Monthly Budget Analysis
Expenditures
Report Date: 10/20/2020

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2020 Budget	Percent Used	Comments
VOM	2,100,250	4,745,364	2,926,963	4,243,374	5,076,434	5,577,916	8,095,046	5,160,787	1,761,731	10,000	1,841,269	4,043,444	45,582,579	50,918,015	89.5%	
Capacity Factor	32%	65%	65%	34%	62%	63%	80%	60%	17%	0%	19%	53%	46%	54%	85.6%	Less than forecast
Fuel Consumed (mmBTU, estimated)	553,447	1,035,000	548,358	529,711	925,175	976,858	1,225,931	857,743	260,745	0	297,338	787,140	7,997,445	9,021,368	88.7%	
Avg Fuel Cost (\$/mmBTU)	2.51	3.21	3.71	4.64	3.89	4.19	4.25	4.41	5.19	0.00	4.77	3.96	3.97	3.65	108.8%	Higher than forecast
Power Produced (MWhr, estimated)	75,067	145,066	73,991	77,330	135,062	142,607	178,968	125,218	38,065	0	43,407	114,911	1,149,692	1,316,988	87.3%	
Avg Power Price (\$/MWhr)	37.12	64.43	64.82	47.55	43.51	47.03	48.36	46.44	49.46	0.00	51.94	45.04	49.55	49.94	99.2%	Higher than forecast
Operations / Variable / LTSA	32,219	107,731	197,945	827,653	127,187	139,509	1,243,505	119,648	10,000	10,000	10,000	10,000	2,835,396	5,436,362	52.2%	
Fuel (estimated)	1,387,262	3,318,378	2,035,385	2,458,367	3,602,399	4,097,430	5,210,970	3,779,126	1,353,735	0	1,419,448	3,116,476	31,778,977	32,955,703	96.4%	
AB32 GHG Offset (estimated)	508,424	950,218	508,995	477,435	833,873	880,456	1,159,713	811,413	246,661	0	281,277	744,623	7,403,088	8,695,359	85.1%	
CA ISO Charges (estimated)	172,345	369,037	184,638	479,919	512,975	460,522	480,858	450,600	151,334	0	130,544	172,345	3,565,118	3,830,591	93.1%	
Routine O&M (Fixed)	1,026,632	1,427,542	964,942	893,343	1,048,356	898,343	898,343	891,343	916,957	979,970	1,061,957	1,116,957	12,124,688	11,555,680	104.9%	
Maintenance / Fixed	311,545	463,173	282,367	205,000	300,000	205,000	205,000	205,000	205,000	205,000	350,000	205,000	3,142,085	2,717,065	115.6%	
Administration	2,729	13,600	10,296	17,615	17,615	17,615	17,615	17,615	17,615	17,615	17,615	17,615	185,158	211,377	87.6%	
Mandatory Costs	36,623	190,530	25,662	10,000	7,000	15,000	15,000	8,000	33,614	33,614	33,614	33,614	442,270	309,455	142.9%	
Inventory Stock	0	0	7,434	0	0	0	0	0	0	0	0	0	7,434	-	0.0%	
Labor	482,419	566,447	439,117	450,000	513,013	450,000	450,000	450,000	450,000	513,013	450,000	650,000	5,864,009	5,789,039	101.3%	
Insurance	66,328	66,328	66,328	74,862	74,862	74,862	74,862	74,862	74,862	74,862	74,862	74,862	872,738	898,338	97.2%	
Power Management & Settlements	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	126,988	1,523,859	1,523,860	100.0%	
Other Costs	0	476	6,750	8,879	8,879	8,879	8,879	8,879	8,879	8,879	8,879	8,879	87,136	106,546	81.8%	
Projects	352,616	277,393	153,194	153,194	253,194	159,694	278,194	278,194	278,194	403,194	424,150	153,194	3,164,408	2,905,788	108.9%	
Maintenance Reserve	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	153,194	1,838,331	1,838,332	100.0%	
Operations & Maintenance Projects	-287,312	36,453	0	0	100,000	0	125,000	125,000	125,000	250,000	270,956	0	745,097	1,060,956	70.2%	
Capital Projects	486,734	87,746	0	0	0	6,500	0	0	0	0	0	0	580,980	6,500	8938.2%	
A&G	183,752	208,363	197,156	222,637	222,637	222,637	222,637	222,637	222,637	222,637	222,637	222,637	2,593,003	2,671,642	97.1%	
Administrative & General (Allocated)	160,659	198,558	152,153	193,161	193,161	193,161	193,161	193,161	193,161	193,161	193,161	193,161	2,249,818	2,317,930	97.1%	
Generation Services Shared	23,093	9,805	45,003	29,476	29,476	29,476	29,476	29,476	29,476	29,476	29,476	29,476	343,185	353,712	97.0%	
Total O&M Cost	3,663,250	6,658,662	4,242,255	5,512,549	6,600,622	6,858,590	9,494,220	6,552,962	3,179,519	1,615,801	3,550,014	5,536,233	63,464,677	68,051,125	93.3%	
Debt Service	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	2,168,653	26,023,835	26,023,835	100.0%	
Revenues	2,786,992	9,389,288	4,797,711	3,709,360	5,909,015	6,738,272	8,686,733	5,847,799	1,914,803	32,154	2,286,542	5,207,295	57,305,963	66,151,457	86.6%	
ISO Energy Sales (estimated)	2,786,450	9,346,750	4,796,399	3,677,206	5,876,861	6,706,119	8,654,580	5,815,645	1,882,649	0	2,254,388	5,175,141	56,972,188	65,765,612	86.6%	
Other Income	542	42,538	1,312	32,154	32,154	32,154	32,154	32,154	32,154	32,154	32,154	32,154	333,776	385,845		
Net	(\$3,044,911)	\$561,973	(\$1,613,197)	(\$3,971,842)	(\$2,860,260)	(\$2,288,971)	(\$2,976,140)	(\$2,873,816)	(\$3,433,369)	(\$3,752,301)	(\$3,432,124)	(\$2,497,591)	(\$32,182,549)	(\$27,923,503)	Above budget by 15.25%	



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LEC Treasurer's Report

AGENDA ITEM NO.: 8

Date: November 9, 2020
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended September 30, 2020

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 \$990.

Investments - The carrying value of the LEC's investment portfolio totaled \$34,697,894 at month end. The current market value of the portfolio totaled \$34,863,915.

The overall portfolio had a combined weighted average interest rate of 0.749% with a bond equivalent yield (yield to maturity) of 0.614%. Investments with a maturity greater than one year totaled \$13,460,000. During the month \$7,246,813 was invested.

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

Interest Rates - During the month, rates on 90 day T-Bills decreased 1 basis point (from 0.11% to 0.10%) and rates on one year T-Bills decreased 1 basis point (from 0.13% to 0.12%).

To the best of my knowledge and belief, all securities held by LEC as of September 30, 2020 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

SEPTEMBER 30, 2020

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INVESTMENT MATURITIES ANALYSIS	5
DETAIL REPORT OF INVESTMENTS	APPENDIX

**Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash & Investment Balance
September 30, 2020**

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
MANDATORY FUNDS					
Debt Service Account	\$ 990	\$ 10,408,453	\$ 10,409,443	30.00%	\$ 10,408,400
Debt Service Reserve	-	12,628,655	12,628,655	36.39%	12,745,101
O & M Reserve	-	11,573,822	11,573,822	33.36%	11,623,450
	990	34,610,930	34,611,920	99.75%	34,776,951
ADDITIONAL PROJECT FUNDS					
GHG Cash Account	-	86,964	86,964	0.25%	86,964
Transmission Upgrade Escrow ¹	-	-	-	0.00%	-
Participant Deposit Account	-	-	-	0.00%	-
	\$ 990	\$ 34,697,894	\$ 34,698,884	100.00%	\$ 34,863,915

NOTE A -Investment amounts shown at book carrying value.

¹ Amount held in escrow

Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Cash Activity Summary
September 30, 2020

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS							
Debt Service Account	\$ -	\$ -	\$ 834	\$ -	\$ (2,686,919)	\$ 2,686,756	\$ 671
Debt Service Reserve	-	13	3,126,229	-	(3,126,242)	-	-
O & M Reserve	-	18	1,419,982	-	(1,420,000)	-	-
	-	31	4,547,045	-	(7,233,161)	2,686,756	671
ADDITIONAL PROJECT FUNDS							
GHG Cash Account	-	-	-	-	(13,652)	13,652	-
Transmission Upgrade Escrow ¹	-	-	-	-	-	-	-
Participant Deposit Account	-	-	-	-	-	-	-
TOTAL	\$ -	\$ 31	\$ 4,547,045	\$ -	\$ (7,246,813)	\$ 2,700,408	\$ 671

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

¹ Amount held in escrow

**Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Investment Activity Summary
September 30, 2020**

			(NON-CASH) DISC/(PREM) AMORT	(NON-CASH) GAIN/(LOSS) ON SALE	INVESTMENTS	
	PURCHASED	SOLD OR MATURED			TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS						
Debt Service Account	\$ 2,686,919	(834)	\$ 598	\$ -	\$ -	\$ 2,686,683
Debt Service Reserve	3,126,242	(3,126,229)	(182)	-	-	(169)
O & M Reserve	1,420,000	(1,419,982)	(2,584)	-	-	(2,566)
	<u>7,233,161</u>	<u>(4,547,045)</u>	<u>(2,168)</u>	<u>-</u>	<u>-</u>	<u>2,683,948</u>
ADDITIONAL PROJECT FUNDS						
GHG Cash Account	13,652	-	-	-	-	13,652
Participant Deposit Acct.	-	-	-	-	-	-
TOTAL	<u>\$ 7,246,813</u>	<u>\$ (4,547,045)</u>	<u>\$ (2,168)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,697,600</u>

Less Non- Cash Activity

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

2,168

Net Change in Investment --Before Non-Cash Activity

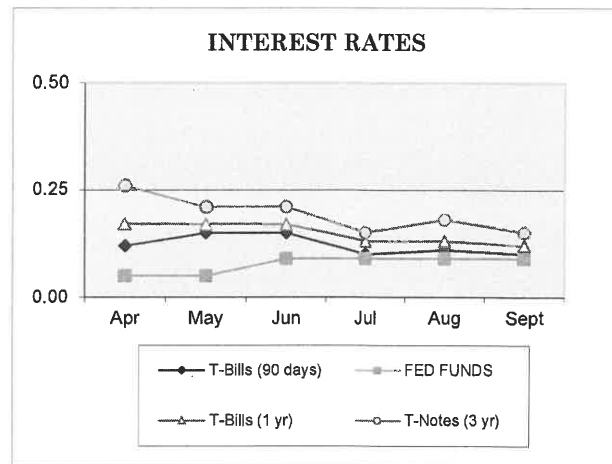
\$ 2,699,768

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Lodi Energy Center
Interest Rate/Yield Analysis
September 30, 2020**

	WEIGHTED AVERAGE INTEREST RATE	BOND EQUIVALENT YIELD
OVERALL COMBINED	0.749%	0.614%
Debt Service Account	0.083%	0.085%
Debt Service Reserve	0.863%	0.752%
O & M Reserve	1.220%	0.934%
GHG Cash Account	1.354%	1.354%

KEY INTEREST RATES		
	CURRENT	PRIOR YEAR
Fed Funds (Overnight)	0.09%	1.90%
T-Bills (90da.)	0.10%	1.88%
Agency Disc (90da.)	0.09%	1.68%
T-Bills (1yr.)	0.12%	1.79%
Agency Disc (1yr.)	0.15%	1.59%
T-Notes (3yr.)	0.15%	1.59%



**Lodi Energy Center
Total Portfolio
Investment Maturities Analysis
September 30, 2020**

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	\$ -	\$ 10,409	\$ 4,849	\$ 500	\$ 3,278	\$ 11,900	\$ -	\$ 30,936	89.35%
Corporate Bonds (MTN)	-	-	-	-	495	1,060	-	1,555	4.49%
Municipal Bonds	-	-	-	-	-	500	-	500	1.44%
US Bank Trust Money Market	4	-	-	-	-	-	-	4	0.01%
Commercial Paper	-	-	-	-	-	-	-	-	0.00%
Investment Trusts (LAIF)	1,630	-	-	-	-	-	-	1,630	4.71%
Investment Trusts (CAMP)	-	-	-	-	-	-	-	-	0.00%
U.S.Treasury Market Acct. *	0	-	-	-	-	-	-	0	0.00%
U.S.Treasury Bill/Note	-	-	-	-	-	-	-	-	0.00%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
Total Dollars	\$ 1,634	\$10,409	\$4,849	\$500	\$3,773	\$13,460	\$0	\$ 34,625	100.00%
Total Percents	4.73%	30.06%	14.00%	1.44%	10.90%	38.87%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

* The cash balance held at US Bank includes outstanding checks that have not yet cleared. This cash balance is invested nightly in a fully collateralized (U.S. Government Securities) repurchase agreement. Cash held by Union Bank of California is invested nightly in fully collateralized U.S. Treasury Securities.

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

09/30/2020

LEC Issue#1 2010A 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	132	0.600	07/01/2013	132		1	0.600	132	SYS79003	79003	132
Federal Home Loan Ba	USBT	485,000	0.129	06/26/2020	484,744	11/19/2020	49	0.131	484,956	313384Q28	27020	484,914
Fund Total and Average		\$ 485,132	0.130		\$ 484,876		49	0.132	\$ 485,088			\$ 485,046

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	454	0.600	07/01/2013	454		1	0.600	454	SYS79004	79004	454
Federal Home Loan Ba	USBT	660,000	0.130	06/26/2020	659,652	11/19/2020	49	0.131	659,941	313384Q28	27021	659,883
Federal Home Loan Ba	USBT	1,076,000	0.070	07/29/2020	1,075,738	12/01/2020	61	0.070	1,075,839	313384R68A	27036	1,075,872
Federal Home Loan Ba	USBT	1,077,000	0.080	08/28/2020	1,076,773	12/01/2020	61	0.081	1,076,838	313384R68A	27067	1,076,854
Federal Home Loan Ba	USBT	1,076,000	0.060	09/29/2020	1,075,887	12/01/2020	61	0.060	1,075,839	313384R68A	27093	1,075,891
Fund Total and Average		\$ 3,889,454	0.080		\$ 3,888,504		59	0.081	\$ 3,888,911			\$ 3,888,954

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	237	0.600	07/01/2013	237		1	0.600	237	SYS79012	79012	237
Federal Home Loan Ba	USBT	1,134,000	0.130	06/26/2020	1,133,402	11/19/2020	49	0.131	1,133,898	313384Q28	27022	1,133,799
Federal Home Loan Ba	USBT	944,000	0.069	07/29/2020	943,771	12/01/2020	61	0.070	943,858	313384R68A	27037	943,888
Federal Home Loan Ba	USBT	944,000	0.080	08/28/2020	943,801	12/01/2020	61	0.081	943,858	313384R68A	27068	943,872
Federal Home Loan Ba	USBT	945,000	0.060	09/29/2020	944,901	12/01/2020	61	0.060	944,858	313384R68A	27094	944,904
Fund Total and Average		\$ 3,967,237	0.087		\$ 3,966,112		58	0.088	\$ 3,966,709			\$ 3,966,700

LEC Issue#1 2017A DS Fund

U.S. Treasury	USBT	68,000	0.115	06/26/2020	67,968	11/19/2020	49	0.117	67,992	9127963A5	27023	67,989
Federal Home Loan Ba	USBT	667,000	0.070	07/29/2020	666,838	12/01/2020	61	0.070	666,900	313384R68A	27038	666,921
Federal Home Loan Ba	USBT	667,000	0.080	08/28/2020	666,859	12/01/2020	61	0.081	666,900	313384R68A	27069	666,910
Federal Home Loan Ba	USBT	666,000	0.060	09/29/2020	665,930	12/01/2020	61	0.060	665,900	313384R68A	27095	665,932
Fund Total and Average		\$ 2,068,000	0.071		\$ 2,067,595		61	0.073	\$ 2,067,692			\$ 2,067,752
GRAND TOTALS:		\$ 10,409,823	0.083		\$ 10,407,987		58	0.085	\$ 10,408,400.			\$ 10,408,452

*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 09/30/2020



Northern California Power Agency
Treasurer's Report

LEC Issue #1 2010 DSR Fund

09/30/2020

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	1,917	0.600	07/01/2013	1,917		1	0.600	1,917	SYS79005	79005	1,917
Federal Home Loan Ba	USBT	420,000	1.500	01/28/2020	413,823	01/15/2021	106	1.537	419,891	313385AQ9A	26943	418,145
Federal Home Loan Ba	USBT	4,429,000	0.110	07/29/2020	4,426,510	01/29/2021	120	0.111	4,427,671	313385BE5	27040	4,427,376
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	315	1.699	151,271	3137EAE9	26454	149,283
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	617	1.760	4,236,284	313379Q69	26463	4,124,157
Fund Total and Average		\$ 9,100,917	1.102		\$ 9,157,204		347	0.948	\$ 9,237,034			\$ 9,120,878

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	795	0.600	07/01/2013	795		1	0.600	795	SYS79006	79006	795
U.S. Treasury	USBT	2,369,000	0.070	09/29/2020	2,367,669	07/15/2021	287	0.071	2,367,057	9127963S6	27099	2,367,678
Fund Total and Average		\$ 2,369,795	0.070		\$ 2,368,464		287	0.071	\$ 2,367,862			\$ 2,368,473

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	575	0.600	07/01/2013	575		1	0.600	575	SYS79013	79013	575
U.S. Treasury	USBT	759,000	0.069	09/29/2020	758,573	07/15/2021	287	0.071	758,378	9127963S6	27100	758,576
Federal Home Loan Mt	USBT	380,000	1.650	01/31/2020	380,190	07/28/2023	1,030	1.635	381,262	3134GU6D7	26945	380,154
Fund Total and Average		\$ 1,139,575	0.597		\$ 1,139,338		535	0.593	\$ 1,140,215			\$ 1,139,305
GRAND TOTALS:		\$ 12,610,287	0.863		\$ 12,665,006		353	0.752	\$ 12,745,101.			\$ 12,628,656

*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 09/30/2020 Investment #26945 FHLMC Callable on 1/28/2021 only



LEC O & M Reserve

Northern California Power Agency
Treasurer's Report
09/30/2020

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		1,543,266	1.354	07/01/2013	1,543,266		1	1.354	1,543,266	SYS70047	70047	1,543,266
Union Bank of Califo	UBOC	268	0.002	07/18/2013	268		1	0.002	268	SYS70041	70041	268
Federal Farm Credit	UBOC	500,000	1.500	10/15/2019	499,335	04/15/2021	196	1.590	503,650	3133EY93	26892	499,761
Toyota Motor Credit	UBOC	495,000	1.800	02/03/2020	495,995	10/07/2021	371	1.555	502,064	89236TGJ8	26953	496,209
Memphis Center City	UBOC	500,000	5.530	04/27/2020	533,880	11/01/2021	396	1.000	527,320	56607ECD4	26986	524,289
US Bank, N.A.	UBOC	595,000	2.650	05/31/2019	598,290	05/23/2022	599	2.456	616,938	90331HPC1	26822	596,817
Federal Home Loan Mt	UBOC	1,000,000	0.375	07/30/2020	1,000,000	07/28/2023	1,030	0.375	1,000,120	3134GWDL7	27046	1,000,000
Caterpillar Financia	UBOC	465,000	3.250	02/03/2020	496,569	12/01/2024	1,522	1.776	511,988	14912L6G1	26952	492,246
Federal Farm Credit	UBOC	1,000,000	0.640	07/30/2020	1,000,000	01/27/2025	1,579	0.639	997,710	3133ELZ64	27048	1,000,000
Federal National Mtg	UBOC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	1,762	0.579	998,240	3136GAD75	27047	1,000,966
Federal Farm Credit	UBOC	2,000,000	0.670	08/04/2020	2,000,000	08/04/2025	1,768	0.670	2,002,700	3133EL2S2	27054	2,000,000
Federal National Mtg	UBOC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	1,782	0.600	1,000,980	3136G4G72	27057	1,000,000
Federal Farm Credit	UBOC	750,000	0.530	09/29/2020	750,000	09/29/2025	1,824	0.530	749,318	3133EMBH4	27083	750,000
Federal Farm Credit	UBOC	670,000	0.530	09/29/2020	670,000	09/29/2025	1,824	0.530	668,888	3133EMBJ0	27084	670,000
Fund Total and Average		\$ 11,518,534	1.220		\$ 11,589,603		1199	0.934	\$ 11,623,450			\$ 11,573,822
GRAND TOTALS:		\$ 11,518,534	1.220		\$ 11,589,603		1199	0.934	\$ 11,623,450			\$ 11,573,822

*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 09/30/2020

Investment #26822 USB Callable anytime starting 4/22/2022
Investment #27046 FHLMC Callable on 7/28/2021 only
Investment #27047 FHLMC Callable quarterly starting 7/29/2022
Investment #27048 FFCB Callable anytime starting 10/27/2020
Investment #27054 FFCB Callable anytime starting 2/4/2021
Investment #27057 FNMA Callable quarterly starting 8/18/2022
Investment #27083 FFCB Callable anytime starting 9/29/2021
Investment #27084 FFCB Callable anytime starting 12/29/2020



Northern California Power Agency
Treasurer's Report

09/30/2020

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		86,964	1.354	07/01/2013	86,964		1	1.354	86,964	SY570046	70046	86,964
Fund Total and Average		\$ 86,964	1.354		\$ 86,964		1	1.354	\$ 86,964			\$ 86,964
GRAND TOTALS:		\$ 86,964	1.354		\$ 86,964		1	1.354	\$ 86,964			\$ 86,964

*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 09/30/2020



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 9

Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: September 30, 2020 Financial Reports (Unaudited)

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

	September	
	2020	2019
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 86,964	\$ 74,643
Accounts receivable		
Others	1,434,968	-
Interest receivable	236	482
Inventory and supplies - at average cost	2,220,088	2,202,632
Prepaid insurance	154,060	118,948
Due from (to) Agency, net	22,644,418	23,645,719
TOTAL CURRENT ASSETS	26,540,734	26,042,424
RESTRICTED ASSETS		
Cash and cash equivalents	4,241,811	6,867,937
Investments	30,376,559	25,919,083
Interest receivable	70,889	112,710
TOTAL RESTRICTED ASSETS	34,689,259	32,899,730
ELECTRIC PLANT		
Electric plant in service	409,933,948	423,853,037
Less: accumulated depreciation	(98,412,063)	(99,825,037)
	311,521,885	324,028,000
Construction work-in-progress	-	182,398
TOTAL ELECTRIC PLANT	311,521,885	324,210,398
OTHER ASSETS		
Regulatory assets	29,035,464	24,987,543
TOTAL OTHER ASSETS	29,035,464	24,987,543
TOTAL ASSETS	401,787,342	408,140,095
DEFERRED OUTFLOWS OF RESOURCES		
Unamortized excess cost on advance refunding of debt, net	1,426,839	1,743,625
Asset retirement obligations	183,952	179,323
TOTAL DEFERRED OUTFLOWS OF RESOURCES	1,610,791	1,922,948
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 403,398,133	\$ 410,063,043

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

	September	
	2020	2019
LIABILITIES & NET POSITION		
CURRENT LIABILITIES		
Accounts and retentions payable	\$ 2,040,041	\$ 1,910,340
Operating reserves	15,635,119	14,973,810
Current portion of long-term debt	12,515,000	12,040,000
Accrued interest payable	4,488,732	4,661,661
TOTAL CURRENT LIABILITIES	34,678,892	33,585,811
NON-CURRENT LIABILITIES		
Operating reserves and other deposits	86,937	1,158,824
Asset retirement obligations	183,952	179,323
Long-term debt, net	306,535,000	319,050,000
TOTAL NON-CURRENT LIABILITIES	306,805,889	320,388,147
TOTAL LIABILITIES	341,484,781	353,973,958
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	40,208,499	38,269,042
NET POSITION		
Invested in capital assets, net of related debt	1,125,320	(3,648,400)
Restricted	17,571,871	15,814,971
Unrestricted	3,007,662	5,653,472
TOTAL NET POSITION	21,704,853	17,820,043
TOTAL LIABILITIES AND NET POSITION	\$ 403,398,133	\$ 410,063,043

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

		Three Months Ended September	
		2020	2019
SALES FOR RESALE			
Participants	\$	17,801,091	\$ 15,603,014
Other		16,846,393	11,263,800
TOTAL SALES FOR RESALE		34,647,484	26,866,814
OPERATING EXPENSES			
Operations		9,137,686	8,012,497
Depreciation		3,534,531	3,654,576
Purchased power		523,772	184,274
Maintenance		941,517	1,031,654
Administrative and general		1,377,985	1,241,391
Transmission		165,590	186,511
Intercompany (sales) purchases		77,900	102,538
TOTAL OPERATING EXPENSES		15,758,981	14,413,441
NET OPERATING REVENUES		18,888,503	12,453,373
OTHER REVENUES (EXPENSES)			
Interest expense		(3,450,141)	(3,572,461)
Interest income		(96,413)	295,275
Other		797,120	836,863
TOTAL OTHER REVENUES (EXPENSES)		(2,749,434)	(2,440,323)
FUTURE RECOVERABLE AMOUNTS		(94,153)	305,311
REFUNDS TO PARTICIPANTS		-	(27)
INCREASE IN NET POSITION		16,044,916	10,318,334
NET POSITION			
Beginning of year		5,659,937	7,501,709
End of period	\$	21,704,853	\$ 17,820,043

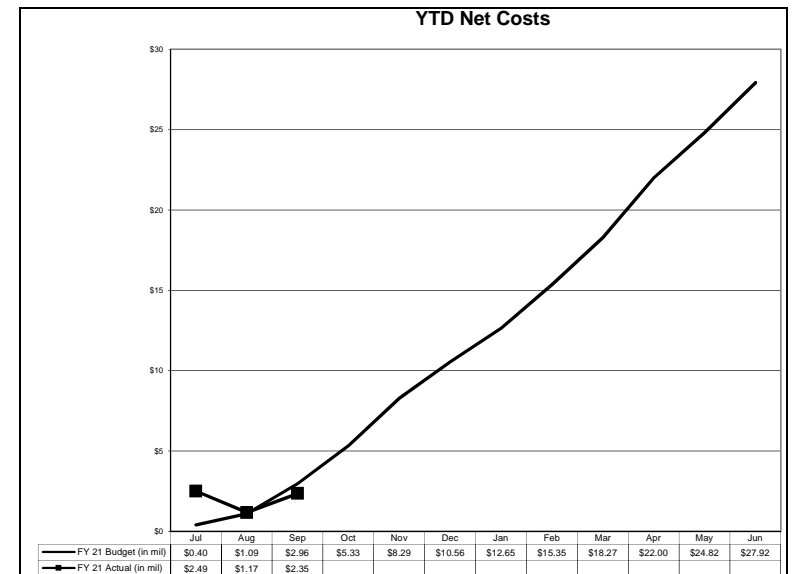
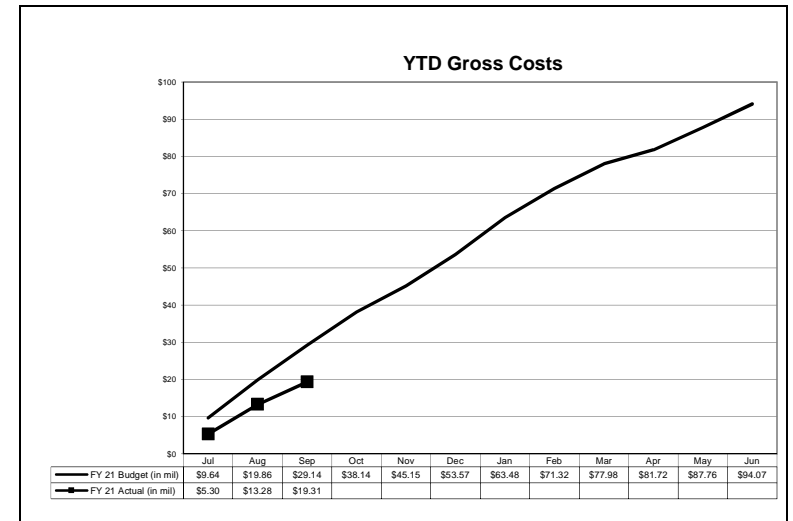
**Lodi Energy Center
FY 2021 Operating Costs
As of September 30, 2020**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
Routine O&M Costs					
Variable	\$ 5,436,362	\$ 337,894	\$ 5,098,468	94%	A
Fixed	2,717,065	1,057,086	1,659,979	61%	
Administration	211,377	26,625	184,752	87%	
Mandatory Costs	309,455	252,814	56,641	18%	
Routine O&M Costs without Labor	8,674,259	1,681,853	6,992,406	81%	B
Labor	5,789,039	1,480,831	4,308,208	74%	
Total Routine O&M Cost	14,463,298	3,162,684	11,300,614	78%	
Other Costs					
Fuel	32,955,703	6,972,254	25,983,449	79%	
GHG Allowance Costs	8,695,359	16,680	8,678,679	100%	
CA ISO Charges	780,841	165,590	615,251	79%	
CA ISO Purchased Energy	3,049,750	523,772	2,525,978	83%	
Debt Service	26,023,835	6,505,959	19,517,876	75%	
Insurance	898,338	198,983	699,355	78%	
Other Costs	106,546	7,226	99,320	93%	
Generation Services Shared	353,712	77,900	275,812	78%	
Administrative & General (Allocated)	2,317,930	511,370	1,806,560	78%	
Power Management Allocated Costs	1,523,860	380,965	1,142,895	75%	
Total O&M Cost	91,169,172	18,523,383	72,645,789	80%	
Projects					
Operations & Maintenance	1,060,956	(250,860)	1,311,816	124%	C
Capital	6,500	574,480	(567,980)	0%	
Maintenance Reserve	1,838,332	459,583	1,378,749	75%	
Total Projects	2,905,788	783,203	2,122,585	73%	
Annual Cost	94,074,960	19,306,586	74,768,374	79%	
Less: Third Party Revenue					
Interest Income	385,845	64,350	321,495	83%	
ISO Energy Sales	55,590,251	16,618,747	38,971,504	70%	
Ancillary Services Sales	1,711,986	227,646	1,484,340	87%	
GHG Allowance Credits	8,463,375	-	8,463,375	100%	
Other Income	-	44,392	(44,392)	0%	
	66,151,457	16,955,135	49,196,322	74%	
Net Annual Cost to Participants	\$ 27,923,503	\$ 2,351,451	\$ 25,572,052	92%	
Total Variable Costs	50,918,015	7,999,510	42,918,505		
Total Fixed Costs	43,156,945	11,307,076	31,849,869		
	<u>\$ 94,074,960</u>	<u>\$ 19,306,586</u>	<u>\$ 74,768,374</u>		
Net Cumulative Generation (MWh)	1,316,988	294,128			
Total O&M Cost Per MWh	\$ 69.23	\$ 62.98			
Net Annual Cost Per MWh	\$ 21.20	\$ 7.99			

A - Slightly higher costs resulting from additional maintenance costs for annual outage.

B - Higher costs due to annual permit fees payment. Costs are expected to levelize for remainder of the year.

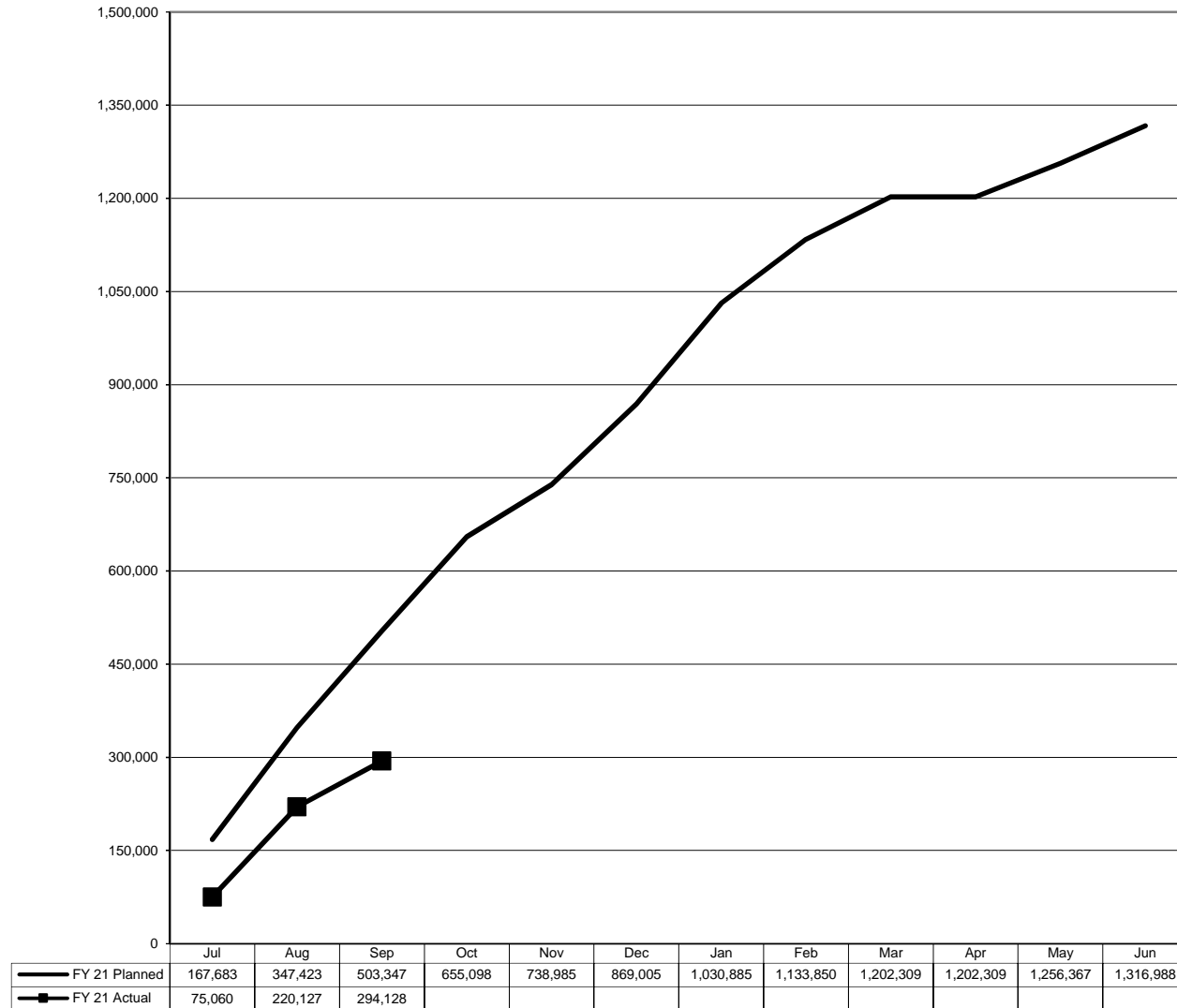
C - Amount includes prior year accrual reversal which will levelize when payments are made.



**Annual Budget
LEC Generation Analysis
Planned vs. Actual
FY 2021**

In MWh

Lodi Energy Center





Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 10

Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

NCPA All Resources Bill Imports GHG Obligation Report (Cumulative)														
November 2020														
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)	31,068	73,613	2,991	373,626	21,904	18,325	105,825	22,675	119,492	8,764	29,755	287,193	19,912	1,115,143
Current MT Compliance Instrument Account (MTA) Balance (MT)	32,244	73,809	3,329	471,688	21,908	18,789	106,293	23,090	120,162	9,163	30,199	346,685	20,144	1,277,503
MTA Shortfall (MT)	(1,176)	(196)	(338)	(98,062)	(4)	(464)	(468)	(415)	(670)	(399)	(444)	(59,492)	(232)	(162,360)
Monthly GHG Price \$/MT	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97	18.97
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Current Month CCA Balance (\$)*	65,708	0	154	0	1,188	5,150	835	0	0	0	31,259	0	2,857	107,151
Net GHG Obligation (\$)	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 2020 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual									Estimated			CY 2020	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	64,890	0	0	0	0	36,730	75,070	145,066	74,001	162,631	135,066	142,604	836,058	8,732,886
Gas Schedule (MMBtu)	466,226	7	6	2	0	274,035	552,145	1,023,854	543,986	1,262,013	1,048,110	1,106,605	6,276,989	63,745,359
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	4,695
Monthly MT Obligation (MTO)	25,160	0	0	0	0	14,788	29,796	55,252	29,356	68,105	56,561	59,718	338,736	3,445,684
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)	860,187	860,187	860,187	860,187	860,187	874,975	904,771	960,023	989,379	1,057,484	1,114,045	1,173,763	1,173,763	1,173,763
Compliance Instrument Participant Transfers														
Carryover Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	32,263
Auction Allowances	1,568	0	0	2,000	0	0	16,813	90,849	120,292	5,000	0	0	236,522	3,454,766
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)	1,568	0	0	2,000	0	0	16,813	90,849	120,292	5,000	0	0	236,522	3,487,029
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	2,267,985
Total Monthly Activity (MT)	1,568	0	0	2,000	0	0	16,813	90,849	120,292	5,000	0	0	236,522	3,533,351
Cumulative MT Account Balance (MTA)	1,031,090	1,031,090	1,031,090	1,033,090	1,033,090	1,033,090	1,049,903	1,140,752	1,261,044	1,266,044	1,266,044	1,266,044	1,266,044	1,266,044
MTA Shortfall (MT)	(170,903)	(170,903)	(170,903)	(172,903)	(172,903)	(158,115)	(145,132)	(180,729)	(271,665)	(208,560)	(151,999)	(92,281)	(92,281)	(92,281)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	0	0	0	107,152	0	0	107,152
Monthly GHG Price	18.24	18.32	21.49	18.46	18.53	21.77	18.68	18.75	22.04	18.90	18.97	22.31		



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 11

Date: November 4, 2020

Meeting Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: ORR Protection Systems, Inc. – First Amendment to the Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) facilities, NCPA Members, SCPPA, and SCPPA Members.

Proposal

Approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task General Services Agreement with ORR Protection Systems, Inc. for fire system maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from \$1,500,000 to \$3,000,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

Background

Fire system, inspection and testing, system recharge, monitoring, modification and design build services are required from time to time at facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and by SCPPA Members.

NCPA entered into a five year Multi-Task General Services Agreement with ORR Protection Systems, Inc. effective April 17, 2020 for an amount not to exceed \$1,500,000. The recent Geothermal Plant 1 Fire Protection System Modernization Project totals \$1,298,751. This First Amendment will increase the not to exceed amount from \$1,500,000 to \$3,000,000. This Agreement is still available for use at any facility owned and/or operated by NCPA, NCPA Members, SCPPA, and SCPPA Members. NCPA currently has in place for similar services with Sabah International, Inc., Fire Safety Supply Company, Bay Cities Pyrotecator, Inc. and Bay Cities Fire Protection, Inc.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seek bids from as many qualified providers as possible. Bids are awarded to the vendor providing the overall best 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 \$3,000,000 over the existing five year term through April 17, 2025, to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with ORR Protection Systems, Inc.
- First Amendment to Multi-Task General Services Agreement with ORR Protection Systems, Inc.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ORR PROTECTION SYSTEMS, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and ORR Protection Systems, Inc., a corporation with its office located at 11601 Interchange Drive, Louisville, KY 40229 ("Contractor") (together sometimes referred to as the "Parties") as of April 17, 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 or begins to perform the Requested Work, then Contractor will have agreed to perform the Requested Work on the terms set

forth in the Purchase Order, this Agreement and its Exhibits. If Contractor does not agree in writing to perform the Work specified within seven calendar days, Agency at its sole discretion can issue a Purchase Order to another entity to perform the Work.

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

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

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

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 \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

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

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

4.3 Professional Liability Insurance. Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained through the term of this Agreement and completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period.

4.4 Pollution Insurance. Not Applicable

4.5 All Policies Requirements.

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

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

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

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

4.5.5 Waiver of Subrogation. Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the

Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

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

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent that the claims are caused by the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they are caused by such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.
- 5.3 Transfer of Title.** Not Applicable

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

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

respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors. Not Applicable.

6.6 Maintenance Labor Agreement. Not Applicable.

Section 7. LEGAL REQUIREMENTS.

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

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

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

7.4 Monitoring by DIR. The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

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

7.6 Prevailing Wage Rates. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request.

Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination and direct costs and expenses incurred by Contractor resulting from the 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, and Contractor has failed to commence and diligently continue to cure same, 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, and paid for by Agency;

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, upon the first to occur of Contractor's substantial completion of the Work or Agency's payment for same. 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 reasonable 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** The products Contractor sells are provided or manufactured by other parties and are warranted by those manufacturers against defects in materials and workmanship for a period of time depending on the products. Any and all misuse of these products is excluded from warranties. To the extent allowed by law, Contractor will pass through to Agency any and all warranties that are in effect for products purchased. 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. In the event Contractor's investigation or inspection reveals no defect and both parties agree with this conclusion, Contractor's regular charges for any and all repairs shall apply.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

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

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

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

Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

Rick Reynolds
VP Power Generation
ORR Protection Systems, Inc.
140 Bluffs Ct.
Canton, GA 30114

With a copy to:

Attn: General Counsel
ORR Protection Systems, Inc.
11601 Interchange Drive
Louisville, KY 40229

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

- 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
- 13.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 13.14 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 13.15 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

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

NORTHERN CALIFORNIA POWER AGENCY

ORR PROTECTION SYSTEMS, INC.


Date 4/17/20

Date 3-27-2020


RANDY S. HOWARD, General Manager


RICK D. REYNOLDS, Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

ORR Protection Systems, Inc. ("Contractor") shall provide fire system 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.

General services to include, but not be limited to the following:

- Inspection & Testing
 - Fire Alarm and Detection System
 - Fire Suppression Systems
 - Air Sampling
 - Fire Extinguishers
 - Sprinkler Systems
 - Emergency/Exit Lights
 - SCBA's (Self-Contained Breathing Apparatus)
 - Card Access Systems
- System Recharge
- System Monitoring
- System Modifications
- Materials
 - Supply or procure miscellaneous maintenance material

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

**ORR Protection Systems, Inc.
Exhibit B Rate Sheet
NCPA GEO - Proposed 5-Year MTGSA**

Regular Rates – Weekdays between 7 am – 5 pm

Fire Tech	Sprinkler Tech	Sprinkler Fitter (repairs)
\$155.00	\$170.00	\$230.00

Overtime Rates – Weeknights between 5 pm – 7 am & Weekends

Fire Tech	Sprinkler Tech	Sprinkler Fitter (repairs)
\$232.50	\$255.00	\$320.00

Double Time Rates – Holidays

Fire Tech	Sprinkler Tech	Sprinkler Fitter (repairs)
\$310.00	\$340.00	\$400.00

- Trip charges and mileage fees based on the MTGSA
- Emergency on demand service callouts, not previously scheduled, have a 4-hour response time based on geographic.
- Emergency on demand service callouts, not previously scheduled, will be invoiced at a 4-hour minimum.

Parts Pricing

MTGSA Discount	15% discount off Manufacturer's Published List Price
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Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

Rick Reynolds

(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

ORR Protection Systems

(Company name)

for contract work at:

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

(Project name and location)

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

[Signature]

(Signature of officer or agent)

Dated this 27th day of March, 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.

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



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

This First Amendment ("Amendment") to Multi-Task General Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and ORR Protection Systems, Inc. ("Contractor") (collectively referred to as "the Parties") as of _____, 2020.

WHEREAS, the Parties entered into a Multi-Task General Services Agreement, dated effective April 17, 2020, (the "Agreement") for ORR Protection Systems, Inc. to provide fire system maintenance services, for use at any facilities owned and/or operated by Agency, its Members, Southern California Public Power Authority ("SCPPA"), or by SCPPA Members; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a NOT TO EXCEED amount of \$1,500,000 to a NOT TO EXCEED amount of \$3,000,000; and

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

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

NOW, THEREFORE, the Parties agree as follows:

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

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

The remainder of Section 2 of the Agreement is unchanged.

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

Date:_____

ORR PROTECTION SYSTEMS, INC.

RANDY S. HOWARD,
General Manager

RICK D. REYNOLDS,
Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 12

Date: November 4, 2020

Meeting Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: Process Innovations, Inc. – First Amendment to transfer assignment of Five Year Multi-Task Consulting Services Agreement for OSISoft PI support services to Brandenburg Holdings, LLC dba Process Innovations/Process Plugins and approval of related Standard Software License 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

Approval authorizing the General Manager or his designee to enter into a First Amendment to the Multi-Task Consulting Services Agreement with Process Innovations, Inc. to transfer assignment of the agreement to Brandenburg Holdings, LLC dba Process Innovations/Process Plugins for OSISoft PI support services, and further approval of the related Standard Software License Agreement, both with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, or by SCPPA Members.

Background

On January 23, 2020, NCPA entered into a five year Multi-Task Consulting Services Agreement for OSISoft PI support services with Process Innovations, Inc.

On August 31, 2020, Process Innovations, Inc. was acquired by Brandenburg Holdings, LLC dba Process Innovations/Process Plugins, and wishes to accept assignment of the contract via this First Amendment to the Multi-Task Consulting Services Agreement.

In 2015, when the initial Consulting Services Agreement was executed, NCPA entered into a Software License Agreement related to the services. Due to the acquisition by Brandenburg Holdings, LLC dba Process Innovations/Process Plugins, an updated license agreement is also needed.

Selection Process

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

Fiscal Impact

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

Environmental Analysis

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

Submitted by:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (3)

- Process Innovations, Inc. MTCSA dated January 23, 2020
- First Amendment Transferring Assignment of Multi-Task Consulting Services Agreement with Process Innovations, Inc., to Brandenburg Holdings, LLC dba Process Innovations/Process Plugins
- Standard Software License Agreement with Process Innovations/Process Plugins



**MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PROCESS INNOVATIONS, 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 Process Innovations, Inc., a corporation with its office located at 63 Weber Creek Road, PO Box 82, Centennial, WY 82055 ("Consultant") (together sometimes referred to as the "Parties") as of January 23, 2020 ("Effective Date") in Roseville, California.

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

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

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

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED FIVE HUNDRED THOUSAND** dollars (\$500,000.00) 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 for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

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

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

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

4.2 Commercial General and Automobile Liability Insurance.

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

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

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

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

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

4.4 All Policies Requirements.

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

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

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

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

policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, 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 ensues they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

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

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

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.
- 7.4 Cyber Security.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) will at its sole expense follow applicable NERC CIP standards for cyber security for the applicable Agency facility. Furthermore, Consultant shall notify Agency no less than 24-hours after discovery of a potential compromise of Consultant's network, computers, applications, or electronic systems in any way that Consultant determines could provide unauthorized access or negatively impact the confidentiality, integrity, security, or availability of Agency systems.

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 Joel Ledesma, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

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

Process Innovations, Inc.
Attention: Joe Devine
2519 South Shields Street, Suite 166
Fort Collins, CO 80526

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.

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

NORTHERN CALIFORNIA POWER AGENCY


PROCESS INNOVATIONS, INC.

Date 1/23/2020

Date 12/11/2019

 CFO for

RANDY S. HOWARD,
General Manager

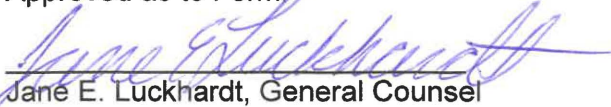


JOE DEVINE,
President

Attest:


Assistant Secretary of the Commission

Approved as to Form:


Jane E. Luckhardt, General Counsel

Michelle Schellentrager

From: Randy Howard
Sent: Wednesday, January 22, 2020 12:13 PM
To: *Mgmt Team
Cc: *Admin Assts
Subject: Signature Authority

Follow Up Flag: Follow up
Flag Status: Completed

Good afternoon,

During my absence, Monty Hanks will have contract signature authority on my behalf.

January 22-23, 2020.

Thank you,
Randy

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

EXHIBIT A

SCOPE OF SERVICES

Process Innovations, Inc. ("Consultant") shall provide OSIsoft PI Software 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:

- Provide OSIsoft Software Support - Support OSI soft software on Agency supplied server and interface hardware. This software will be prepared to accept the connections from all Agency data sources.
- Provide Onsite Client Tool Training - This task will involve providing Process Innovations client tool training. Ideally each participant should have their own computer for training as the class involves many hands-on exercises to leverage acquired data to perform real time evaluations. Develop some base reports and graphics in the class to provide a foundation for further development.
- Provide Value Added Applications - This task will involve the development of value added applications and features. This will include report building and calculated tag development.
- Design Diagrams - Design and provide detailed architectural network diagrams and review with NCPA for approval (Diagrams shall include, but not limited to, detailed specifications of all network connections, protocols, addresses, ports, etc.)
- Provide Diagrams - Provide final ("As Built") architectural network diagrams and review with NCPA for approval
- Compliance - Ensure all network modifications and implementations meet North American Electric Reliability Corporation (NERC) reliability standards

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 this Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Service Provider	Hourly Rates			
	Onsite Consulting Services	Offsite (Remote) Services	Travel Time	Onsite Training
Principal Engineer/Consultant	\$ 250	\$ 200	\$ 170	\$ 320
Sr. Application Consultant	\$ 235	\$ 185	\$ 155	\$ 295
Application Engineer	\$ 170	\$ 145	\$ 95	\$ 270

Notes:

Billing is in hourly increments

Travel and living expenses are in addition to Onsite Rates

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, Diana Devine, Vice President
(Name of person signing affidavit)(Title)

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

Process Innovations, 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.

Diana Devine
(Signature of officer or agent)

Dated this 11th day of December, 20 19.

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



**FIRST AMENDMENT TO MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND PROCESS INNOVATIONS, INC.
ACCEPTING ASSIGNMENT TO BRANDENBURG HOLDINGS, LLC DBA PROCESS
INNOVATIONS/PROCESS PLUGINS**

This First Amendment (“Amendment”) to the Multi-Task Consulting Services Agreement is entered into by and between the Northern California Power Agency (“Agency”) and Brandenburg Holdings, LLC dba Process Innovations/Process Plugins (“Consultant”) (collectively referred to as “the Parties”) as of _____, 2020.

WHEREAS, the Parties entered into a Multi-Task Consulting Services Agreement dated effective January 23, 2020, (the “Agreement”) for Process Innovations, Inc. to provide OSISoft PI software support services for the Agency, Agency Members, the Southern California Public Power Authority (SCPPA), or SCPPA Members; and

WHEREAS, effective August 31, 2020, the assets of Process Innovations, Inc. were acquired by Brandenburg Holdings, LLC dba Process Innovations/Process Plugins, and the Agency desires to assign the agreement to Brandenburg Holdings, LLC dba Process Innovations/Process Plugins; and

WHEREAS, the Parties now desire to amend Section 10.8 entitled “Notices” of the Agreement to reflect change of the Consultant’s name; and

WHEREAS, the Agency now desires to amend the Scope of Services set forth in Exhibit A to the Agreement; and

WHEREAS, the Agency now desires to amend the Certification: Affidavit of Compliance for Contractors as set forth in Exhibit C to include Brandenburg Holdings, LLC dba Process Innovations/Process Plugins; 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

WHEREAS, Process Innovations, Inc. consents to the assignment;

NOW, THEREFORE, the Parties agree as follows:

1. **As of the Amendment Effective Date**, the preamble to the Agreement is replaced in its entirety as follows:

“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 Brandenburg Holdings, LLC dba Process Innovations/Process Plugins, with its main office located at 8400 E. Prentice

Avenue, Suite 1300, Greenwood Village, CO 80111 ("Consultant") (together sometimes referred to as "Parties") as of January 23, 2020 ("Effective Date") in Roseville, California."

2. **Section 10.8 Notices** is replaced in its entirety as follows:

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

Brandenburg Holdings, LLC dba Process Innovations/Process Plugins
Attention: Leane Gabel
8400 E. Prentice Avenue, Suite 1300
Greenwood Village, CO 80111

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

3. **Exhibit A – SCOPE OF SERVICES** is amended and restated to read in full as set forth in the attached Exhibit A.
4. **Exhibit B – COMPENSATION SCHEDULE AND HOURLY FEES** is amended and restated to read in full as set forth in the attached Exhibit B.
5. **Exhibit C – CERTIFICATION: Affidavit of Compliance for Contractors** is amended to include Brandenburg Holdings, LLC dba Process Innovations/Process Plugins and shall be executed as set forth in the attached Exhibit C.
6. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.

SIGNATURES ON FOLLOWING PAGE

///

///

Date:_____

NORTHERN CALIFORNIA POWER AGENCY

Date:_____

BRANDENBURG HOLDINGS, LLC
DBA PROCESS INNOVATIONS/PROCESS
PLUGINS

RANDY S. HOWARD, General Manager

JERRY PALMER, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF SERVICES

Brandenburg Holdings, LLC dba Process Innovations/Process Plugins ("Consultant") shall provide OSIsoft PI Software 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.

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

- Provide OSIsoft Software Support - Support OSI soft software on Agency supplied server and interface hardware. This software will be prepared to accept the connections from all Agency data sources.
- Provide Onsite Client Tool Training - This task will involve providing Process Innovations client tool training. Ideally each participant should have their own computer for training as the class involves many hands-on exercises to leverage acquired data to perform real time evaluations. Develop some base reports and graphics in the class to provide a foundation for further development.
- Provide Value Added Applications - This task will involve the development of value-added applications and features. This will include report building and calculated tag development.
- Design Diagrams - Design and provide detailed architectural network diagrams and review with approval by the entity for which services are performed (Diagrams shall include, but not limited to, detailed specifications of all network connections, protocols, addresses, ports, etc.).
- Provide Diagrams - Provide final ("As Built") architectural network diagrams and review with approval by the entity for which services are performed.
- Compliance - Ensure all network modifications and implementations meet North American Electric Reliability Corporation (NERC) reliability standards.

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 this Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Service Provider	Hourly Rates			
	Onsite Consulting Services	Offsite (Remote) Services	Travel Time	Onsite Training
Principal Engineer/Consultant	\$ 250	\$ 200	\$ 170	\$ 320
Sr. Application Consultant	\$ 235	\$ 185	\$ 155	\$ 295
Application Engineer	\$ 170	\$ 145	\$ 95	\$ 270

Notes:

Billing is in hourly increments

Travel and living expenses are in addition to Onsite Rates

A one-time licensing fee to be paid upon delivery of new software. NCPA previously paid this fee in the amount of \$44,500.00 in 2015 for the current NCPA license.

The Software Reliance Program annual fee is \$8,900.00. This fee covers the maintenance and updates to the licensed product.

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, _____
(Name of person signing affidavit)(Title)

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

Brandenburg Holdings, LLC dba Process Innovations/Process Plugins
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242
(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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



STANDARD SOFTWARE LICENSE AGREEMENT

This Standard Software License Agreement (this “Agreement”) is made this ____ day of _____, 20__ by and between Brandenburg Holdings, LLC, D/B/A “Process Plugins”, and its related companies, (“Licensor”) and the Northern California Power Agency (“Licensee”).

WHEREAS, the Licensor has copyright rights to **Process Plugins Solutions Software** programs and desires to license the use of the software to Licensee, and

WHEREAS, Licensee desires to license a version of the software from Licensor pursuant to the terms of this Agreement.

NOW, THEREFORE, for valuable consideration the parties agree as follows:

1. License. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee one non-exclusive, non-sublicensable and non-transferable license to use one specific copy of the *Process Plugins Solutions Software* (“Software”) in object code form only (and specifically not in source code form) as set forth below. This license is solely for use of the Software by the Licensee as a single individual or entity. Licensee acknowledges that, as between Licensee and Licensor, Licensor owns all right, title, and interest, including all intellectual property rights, in and to the Software. Licensee’s use of the Software is as a licensee only, and Licensee acknowledges that it is not the owner of the Software program. The expression contained within the Software program is expressly reserved by the Licensor. Licensee shall not use the Software for any purposes beyond the scope of the license granted in this Agreement. Licensee shall not sublicense or sell the Software to third-parties. All aspects of the Software (including but not limited to design, format and structure of files and reports created by the Software) are copyrighted by Licensor. Licensee may not use, copy, modify, or transfer the Software or documentation, in whole or in part, except as provided in this agreement. The license granted permits Licensee to do only each of the following:

- Use the Software at the site identified in the license invoice;
- Use the Software on computers which have the minimum system requirements as described in the documentation;
- Use the Software and documentation for business and commercial purposes only;
- Make copies of the Software only as necessary for backup purposes; no other copies shall be made without Licensor's prior written consent (any such copies shall remain Licensor’s exclusive property

and shall be subject to the terms and conditions of this Agreement); and

- Use the Software with any software upgrades that may be provided by the Licensor.

These are the only rights granted. All other rights are expressly reserved by Licensor. Licensee has no right, among other things: to transfer, convey, reproduce, sublicense, loan, lend, distribute, rent, modify, translate, disassemble, decompile, or reverse engineer the Software; translate the Software into another computer language or otherwise reduce the Software to human perceivable form; to use the Software at a location or on a network at other than the specified location; or to create derivative works based upon the Software. Such limits shall apply to use of either a portion of or the entire Software program. The rights granted by this license shall terminate (without refund) automatically upon Licensee's failure to abide by all terms or conditions of this Agreement or by any contribution by Licensee to any infringement of any proprietary rights owned or licensed by Licensor. In the event an update is received, Licensee agrees to, upon the election of Licensor, destroy or return the original Software and documentation and acknowledges that the update will be governed by the terms of this license also unless specifically superseded in writing.

2. Use and Ownership. Licensee is entitled to use the Software on multiple computers throughout its system or network of machines only at the site identified in the license invoice. Licensee is entitled to make two additional copies of the Software for archival purposes only. “Archival purpose” means the copy is being made for “back up” in case the computer(s), network or system breaks down, or in case the original Software program becomes damaged or unusable. The archival copy must be destroyed if

this license is terminated. The Software, documentation and any copies thereof are the property of the Licensor. Licensee is responsible and liable for all uses of the Software resulting from access provided by Licensee, whether such access or use is permitted by or in violation of this Agreement. Licensor licenses the Software for use in the United States and Puerto Rico; it does not transfer ownership. Licensee may merge all or a portion of the Software program into another program. The portion so merged into the new program remains the copyright and within the ownership of Licensor. Any reproduction of the Software program, whether for archival or merging purposes, must include the copyright notice as follows: © 2020 Brandenburg Holdings, LLC.

3. Licensing Fee. Licensee agrees to pay Licensor a one-time licensing fee per licensed solution per separate agreement. Said fee shall be due and payable upon delivery of the Software.

4. Term. This Agreement is effective until terminated, as determined herein. Licensee may terminate this License at any time by destroying the Software, documentation, and all copies thereof. This License will terminate immediately without notice from Licensor if Licensee fails to comply with any provision of this Agreement. Upon termination, Licensee must destroy the Software, documentation, and all copies thereof.

5. Limited Warranty. The only warranty Licensor makes to Licensee in connection with the Software is that media provided by Licensor on which the Software is recorded, if any will be replaced without charge, if Licensor in good faith determines that it was defective and not subject to misuse, and if the media and proof of purchase are returned to Licensor within ninety (90) days of the date of purchase. Licensee assumes full responsibility for the selection of the Software and for its installation and use and the results of that use. IN NO CASE SHALL LICENSOR, ITS EMPLOYEES, AGENTS, OR SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONTINGENT, CONSEQUENTIAL, OR OTHER SIMILAR DAMAGES, ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY IN TORT OR CONTRACT, INCLUDING BUT NOT LIMITED TO, ANY LOST PROFITS, LOSS OF DATA, DAMAGES FROM BUSINESS INTERRUPTION, DOWNTIME, GOODWILL, DAMAGE TO OR REPLACEMENT OF EQUIPMENT OR PROPERTY, COSTS OF RECOVERING, REPROGRAMMING, OR REPRODUCING ANY

SOFTWARE PROGRAM OR DATA USED IN CONJUNCTION WITH THE SOFTWARE, EVEN IF LICENSOR, ITS EMPLOYEES, AGENTS, OR SUPPLIERS, OR ANYONE ELSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSEE AGREES THAT LICENSOR'S AND ITS EMPLOYEES', AGENTS', OR SUPPLIERS' TOTAL LIABILITY, IF ANY, UNDER ANY THEORY, SHALL NOT EXCEED ANY AMOUNT PAID BY LICENSEE FOR THE SOFTWARE. ANY WRITTEN OR ORAL INFORMATION OR ADVICE GIVEN BY LICENSOR, ITS EMPLOYEES, AGENTS, OR SUPPLIERS WILL IN NO WAY INCREASE THE SCOPE OF LIABILITY OR LIMITED WARRANTY, NOR MAY LICENSEE RELY ON ANY SUCH WRITTEN OR ORAL COMMUNICATION. LICENSEE AGREES TO ACCEPT THIS SOFTWARE "AS IS" AND "WITH ALL FAULTS" OTHER THAN THE LIMITED WARRANTY STATED ABOVE. ALL EXPRESS WARRANTIES, UNLESS SPECIFICALLY STATED HEREIN, AND ALL IMPLIED WARRANTIES ON THE SOFTWARE, MEDIA AND DOCUMENTATION, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, PERFORMANCE AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT ARE DISCLAIMED BY LICENSOR AND ACKNOWLEDGED BY LICENSEE. Some states do not allow limitations on how long an implied warranty may last or on incidental or consequential damages so the above limitation may not apply to you. Licensor shall be responsible only to the Licensee; no responsibility to any third party shall be created. The limited express warranty set forth above is in lieu of all other express warranties and the remedies set forth above are the Licensee's sole and exclusive remedies. The agents, employees, distributors, dealers and other suppliers of Licensor are not authorized to make modifications to this warranty or additional warranties on its behalf. This warranty gives Licensee specific legal rights. Licensee may also have other rights which vary from state to state.

6. Employee Use. By this license, Licensee agrees to use its best efforts to ensure that its employees use the Software only in a manner consistent with the terms of this Agreement. Licensee agrees to restrict all usage and modification of the Software program by employees as per the terms of this Agreement and to notify Licensor in writing if it becomes aware that any employee or other party has

copied or has in some other way changed the property rights of the Licensor in the Software.

7. Maintenance and Installation. Licensee must provide for repair and maintenance of the Software or must separately contract for such through the Licensor. This Agreement is not an agreement to provide services in regard to the setting up or the operation of the Software program. Any such service must be separately contracted for and must be the subject of a separate agreement.

8. Export Law Assurance. Licensee agrees and certifies that neither the Software nor any other technical data received from Licensor, nor the direct product thereof, will be exported outside the United States except as authorized and as permitted by the laws and regulations of the United States.

9. No Liability. Licensor has no liability for any claim based on Licensee's: (i) negligence or willful misconduct; (ii) use of the Software in a manner not authorized or contemplated by this Agreement; (iii) use of the Software in combination with data, software, hardware, equipment or technology not provided by Licensor or authorized by Licensor in writing; or (iv) modifications to the Software not made by Licensor.

9. General Conditions. The validity and interpretation of this Agreement shall be governed by and construed in accordance with Colorado law except as to copyright and other proprietary matters which

may be preempted by United States laws and international treaties. In the event of any violation of this Agreement, Licensor reserves the right to pursue any state law remedies (including contractual remedies) or remedies under federal laws or both. Licensee consents to exclusive jurisdiction in either state or federal courts in Colorado or both as appropriate and agrees that the prevailing party may be entitled to its attorney's fees and costs. No decision, act, or inaction of Licensor shall be construed to be a waiver of any right or remedy, and pursuit of any state or federal causes shall not be deemed an election of remedies. Licensee may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Licensor. In the event any provision of this Agreement shall be deemed unenforceable, or void, or invalid, such provision shall be modified so as to make it valid and enforceable and as so modified the entire Agreement shall remain in full force and effect. This Agreement sets forth the entire understanding and agreement between the parties and no written or oral representations of any kind whatsoever shall in any way modify or expand the terms of this Agreement. This Agreement can be modified only in writing between the Licensor and Licensee. In the event of any conflict or inconsistency between the terms of this Agreement and any documentation, this Agreement shall preempt such documentation to the extent inconsistent.

PROPRIETARY RIGHTS WARNING

All material associated with this Agreement is copyrighted material. The owner of the Software and materials asserts all copyrights and other proprietary rights in and to such items except as licensed to users hereunder and subject to strict compliance with the terms of this license. Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution, or use of copyrighted materials [Title 17, United States Code]. Penalties of up to \$250,000 for individuals and \$500,000 for organizations exist for each infringement; furthermore, both the Federal Bureau of Investigation and Interpol investigate allegations of criminal copyright infringement for enforcement of penalties which may include imprisonment for up to five (5) years in the United States [Title 18, United States Code].

[Signature Page to Follow.]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement effective as of the date first written above.

LICENSOR: Brandenburg Holdings, LLC
DBA Process Plugins

LICENSEE:
Northern California Power Agency

By: _____
Authorized Agent

By: _____
Authorized Agent

Print Name: _____

Print Name: _____



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 13

Date: November 4, 2020

Meeting Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: Tesco Controls, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) facilities, NCPA Members, SCPPA, and SCPPA Members.

Proposal

Approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Tesco Controls, Inc. to provide integrating electrical and process control systems services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over 5 years, for use at all facilities owned and/or operated by NCPA, NCPA Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background

Integrating electrical and process control systems 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 by SCPPA Members. Tesco Controls, Inc. is a new vendor whom NCPA has not had any previous agreements with. NCPA would like to enter into an agreement with this new vendor as an additional option when these types of services are needed.

Selection Process

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA has additional agreements in place with Nor-Cal Controls ES, Ins, Wunderlich-Malec, Systems, Inc., and dHeurle Systems, Inc. (pending) for similar services and seeks bids from as many qualified providers as possible. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact

Upon execution, the total cost of the agreement is not-to-exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Tesco Controls, Inc.



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
TESCO CONTROLS, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Tesco Controls, Inc., a corporation with its office located at 8440 Florin Road, Sacramento, CA 95828 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 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) 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 \$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, and volunteers from and against any and all claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor in its performance of Work under this Agreement. Contractor shall bear all losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.
- 5.3 Transfer of Title.** Not Applicable

Section 6. STATUS OF CONTRACTOR.

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

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

is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

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

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

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

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

Section 7. LEGAL REQUIREMENTS.

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

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

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

- 8.4.1** Immediately terminate the Agreement;

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

Section 9. KEEPING AND STATUS OF RECORDS.

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

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

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

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

Section 11. WARRANTY.

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

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

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

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

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

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

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

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

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

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

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

Section 13. MISCELLANEOUS PROVISIONS.

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

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

Keith Webb
National Sales Manager Water/Wastewater
Tesco Controls, Inc.
8440 Florin Road
Sacramento, CA 95828

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

13.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signatory 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

TESCO CONTROLS, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

**KEITH WEBB, National Sales Manager
Water/Wastewater**

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Tesco Controls, Inc. ("Contractor") shall provide integrating electrical and process control systems 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:

- **Systems Integration**
 - System Design & Validation
 - Control Strategy Development
 - PLC Applications Programming
 - SCADA-HMI System Development
 - Network Infrastructure
 - Project Management
 - Communications / Radio / Telemetry
 - Cyber Security
 - System Commissioning
- **Field Services**
 - Power System Analysis and Testing
 - Communications Testing
 - Harmonic Analysis and Testing
 - System tuning and commissioning
 - Preventative Maintenance
- **EMASS – Extended Maintenance**
- **Training**

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

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

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

Services	Standard Rate	Premium Services	Emergency Services	Service Contracts
Project Engineer	\$155	\$165	\$235	\$135
Senior Project Engineer	\$170	\$185	\$245	\$145
Project Manager	\$165	\$175	\$235	\$145
Senior Project Manager	\$185	\$195	\$245	\$155
PLC Applications Programmer	\$155	\$165	\$235	\$135
Senior PLC Applications Programmer	\$170	\$185	\$245	\$145
SCADA Applications Programmer	\$155	\$165	\$235	\$135
Senior SCADA Applications Programmer	\$170	\$185	\$245	\$145
Field Service Engineer/Specialist	\$155	\$165	\$235	\$135
Senior Field Service Engineer	\$170	\$185	\$245	\$145
Network/Communications Engineer	\$165	\$185	\$250	\$150

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

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

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

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

(Company name)

for contract work at:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

NOT APPLICABLE

EXHIBIT E

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Insurance Renewal for Calendar Year 2021

Monty Hanks
AGM Admin Services

Background

- Agency contracts with Aon Risk Solutions
 - To market and place the insurance programs
 - Insurance rates and policies are secured for the Calendar Year and renewed annually
- Property policy expires 12/15, Liability policy expires 12/31
- Plan to secure firm quotes/rates by end of November and present to LEC, Facilities and UD's in November, request Commission approval 12/3
- Only one Commission meeting before expiration of policies
- Request GM authority to negotiate and bind contracts based on 'not-to-exceed' limits
- Report back to Facilities & LEC PPC with final premiums

Background

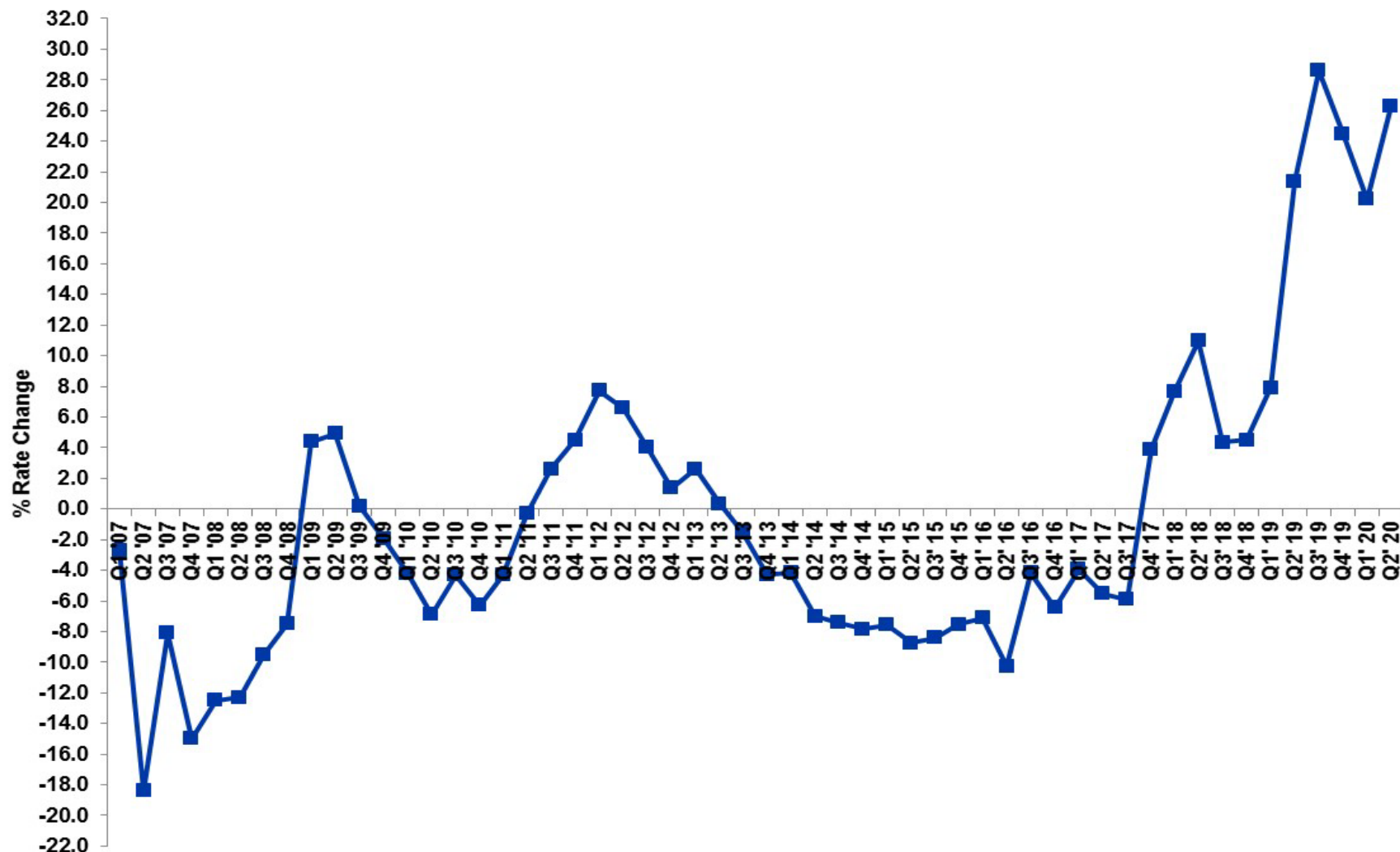
■ For Calendar Year 2021

- Had an extensive virtual marketing strategy meeting with both existing and new underwriters (total 22 UWs from 15 different insurers)
- Goal to keep limits and sub-limits the same as 2020

■ Six losses and claims

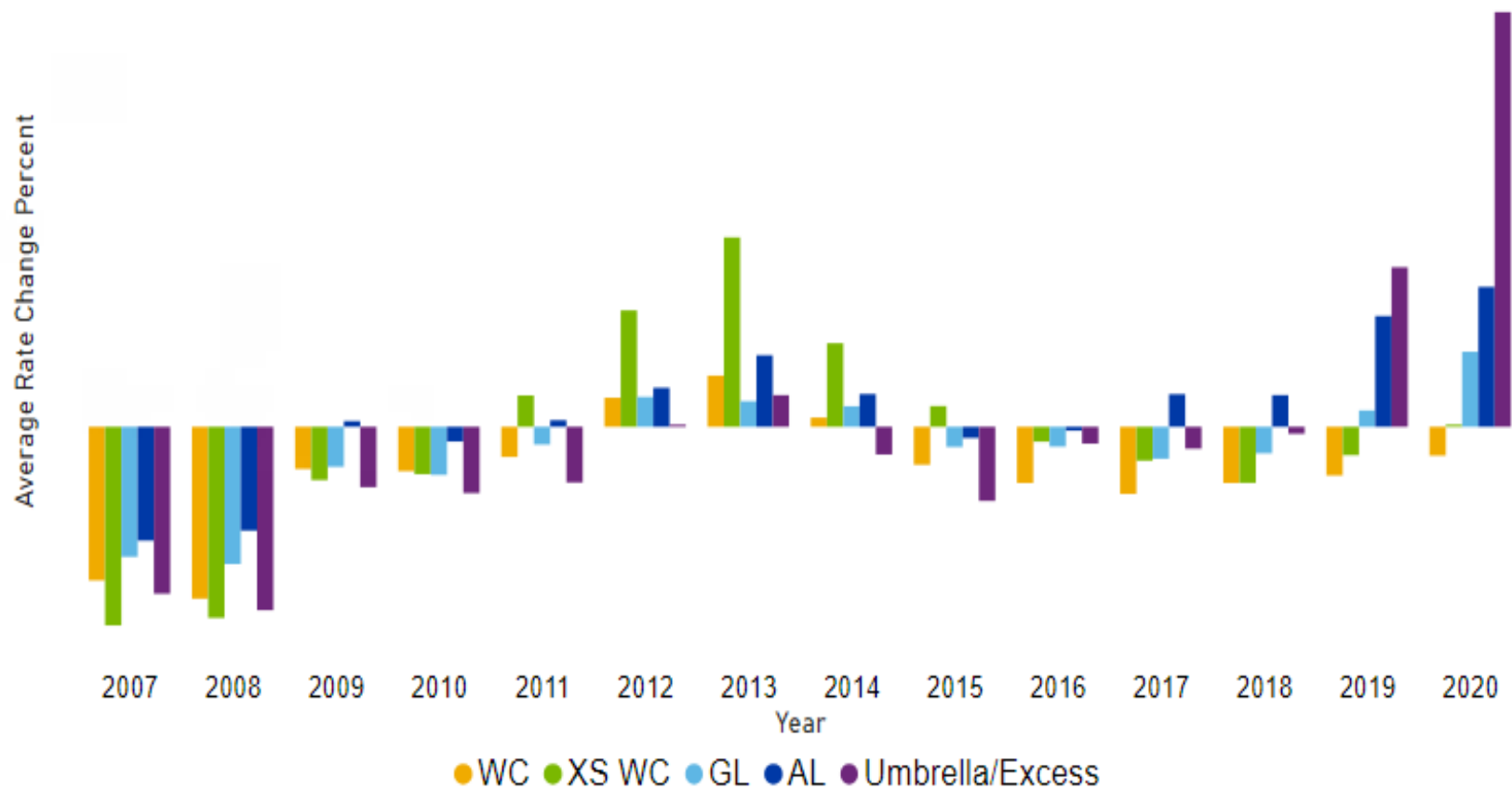
- Sept 2015 – Valley Fire, ~\$1m loss
- Dec 2015 – Adit 4 landslide, ~\$2.6m loss
- Jan/Feb 2017 – Beaver Creek storm damage, ~\$1.8m loss
- June 2018 – Alameda CT1, ~\$2.6m loss
- Oct 2019 – Kincade Fire BI loss (\$1.8m, withdrew)
- Jan 2020 – LEC Turbine failure ~\$44m

Insurance Market: Property Rate Change



Source: Aon National Property Quarterly Rate Report-Q2 2020

Insurance Market: Casualty Rate Change

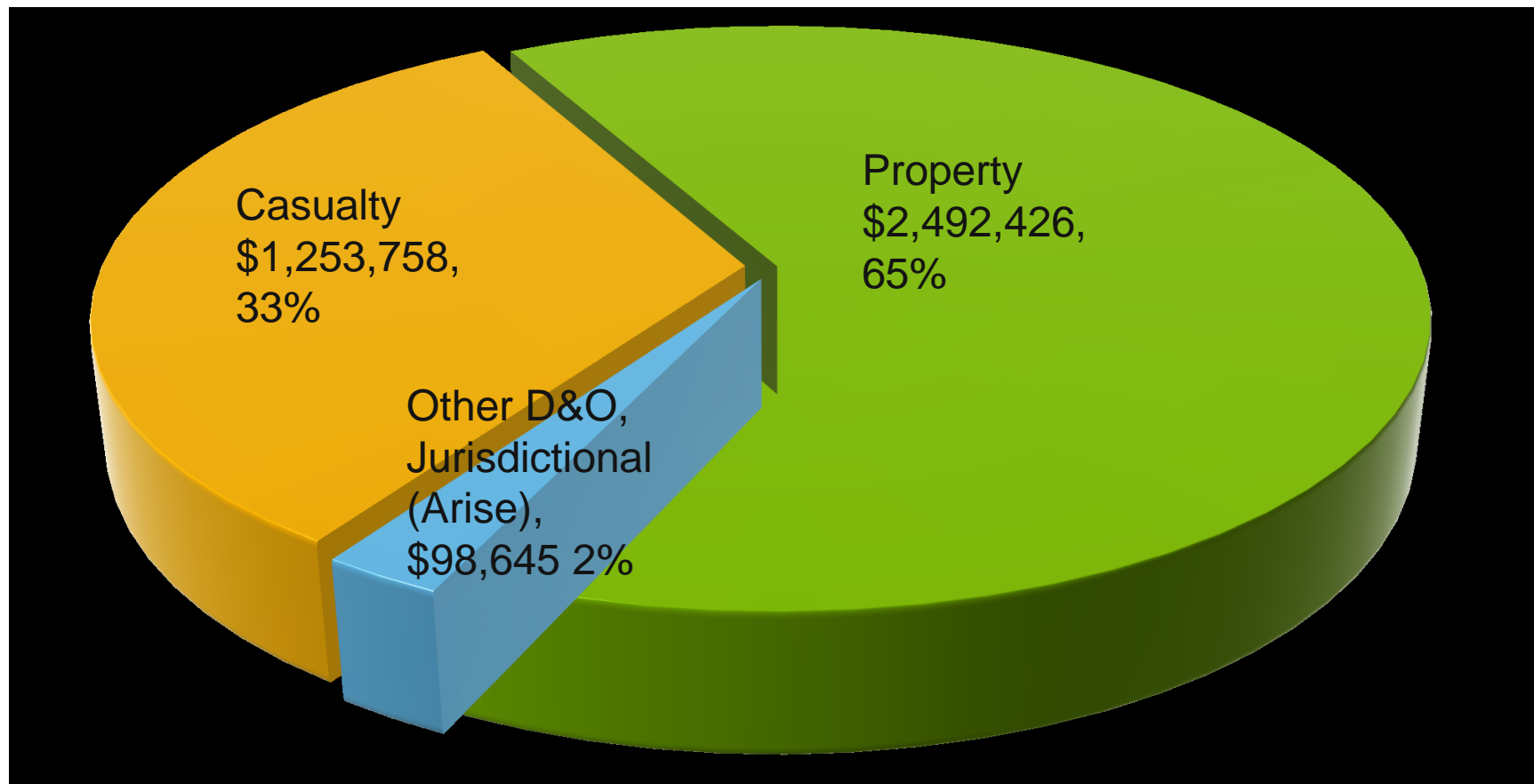


Source: Aon National Casualty Quarterly⁵Rate Report-Q2 2020

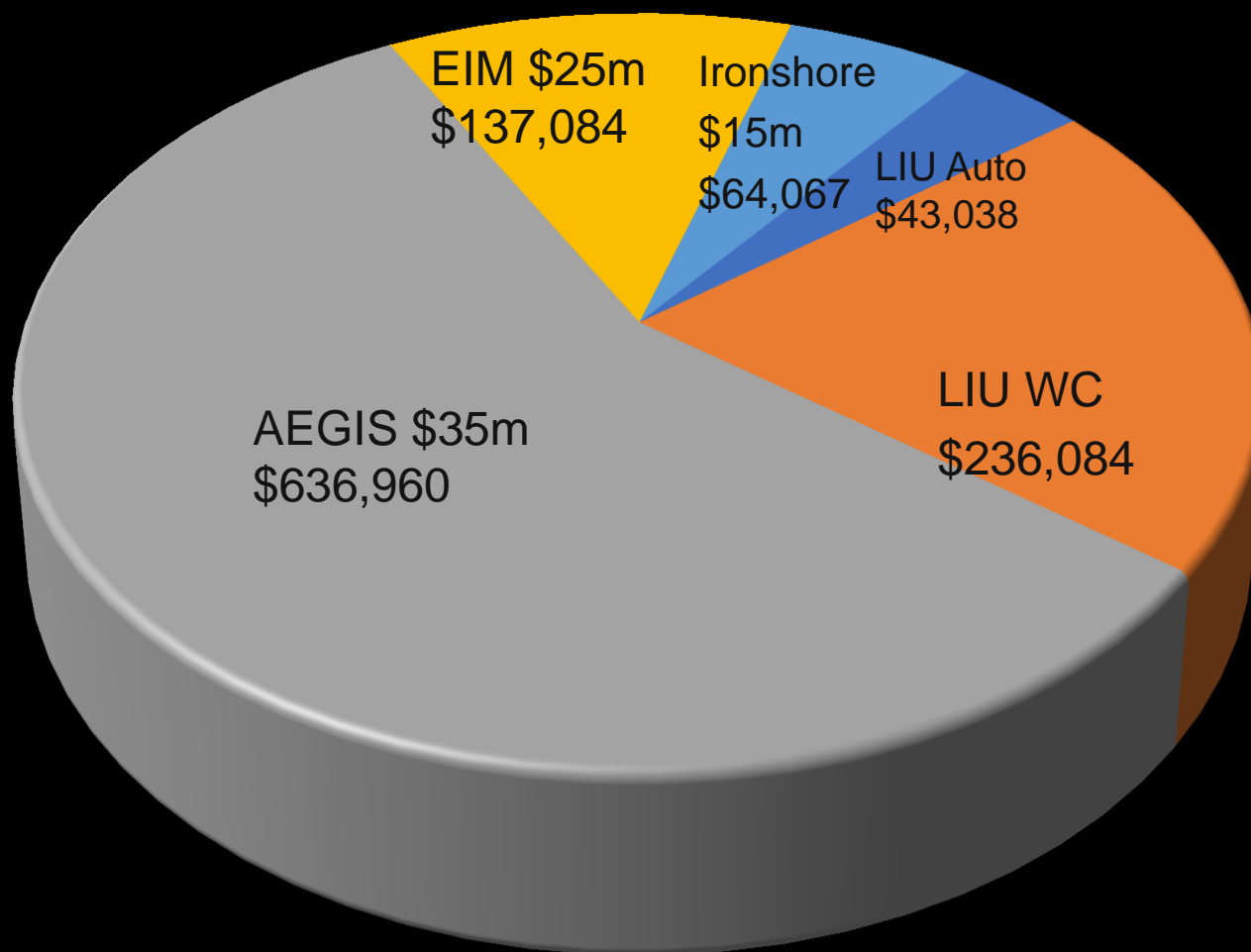
Insurance Market Highlights

- Insurance industry had about 10 years soft market, compared to increasing exposures (loss frequency & severity) and loss ratios
- Increased loss cost due to inflation and higher litigation settlement
- Recent devastating California wildfires put CA accounts under increased scrutiny and rate hikes
- Excess liability/casualty market extremely disrupted & stressed
 - Lost \$400 million in the past two years
 - Sustained rate increase, nationwide 25-30% in 2019 and 30-50% 2020 year to date
 - Wildfire exclusion pushed on both CA and non-CA accounts

Current Program Overview



Current Program Overview



Premium Breakdown & comparison

NCPA Insurance Premium Summary

	2018	2019	2020	2021	Change	Change	Change	Change
Property Damage								
Property Damage & Terrorism	\$1,110,177	\$1,150,000	\$1,437,500	\$1,813,401	-20.02%	3.59%	25.00%	26.15%
Insurable Value	\$768,632,706	\$785,298,760	\$821,829,403	\$829,387,936	3.64%	2.17%	4.65%	0.92%
Rate per \$100	\$ 0.14	\$ 0.15	\$ 0.17	\$ 0.22	-22.84%	1.39%	19.44%	25.00%
Time Element (BI)	\$339,500	\$427,676	\$448,192	\$512,253	-14.67%	25.97%	4.80%	14.29%
Time Element (BI) insurable value	\$63,559,089	\$80,066,831	\$100,972,401	\$96,651,557	-16.98%	25.97%	26.11%	-4.28%
Rate per \$100	\$0.53	\$0.53	\$0.44	\$0.53	2.79%	0.00%	-16.90%	19.40%
Tax & Fees								
Premium Total	\$1,449,677	\$1,577,676	\$1,885,692	\$2,325,654	-18.83%	8.83%	19.52%	23.33%
Casualty								
Policy Limit \$75 million								
Premium Total	\$537,518	\$597,699	\$849,412	\$1,274,118	1.54%	11.20%	42.11%	50.00%
Total	\$1,987,195	\$2,175,375	\$2,735,104	\$3,599,772	-14.17%	9.47%	25.73%	31.61%

Premium Breakdown & comparison

LEC Insurance Premium Summary

	2018	2019	Renewal	Renewal	Change	Change	Change	Change
Property Damage								
Property Damage & Terrorism	\$ 464,819	\$ 495,085	\$ 618,856	\$ 796,445	-2.61%	6.51%	25.00%	28.70%
Insurable Value	\$ 369,311,630	\$ 381,896,208	\$401,875,050	\$413,758,712	3.96%	3.41%	5.23%	2.96%
Rate per \$100	\$ 0.1259	\$ 0.1296	\$ 0.1540	\$ 0.1925	-6.33%	3.00%	18.79%	25.00%
Time Element (BI) Excl.	Not Purchased	Not Purchased	Not Purchased	Not Purchased				
Premium Total	\$ 464,819	\$ 495,085	\$ 618,856	\$ 796,445	-2.61%	6.51%	25.00%	28.70%
Casualty								
\$35mm Excess Liability	\$ 92,785	\$94,667	\$139,388	\$209,081	1.95%	2.03%	47.24%	50.00%
Additional \$45 Liability	Not Purchased	Not Purchased	Not Purchased	Not Purchased				
Terrorism	Incl	Incl	Incl	Incl				
Premium Total	\$ 92,785	\$ 94,667	\$ 139,388	\$ 209,081	-3.83%	2.03%	47.24%	50.00%
Total	\$ 557,604	\$ 589,752	\$ 758,244	\$ 1,005,526	-2.82%	5.77%	28.57%	32.61%

Premium Breakdown & comparison

WORKERS' COMPENSATION

WORKERS' COMPENSATION	2020				%	%	%	%
	2018 Expiring	2019 Renewal	Renewal	2021Renewal	Change	Change	Change	Change
Premium	\$218,658	\$244,803	\$236,084	\$247,888	-24.04%	11.96%	-3.56%	5.00%
Payroll	\$22,539,691	\$23,504,506	\$23,320,087	\$24,463,247		4.28%	-0.78%	4.90%
Terrorism	Incl	Incl	Incl	Incl				
TOTAL PREMIUM	\$218,658	\$244,803	\$236,084	\$247,888	-24.04%	11.96%	-3.56%	5.00%
GRAND TOTAL	\$2,763,457	\$3,009,930	\$3,729,431	\$4,853,187	-13.02%	8.92%	23.90%	30.13%

Auto Policy

\$ 43,038 \$ 49,494

15.00%

Request

Staff recommends the Facilities Committee recommend the Commission delegate authority to the General Manager to negotiate and bind property damage and liability coverage amounts as presented (or better) and a not-to-exceed proposed premiums of approximately \$4,605,300.

\$3,122,100 for property (\$2,325,650 NCPA, \$796,450 LEC)

\$1,483,200 for Excess Liability (\$1,274,100 NCPA, \$209,100 LEC)

Questions?



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: **15**

Date: November 9, 2020
To: Lodi Energy Center Project Participant Committee
Subject: Approval of Major Insurance Renewals for the Policy Year of 2021

Proposal

NCPA staff recommends that the LEC PPC delegate authority to the General Manager to negotiate and bind property damage and liability coverages amounts as presented (or better) and a not-to-exceed proposed premiums of approximately \$1,005,600.

Background

NCPA utilizes the insurance brokerage services of Aon Risk Solutions, San Francisco, California to market and place NCPA's insurance programs. Each insurance policy and the related insurance market conditions are reviewed prior to the renewal date and remarketed as required to qualified insurers experienced in underwriting the applicable insurance risk. Current property and liability insurance coverage expires on December 15 and December 31, 2020, respectively.

This year NCPA, together with Aon, marketed NCPA's insurance programs to both existing and prospective underwriters (UWs), a total of 22 UWs from 15 different insurers, focused on presenting NCPA's proactive enterprise risk management approach and its rigorous loss prevention programs. The property insurance market had been soft for many years. It turned around in 2017-18, triggered by floods in Texas, hurricanes along the east coast, the devastation of Puerto Rico, and wildfires in California. NCPA management's commitment to loss prevention and the marketing effort successfully improved the insurance underwriters' confidence and knowledge of NCPA's business and risk profile.

Highlights of the Renewal Process

- The insurance market conditions hardened in 2017-18 after many years of soft markets. The members have benefited with reduced (or flat) premiums since 2015.
- On-going exposure to flooding, hurricanes, and catastrophic California wildfires have changed the insurance landscape.
- NCPA had six claims in the past five years: 2015 Geothermal wildfire and Hydro Plant landslide, 2017 storm damage on Hydro Beaver Creek, and 2018 Alameda Unit 1 equipment failure, 2019 Kincade Fire Business Interruption, and 2020 LEC turbine generator failure (\$44 million).
- California wildfires have a significant impact on the liability insurance market.
- Some underwriters withdrew from California liability insurance market while others have reduced capacities and/or excluded wildfire coverage altogether.

LEC Insurance Programs Renewal Proposal

Due to the current wildfires in California, underwriters are not ready to quote NCPA's program before assessing their potential exposures. While NCPA and Aon are still in the process of securing final quotes, staff requests the Commission grant the authority to the General Manager to negotiate and bind coverages with not-to-exceed rates for the 2021 renewal premiums of \$796,500 (25% increase over prior year) for LEC property damage coverage and \$209,100 (50% increase over prior year) for the excess liability coverage. While our broker will continue pushing the markets for better rates, this provides the General Manager the ability to bind coverages prior to the expiration of the policies. A final report will be made available after all the quotes and coverages are secured.

LEC Insurance Premium Summary								
	2018	2019	Renewal	Renewal	Change	Change	Change	Change
Property Damage								
Property Damage & Terrorism	\$ 464,819	\$ 495,085	\$ 618,856	\$ 796,445	-2.61%	6.51%	25.00%	28.70%
Insurable Value	\$ 369,311,630	\$ 381,896,208	\$401,875,050	\$413,758,712	3.96%	3.41%	5.23%	2.96%
Rate per \$100	\$ 0.1259	\$ 0.1296	\$ 0.1540	\$ 0.1925	-6.33%	3.00%	18.79%	25.00%
Time Element (BI) Excl.	Not Purchased	Not Purchased	Not Purchased	Not Purchased				
Premium Total	\$ 464,819	\$ 495,085	\$ 618,856	\$ 796,445	-2.61%	6.51%	25.00%	28.70%
Casualty								
\$35mm Excess Liability	\$ 92,785	\$94,667	\$139,388	\$209,081	1.95%	2.03%	47.24%	50.00%
Additional \$45 Liability	Not Purchased	Not Purchased	Not Purchased	Not Purchased				
Terrorism	Incl	Incl	Incl	Incl				
Premium Total	\$ 92,785	\$ 94,667	\$ 139,388	\$ 209,081	-3.83%	2.03%	47.24%	50.00%
Total	\$ 557,604	\$ 589,752	\$ 758,244	\$ 1,005,526	-2.82%	5.77%	28.57%	32.61%

Fiscal Impact

The total cost of the policy year 2021 insurance programs is about \$1,005,600 or 32.61% higher than current year premiums. Depending on final premiums, a budget augmentation may be required for FY21. 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:



RUI DAI
Risk Manager



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 16

Date: November 4, 2020

Meeting Date: November 9, 2020

To: Lodi Energy Center Project Participant Committee

Subject: Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement for Northern California Power Agency Green Hydrogen Electrolyzer Feasibility Study-Supporting Clean Energy; Applicable to the following project: Northern California Power Agency (NCPA) Lodi Energy Center (LEC)

Proposal

Approval authorizing the General Manager or his designee to enter into a Demonstration of Energy & Efficiency Development (DEED) Grant Agreement for NCPA Green Hydrogen Electrolyzer Feasibility Study Supporting Clean Energy Investment, with the American Public Power Association (APPA), conditioned on the approval of the LEC Project Participants Committee (PPC), with any non-substantial changes recommended and approved by the NCPA General Counsel, to accept the grant of \$48,450, to be used towards completing a Green Hydrogen Electrolyzer Feasibility Study. And, to grant APPA a non-exclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, market and support, in all mediums including APPA's website, all information, materials and work product, including reports, abstracts, videos, guidebooks, software programs, documentation, and other deliverables, created pursuant to this Grant.

Background

In early 2020, NCPA updated the LEC natural gas generating facility, installing a state-of-the-art gas turbine capable of operating with a natural gas blend of up to 45% hydrogen. This investment, the first of its kind to incorporate such a design, provides NCPA with an innovative step to significantly reduce the plant's greenhouse gas (GHG) emissions, and keep the project environmentally viable as state and federal policymakers look towards decarbonizing the economy. To take full advantage of this blending capability and maximize the investment, NCPA has an interest in the feasibility of a renewable hydrogen production facility at a site near the LEC plant. Given the location of LEC, such a facility could offer the dual benefit of providing hydrogen supply for the transportation sector as well. Black & Veatch is preparing the Feasibility Study and it is scheduled for completion by December 31, 2020.

NCPA submitted a proposal on August 13, 2020, to the APPA's DEED program demonstrating that its Green Hydrogen Electrolyzer Feasibility Study Project meets the requirements dedicated to improving the operations and services of public power utilities.

If approved, the DEED Grant Agreement commences on the date of agreement execution. NCPA is required to complete the project by December 31, 2020, or by a date approved by

APPA. This agreement, “grants APPA a nonexclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, market and support, in all mediums including APPA’s website, all information, materials and work product, including reports, abstracts, videos, guidebooks, software programs, documentation, and other deliverables, create pursuant to this Grant (collectively, the “Work”)”.

Selection Process

Not Applicable.

Fiscal Impact

NCPA has been awarded \$48,450 for this project. This funding award will pay for approximately 50% of the feasibility study being performed by Black and Veatch. The remaining funding will come from LEC’s FY2021 approved Operations and Maintenance Budget (553-009-000-610-044-025 – Overall Facility Expense).

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:

JOEL LEDESMA
Assistant General Manager
Generation Services

Attachments: (1)

- Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement Northern California Power Agency Green Hydrogen Electrolyzer Feasibility Study – Supporting Clean Energy Investment

Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement
Northern California Power Agency
Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy
Investment (NCPA)

This Grant Agreement (“Agreement”) is made and entered into by and between the American Public Power Association (“APPA”) and **Northern California Power Agency** (“Grantee” and, collectively with APPA, the “Parties”).

WHEREAS, the Board of Directors of the APPA has established the Demonstration of Energy & Efficiency Developments (“DEED”) program which is dedicated to improving the operations and services of public power utilities by supporting and demonstrating its members’ innovative activities through research, funding and education;

WHEREAS, Grantee has submitted a proposed demonstration project, in a DEED proposal submitted on **08/13/2020**, which is incorporated herein by reference, with data including a project description, the rationale, schedule, and estimated cost of the project, together with a statement of why the project is widely applicable to members of APPA, and supporting technical material;

WHEREAS, the DEED Board of Directors has found the proposed project to be meritorious and worthy of a DEED Grant;

NOW, THEREFORE, the Parties agree as follows:

1. **Funding.** APPA will supply a DEED Grant in the amount of **\$48,450.00** to Grantee. Payment shall be made within 30 days of receipt of invoice at APPA, as further described in Sections 9 and 10.

2. **Project and Project Personnel.** The project to be undertaken by Grantee is as follows: **In early 2020, NCPA undertook an effort to equip its existing Lodi Energy Center (LEC) natural gas generating facility, installing a state-of-the-art gas turbine capable of operating with a natural gas blend of up to 45% hydrogen. This investment, the first of its kind to incorporate such a design, provides NCPA with an innovative step to significantly reduce the plant's greenhouse gas (GHG) emissions, and keep the project environmentally**

**Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement
Northern California Power Agency
Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy
Investment (NCPA)**

viable as state and federal policymakers look towards decarbonizing the economy. To take full advantage of this blending capability and maximize the investment, NCPA has an interest in the construction of a renewable hydrogen production facility at a site near the LEC plant. Given the location of LEC, such a facility could offer the dual benefit of providing hydrogen supply for the transportation sector as well. NCPA's proposed feasibility study explores this opportunity, which includes three tasks:

TASK 1: DATA GATHERING

Black & Veatch will gather data related to the site to best understand site-specific and application-specific considerations, including information provided by NCPA, along with data gathered from publicly-available resources. In order to perform this task, Black & Veatch proposes to do the following:

- Assess site development considerations
- Assess compatibility with surrounding existing land use, zoning designations, and environmental conditions
- Develop a permitting matrix to identify the various local, state, and federal permits that may be required to authorize construction and operation of the facility. The permit matrix will identify the jurisdictional permitting agency and estimated timeline associated with securing each permit as well as a brief description of any notable considerations
- Undertake a high-level assessment of neighboring communities to identify potential public concerns arising from the proposed development. This will include a high level assessment of potential noise
- Determine application-specific technical, market, and environmental considerations for the planned operation
 - Local water availability, sourcing, and associated costs in dollars per gallon

**Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement
Northern California Power Agency
Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy
Investment (NCPA)**

- Utility interconnections/costs
- Environmental attributes/benefits including reduction in GHG emissions associated with various levels of hydrogen blending and related GHG offset credits
- Ability to store excess hydrogen in the PG&E system and/or underground gas storage assets, including quantities/times of day
- Availability of grants/subsidies for developing the Project

Black & Veatch will conduct abbreviated literature reviews, conduct outreach to appropriate data resources such as the California Energy Commission, the California Air Resources Board, and California Independent System Operator to gather the most up-to-date information. The data analysis and market model forecasts will incorporate major regional trends and resource mix drivers of market price levels and ranges.

TASK 2: FEASIBILITY ANALYSIS

Black & Veatch will establish a design basis that will guide the feasibility analysis. The design basis will include the following:

- Hydrogen production capacity and end use types.
- On-site hydrogen storage capacity to accommodate end uses.
- A single hydrogen consumption and demand profile (based on percent rated capacity) will be established.
- A single on-site water electrolysis hydrogen production system capacity will be established.
- Infrastructure requirements, including range of utility costs and impacts on operational profile.
- Range of environmental attributes and associated pricing and transaction rights
- Applicable grants/subsidies for project development/construction.

**Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement
Northern California Power Agency
Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy
Investment (NCPA)**

Economic Modeling

A two-stage pro forma economic model will be developed where the model output will provide both the estimated levelized cost of hydrogen, in \$/MMBtu of hydrogen output in the first stage and round-trip cost of electricity in dollars per kWh. A reasonable set of Owner's costs (e.g. land acquisition, development costs) will be developed to supplement the aforementioned capital and O&M cost estimates. Financial parameters to be used in the model will include:

- Debt percentage/rate/term
- Target economic life
- Depreciation assumptions (type/basis)
- Escalation/inflation rates
- Composite tax rate
- After tax cost of equity/internal rate of return
- Discount rate/weighted-average cost of capital assumptions
- Property tax rate
- Property tax basis
- Any incentive/benefit assumptions (e.g. tax credits, sustainability credits)

A set of up to 10 sensitivities will also be developed to explore a variety of assumptions, which could include:

- Capital costs $\pm 50\%$
- O&M costs $\pm 50\%$
- Hydrogen blending with natural gas at a level less than 45%
- Water prices $\pm 50\%$

**Demonstration of Energy & Efficiency Developments (DEED) Grant Agreement
Northern California Power Agency
Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy
Investment (NCPA)**

- Escalation/inflation $\pm 100\%$

TASK 3: REPORTING

Black & Veatch will prepare a final Feasibility Report to document findings, conclusions, and recommendations., as more fully described in the Grantee's proposal *Green Hydrogen Electrolyzer Feasibility Study - Supporting Clean Energy Investment (NCPA)*. The proposal, as well as the document [DEED Grant Requirements](#) containing instructions related to preparing and submitting Quarterly Reports, Final Reports, and Summary Abstracts, are incorporated herein by reference and made a part of this Agreement. It is understood that the key personnel of this project are:

Scott Tomashefsky, Regulatory Affairs Manager, Northern California Power Agency.

3. **Term.** The DEED Grant shall commence on the date of Agreement execution. The Grantee is required to complete the project as approved by the DEED Board of Directors by **12/31/2020** as noted in the proposal. Any changes to the completion date must be addressed as further described in Section 6.

4. **Subcontractors.** If Grantee proposes to hire a subcontractor to work on the project and such subcontractor is not identified in Grantee's original project proposal, Grantee shall request APPA's written permission to do so. In addition, Grantee shall ensure that APPA's rights under this Agreement are not diminished by the use of a subcontractor. Any agreement between Grantee and a subcontractor shall incorporate the terms and conditions of this Agreement, as necessary. At a minimum, any such agreement between Grantee and a subcontractor shall require a subcontractor:

- (a) to maintain books, records, and other documents and appropriate accounting procedures and practices sufficient to reflect receipt and disposition of project funds and total costs (direct and indirect) of the project, to retain such books, records and other

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documents until the expiration of three years from the date of final payment or completion of the project, and permit inspection and audit of such books, records or other documents by APPA or its contractors;

(b) not to delegate or transfer to another party the responsibility for carrying out the project or the use of project funds unless approved in writing by APPA and Grantee;

(c) to notify the Grantee and APPA of all proposed major project changes (such as those identified in Section 6 of this Agreement) in a manner consistent with the provisions of that Section, and to provide an opportunity for APPA and Grantee to disapprove any such changes in a manner consistent with the provisions of Section 6 of this Agreement;

(d) not to terminate the project except for good cause, and if APPA or Grantee finds that the subcontractor has terminated the project work without good cause, all funds paid by Grantee to the subcontractor shall be returned, at the discretion of APPA, to Grantee or to APPA;

(e) to return unexpended funds to Grantee or APPA, as determined by APPA, in the event that the work is terminated for good cause or the work is completed prior to expenditure of all funds; and

(f) to expressly agree that APPA owns a nonexclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, market and support, in all mediums including APPA's website, all information, materials and work product created by subcontractor pursuant to this Agreement.

(g) No project shall be commenced without an agreement in the form of Attachment A signed by the subcontractor. Grantee shall provide APPA with a copy of the agreement between Grantee and the subcontractor (including Attachment A) before any payment of the DEED Grant award will be made.

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5. Accounting and Records. Accounting for project funds (including receipts, Grantee or other contributions, and expenditures) will be in accordance with generally accepted accounting principles and practices, consistently applied, regardless of the source of funds.

Grantee shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly (a) the amount, receipt, and disposition by Grantee of all assistance received for the project and (b) the total cost of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project.

Grantee's facilities or such facilities as may be engaged in the performance of the project for which the DEED Grant has been awarded, and records shall be subject at all reasonable times to inspection and audit by APPA.

Grantee shall preserve and make its records available to APPA until the expiration of three years from the date of final payment or completion of the project under this DEED Grant, whichever is later.

All APPA assistance received by Grantee pursuant to this Agreement shall be expended by Grantee solely for carrying out the approved project. Grantee may not delegate or transfer responsibility for the use of such funds. Grantee shall comply with all terms and conditions of the DEED Grant, to use grant funds efficiently and effectively within the approved budget, and to supervise completion of the project in a diligent and professional manner. This responsibility may be neither delegated nor transferred without written permission by APPA.

6. Project Changes. Grantee shall promptly notify APPA in writing by e-mail to DEED@PublicPower.org or by certified mail (return receipt requested) of all proposed major project changes, including, but not limited to:

- (a) major changes in the technical plans or specifications for the project;
- (b) acceleration or deceleration in the time of performance of the project, or any major phase thereof;

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- (c) major changes that may increase or decrease the total cost of a project;
- (d) major changes that may affect the approved scope of a project; and
- (e) major changed site conditions affecting the project.

APPA may disapprove project changes in writing not later than three weeks after receipt of notice. Failure of Grantee to give notice, or disapproval by APPA of the proposed change, shall result in disallowance of costs incurred that are attributable to the change.

Approved project changes that do not substantially alter the objective or scope of a project may give rise to grant amendments to increase or decrease the dollar amount, the term, or other provisions of the DEED Grant. A DEED Grant amendment shall be affected only by a written amendment to this Agreement signed by both Parties. Requests for modifications from this Agreement shall be submitted as far in advance as the exigencies of the situation will permit. Each request for a modification shall contain at a minimum:

- (a) A full description of the modification and the circumstances in which it will be used;
- (b) A description of the intended effect of the modification; and
- (c) Detailed reasons supporting the request, including any pertinent background information that will contribute to a better understanding of the modification sought.

7. Termination. If, without written notification to APPA, the project has not been initiated within six months of the effective date of this Agreement, the project will be subject to termination by the DEED Board of Directors. Grantee shall not terminate the project except for good cause. If APPA finds Grantee has terminated the project work without good cause, then it shall terminate the DEED Grant award, and all APPA grant funds previously paid to Grantee shall be returned as final settlement. In the event the project is terminated for good cause or completed prior to expenditure of all funds provided by APPA, the proportionate share of APPA's DEED Grant shall be refunded. Notwithstanding anything to the contrary in this Agreement, APPA may terminate this Agreement at its option with or without cause by providing written

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notice to Grantee. Unless otherwise stated in the termination notice, termination shall be effective upon receipt of the notice. After the effective date of termination, neither Party shall have any further obligation to the other under this Agreement except for Grantee's obligations under the provisions where a continuing obligation is implied, and APPA's obligation to pay Grantee a portion of the Agreement's fixed price equal to the percentage of work required by the Agreement that is actually completed.

Grantee shall deliver to APPA or its designee(s) upon request all information and work in tangible form created or compiled by Grantee or its subcontractor(s) in performing services under this Agreement.

8. Press Release. Press releases and other public dissemination of information by the Grantee shall acknowledge APPA support of the project through a DEED Grant.

9. Report & Other Deliverables. Grantee shall prepare and submit to APPA quarterly project reports according to directions in the document [DEED Grant Requirements](#). These reports will be posted to the DEED project database, located on APPA's website for viewing by DEED members. Capturing the project in photos is encouraged. Electronic copies of project photos taken during the course of the project term may be uploaded by Grantee using APPA's grant management system along with project reporting or to DEED@PublicPower.org. By submitting project photos to APPA, Grantee grants to APPA a non-exclusive limited worldwide license to use the project photos online and offline for promotional purposes. According to instructions in the document [DEED Grant Requirements](#), Grantee also shall submit to APPA/DEED: (1) an acceptable, detailed final report relating to the conduct and results of the approved project, describing activities, lessons learned, project costs, bibliography, achievements, problems, results, and recommendations, to be submitted within six (6) months of project completion; and (2) a completed "DEED Project Summary Abstract;" and (3) any other deliverable as described in Grantee's original proposal or grant approval letter.

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APPA will withhold 25 percent of the DEED Grant award pending satisfactory completion of said report and abstract. In the event the final report and abstract are not provided by the Grantee by the due date, APPA may complete the final report and/or abstract itself or hire a third party to do so. APPA may utilize up to the 25 percent withheld to pay for the costs of production and reduce the amount otherwise available to Grantee in the same amount.

10. Payment. The standard method of project payment shall be based on invoices for work completed to date.

(a) No more than 25 percent of the total DEED Grant award may be provided to Grantee at the inception of the project except in rare instances when the DEED program administrator may increase this amount up to a total of 50 percent due to special circumstances.

(b) No more than 10 percent of a DEED grant may be spent on indirect costs (F&A/overhead).

11. License Agreement. Grantee hereby grants APPA a nonexclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, market and support, in all mediums including APPA's website, all information, materials and work product, including reports, abstracts, videos, guidebooks, software programs, documentation, and other deliverables, create pursuant to this Grant (collectively, the "Work"). Any software programs especially developed by Grantee or its Subcontractors during the course of the project, or substantially modified for use in the project, shall be supplied to APPA in a form that may be used by others independently of Grantee's proprietary programs or computer configurations. The Grantee shall incorporate a Section setting forth the substance of this Section 11 in its agreement with the Subcontractor. Contracts between Grantee and its Subcontractor participating in the project shall contain similar provisions.

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12. Representations and Warranties. Grantee represents and warrants for itself and any subcontractors that:

(a) The Work and Subcontractor Work Product are original and do not infringe on the intellectual property rights of any third party, or constitute defamation, invasion of privacy, or the violation of any right of publicity or any other right of any party; (b) Grantee and subcontractor has obtained all necessary licenses and/or permissions to use third party content that may appear in the Work and/or Subcontractor Work Product; (c) Grantee and any subcontractors shall maintain in strict confidence any confidential or proprietary information shared by APPA during the course of this Agreement, and such information shall not be disclosed to any third party, either directly or indirectly; and (d) Grantee has the unencumbered right to enter into this Agreement. Grantee agrees to defend, indemnify, and hold harmless APPA, its officers, directors, members, and employees for any losses, costs, damages, liabilities and expenses (including attorneys' fees and court costs) arising out of any breach of the warranties set forth in this Section 12.

13. Fees. Grantee also warrants that no person or agency has been employed or retained to solicit or secure this grant upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by Grantee for the purpose of securing grants or business. For breach or violation of this warranty, APPA shall have the right to terminate this DEED Grant Agreement without liability or in its discretion to deduct from the grant award, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. Indemnifications. It is understood that this DEED Grant Agreement is not a joint venture and that Grantee is not an agent of APPA. APPA assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of the APPA DEED Grant, whether with respect to persons or property of Grantee or third parties. Grantee

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shall indemnify (including court costs and attorneys' fees) APPA if APPA is made a party to any litigation, arbitration, mediation or negotiations for activities connected with this DEED Grant Agreement, unless APPA, its employees or agents are found to be grossly negligent or otherwise directly at fault.

15. **Taxes.** Except with respect to taxes which may be due as a result of income to APPA, Grantee and any subcontractor shall be responsible for payment of all taxes for which Grantee, subcontractor or APPA may be liable in connection with this Agreement, including any sales, use, or other tax owed for work products delivered or services performed by Grantee or a subcontractor in connection with this Agreement. Except as required by law, APPA shall not withhold federal, state or local income tax, or any other tax, from any payment to Grantee pursuant to this Agreement.

The Parties hereto have executed this Agreement, effective as of the _____ day of _____, 20__.

American Public Power Association.

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DEED Program

Name: _____

Signature: _____

Title: _____

Date: _____

Northern California Power Agency

Name: _____

Signature: _____

Title: _____

Date: _____

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ATTACHMENT A

Limited License Agreement:

Agreement made by and between _____ 1) [a United States Citizen residing at _____ and born in 19____] or _____ 2) [a corporation located and doing business at _____] (hereinafter referred to as the “Subcontractor”) and, American Public Power Association, a corporation of the Virginia located and doing business at 2451 Crystal Drive, suite 1000, Arlington, Virginia, 22202 (hereinafter referred to as “Commissioning Party”).

WHEREAS, the Subcontractor is not an employee of the Commissioning Party; and

WHEREAS, the Subcontractor was commissioned by the Commissioning Party to create (project name) _____ (hereinafter the “Subcontractor Work Product”) at the request of and for the benefit of the Commissioning Party.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. Subcontractor grants APPA a nonexclusive, royalty-free, perpetual, worldwide, irrevocable license to use, copy, publish, create derivative works, distribute, and market in all mediums including APPA’s website, the Subcontractor Work Product.

2. Subcontractor represents and warrants to the Commissioning Party the following:

a) that the Subcontractor Work Product is original and does not infringe the intellectual property rights of any third party, or constitute defamation, invasion of privacy, or the violation of any right of publicity or any other right of any party;

b) Subcontractor has obtained all necessary licenses and/or permissions to use third party content that may appear in the Subcontractor Work Product;

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c) Subcontractor shall maintain in strict confidence a confidential or proprietary information shared by the Commissioning Party during the course of this Agreement, and such information shall not be disclosed to any third party, either directly or indirectly; and

d) Subcontractor has the unencumbered right to enter into this Agreement.

3. Subcontractor shall indemnify and hold the Commissioning Party, its officers, directors, members and employees harmless for any costs, including, but not limited to, attorneys fees, which arise out of any breach of the warranties set forth in Section 2.

4. Subcontractor hereby acknowledges that [it or he/she] is an independent contractor for purposes of this Agreement.

5. This Agreement may not be modified or amended unless it is in writing and signed by both parties.

The parties hereto have executed this Agreement as of the date indicated below.

Subcontractor: _____

Name: _____

Signature: _____

Title: _____

Commissioning Party: American Public Power Association

Name: _____

Signature: _____

Title: _____

On this _____ day of _____ 20__.