



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
fax (209) 333-6374
web www.ncpa.com

LEC PPC Agenda

Date: December 7, 2017

Subject: December 11, 2017 Lodi Energy Center Project Participant Committee Meeting

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

Time: 10:00 a.m.

*** In compliance with the Brown Act, you may participate in person at the meeting location or via teleconference at one of the locations listed below. In either case, please: (1) post this notice at a publicly accessible location at the participation location at least 72-hours before the meeting begins, and (2) have a speaker phone available for any member of the public who may wish to attend at your location.

NCPA 651 Commerce Drive Roseville, CA 95678	NCPA 12745 N. Thornton Road Lodi, CA 95241	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA 95448
BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16 th Floor Oakland, CA 94612	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA 95948	CITY OF LOMPOC 100 Civic Center Plaza Lompoc, CA 93438
CITY OF BIGGS 465 "C" Street Biggs, CA 95917	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA 96122	POWER & WATER RESOURCES POOLING AUTHORITY 950 Reserve Drive, Suite 160 Roseville, CA 95678
CALIFORNIA DEPARTMENT OF WATER RESOURCES 2135 Butano Drive, Suite 100 Sacramento, CA 95825	SILICON VALLEY POWER/CITY OF SANTA CLARA 1500 Warburton Avenue, Santa Clara, CA 95050	CITY OF UKIAH 300 Seminary Avenue Ukiah, CA 95482
CITY OF AZUSA 729 N. Azusa Avenue Azusa, CA 91702		

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

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.

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 written 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. 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.

2. Meeting Minutes – Approval of November 13, 2017 Regular Meeting Minutes

INDENTURE GROUP A MEETING – ACTION ITEMS

3. Meeting of Indenture Group A to Discuss Lodi Energy Center Revenue Refunding Bonds

a. Call Meeting to Order and Roll Call

b. Appointment of Secretary for Meeting of Indenture Group A – Representatives from Indenture Group A will appoint a secretary for meeting for discussion and proposed action on Indenture Group A Bonds.

c. Approval of Issuance of Up to \$40 Million Fixed Rate Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A – Staff is seeking approval from Indenture Group A for the advance refunding of the Lodi Energy Center Project Revenue Refunding Bonds, Issue One, 2017 Series A Bonds through direct purchase of the Bonds by Bank of America. *(Monty Hanks)*

MONTHLY REPORTS

4. Operational Report for November 2017 – *(Jeremy Lawson)*

5. Market Data Report for November 2017 – Verbal Report *(Mike Whitney)*

6. Monthly Asset Report for October 2017 – *(Michael DeBortoli)*

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

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.

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 November 2017** – Accept by all Participants
- 9. Financial Report for November 2017** – Approve by all Participants
- 10. GHG Reports (excerpted from Monthly ARB)** – Accept by all Participants
- 11. Dekomte De Temple, LLC** – Staff is seeking approval of a five year Multi-Task General Services Agreement with Dekomte De Temple, with a not to exceed amount of \$500,000 for BOP/HRSG expansion joints and insulation services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.
- 12. Transmission and Distribution Services, LLC.** – Staff is seeking approval of a five year Multi-Task General Services Agreement with Transmission and Distribution Services, LLC, with a not to exceed amount of \$1,000,000 for transformer maintenance services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members.

Consent Items pulled for discussion: _____

BUSINESS ACTION ITEMS

- 13. Approval of Funds for Preventative Maintenance Work During April 2018 Outage** – Staff is seeking approval of funds, in an amount not to exceed \$1,798,856, for preventative maintenance work at Lodi Energy Center during the outage scheduled for April 2018.
- 14. Appointment of New Committee Chair for LEC PPC** – Election of a new Chairperson to conduct the business of the LEC Project Participant Committee in light of the retirement of George Morrow.

INFORMATIONAL/ DISCUSSION ITEMS

- 15. Update on PG&E 2019 Gas Rate Case** – Staff will provide an update on the ongoing PG&E 2019 Gas Rate Case. *(Ken Speer)*
- 16. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: January 8, 2017

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.

Lodi Energy Center
Project Participant Committee Regular Meeting
November 13, 2017 - MEETING MINUTES
Location: Lodi Energy Center
12745 N. Thornton Rd, Lodi CA 95242
and by teleconference
10:00 A.M.

1. Call Meeting to Order and Roll Call

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

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Morrow	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Yarbrough	Present	33.5000%
Gridley - Borges	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - Singh	Absent	2.0357%
MID - Caballero	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Hance	Absent	25.7500%
Ukiah - Grandi	Absent	1.7857%
Summary		
Present	5	56.7679%
Absent	8	43.2321%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	November 13, 2017	

Public Forum

Chairman Morrow asked if any members of the public were present in Lodi or at any of the other noticed meeting locations who would like to address the PPC on any agenda items or on any item within the jurisdiction of the LEC PPC and not listed on the agenda. No members of the public were present.

2. Meeting Minutes

The draft minutes of the regular meeting held on October 9, 2017 were considered. The LEC PPC considered the following motion:

Date: 11/13/2017

Motion: The PPC approves the October 9, 2017 Meeting Minutes as presented or *including any edits discussed at today's meeting.*

Moved by: CDWR

Seconded by: MID

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	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	Absent	2.6679%
Silicon Valley Power	Absent	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	5	56.7679%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	8	43.2321%
Result:		Motion Passed

MONTHLY REPORTS

3. Operational Reports for October 2017

Jeremy Lawson presented the Operational Report for October. There were no OSHA recordable accidents, no NERC/WECC or permit violations, and no forced outages. There are no changes to the 2018 outage schedule.

The operational report reflected monthly production of 136,030 MWH, 545 service hours, and equivalent operating availability of 100%. The report set for the Capacity Factor @ 280MW Pmax of 65.3% and 302MW Pmax of 60.5%. There were eight hot starts, twelve warm starts, and zero cold starts during the month. It was noted that, during the period of June 2017 – September 2017, there have been 300 starts (all CT Plants).

4. Market Data Report for October 2017

Mike Whitney presented the operating and financial settlement results for the month. LEC was committed to CAISO 31 out of 31 available days. Most starts had 15-hour runs, with multiple runs during the AM and PM ramps. George Morrow thanked everyone who played a part in managing the plants so well.

5. Monthly Asset Report

Mike DeBortoli presented the monthly asset report for September 2017. Mike reported that September saw a continuation of the upward trend of record margins for the plant. A number of factors likely contributed to another record month, including the reduction in natural gas price due to the natural gas agreement with PG&E, as well as unseasonably warm temperatures in Southern California for this time of year. Mike reviewed the monthly historical comparisons as well as the 12-month history.

6. Bidding Strategies Report

Ken Goeke reviewed the monthly Bidding Strategies data for October 2017. Ken reviewed bidding and calculating net start-up costs. The start-up costs for the month of October were lower due to the plant running more often. Ken shared a new slide which better illustrated where negative congestion came from on October 24th and 25th, and how bidding would have been adjusted had the pattern of congestion continued. Ken reported that daily data results are available for review on the LEC PPC extranet site. Ken reiterated that the data contained in the reports should be considered confidential, as it contains bidding strategies.

Consent Calendar (Items 7 – 11)

The consent calendar was considered. Chairman Morrow 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: 11/13/2017

Motion: The PPC approves the Consent Calendar items consisting of agenda items no. **7.** Treasurer's Report for October 2017; **8.** Financial Reports for October 2017; **9.** GHG Reports excerpted from monthly ARB; **10.** Sabah International, Inc. five year Multi-Task General Services Agreement not to exceed \$500,000 for fire system maintenance services, for use at all NCPA, Member, SCPPA, and SCPPA Member facilities; **11.** Sunshine Metal Clad, Inc. five year Multi-Task General Services Agreement not to exceed \$1,000,000 for insulation services, for use at all NCPA, Member, SCPPA, and SCPPA Member facilities.

Moved by:

CDWR

Seconded by:

Lodi

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	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	82.5179%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.4821%
Result:		Motion Passes

BUSINESS ACTION ITEMS

12. 2018 NCPA Property Insurance Renewal

Monty Hanks shared an overview of the process staff utilized for soliciting offers from firms for NCPA property insurance coverage. Staff opted to combine NCPA and LEC into the same package. George Morrow asked how costs would be allocated between LEC and non-LEC projects. Monty explained that bundling NCPA and LEC into one package would result in up to 5% reduction on costs, and that the LEC and NCPA portfolios were still separate within the package. Monty shared the preliminary coverage results with the Committee.

Date: 11/13/2017

Motion: The PPC recommends delegating authority to NCPA to negotiate and bind coverage at amounts not-to-exceed proposed premiums at \$558k, consistent with the coverages outlined in the presentation.

Moved by: Lodi

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	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	82.5179%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.4821%
Result:		Motion passes

13. FY17 Annual Billing Settlements

Monty Hanks reviewed the FY17 annual billing statement with the Committee. Monty reviewed the final results, and what areas of the budget the funds were coming from. George Morrow requested a breakdown of the final figure. Monty shared the Staff Report and shared a table with a breakdown of the refund amounts.

Eric Siu walked the Committee through the calculations used to determine the final refund amount. Each participant has the option to apply their refund to O&M costs for next year (as a credit). Participants interested in that credit option will need to notify AP no later than the December LEC PPC meeting. NCPA staff will send out in inquiry to participants regarding refund preference.

Date: 11/13/2017

Motion: The PPC recommends approval of the FY17 Annual Billing Settlements as presented 11/13/2017 for the period of July 1, 2016 through June 30, 2017, totaling approximately \$2.48m.

Moved by: MID

Seconded by: Lodi

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	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	6	82.5179%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	7	17.4821%
Result:		Motion passes

14. FY18/19 Budget Guidelines

Monty Hanks stated that this item has never been presented at LEC PPC before, but staff now feels it is important to give the LEC PPC an opportunity to review and approve the proposed budget recommendations; staff plans to present this each year to LEC PPC, prior to presenting it to UD's and Commission. This item was already presented to UD's and approved by the Commission in the October Commission Meeting.

Monty shared the process used in building the budget, and touched on some issues which impacted the FY2018 and 2019 budgets. Monty also shared the final budget recommendation. George Morrow felt that a formal approval from the LEC PPC was not necessary, as this item had already been approved by the Commission. George stated that he was appreciative of staff presenting this to the LEC PCC. No motion was made.

15. Review of Underwriter RFP for LEC Indenture One Bonds

Monty Hanks gave an overview of the process through which NCPA staff solicited RFP's from banks for the sale of the LEC Indenture One Bonds. Monty shared how the proposed tax bill could result in the repeal of advanced refunding exemptions, and how that could impact NCPA and its Members.

Monty shared a chart of LEC debt, highlighting the bonds proposed for bond refunding via bank placement. Monty explained that the refunding options had already been presented to the Finance Committee, and that the Randy Howard and the Finance Committee had expressed an

interest in moving forward with a direct sale to Bank of America. George Morrow took a casual poll of LEC PPC attendees present, and it appeared everyone was in agreement with NCPA moving forward. Monty outlined next steps for the Committee. Monty stated that staff will bring this item to the December LEC PPC meeting for a formal vote before finalizing the sale of the bonds.

INFORMATIONAL ITEMS

16. Update on NCPA Policy on Revenue Allocation

James Takehara presented an update to the Committee on the revenue allocation issue. The final proposal was presented and approved by the NCPA Commission in the October Commission Meeting. These changes will go into effect for FY18. Non-members will see these changes implemented as a part of the end of year true-ups.

James reviewed that this will allow revenues from the Nexant model to be allocated to non-member project participants. Non-members are estimated to receive roughly \$32 million. Commission approval was granted with the understanding that staff would review this policy every five years.

CDWR expressed their appreciation to NCPA staff for all of their time and effort on this policy change. George Morrow seconded CDWR's comments, and added that he thanks James Takehara, specifically, for his hard work.

17. Additional operational Updates

Ken Speer shared CDWR's request to update their Alternate Representative to the LEC PPC; this item does not require a formal Staff Report or vote, just notification to the LEC PPC.

Ken Speer also mentioned that staff will be reviewing and updating the LEC PPC Distribution Lists and requested that LEC PPC members review the contacts listed and notify Michelle of any changes that should be made. George Morrow asked that we be aware of who is on both distribution lists, and that we try to keep it limited to only those who need to be.

George Morrow shared that this would be his last LEC PPC meeting, as he had recently accepted a job at a municipal utility in Texas. George commented that it was an honor to be involved in the project and to have the opportunity to work with NCPA. Ken Speer stated that NCPA has been fortunate to have George be a part of the LEC project from its inception, and that we wish him best of luck on his future endeavors. Martin Caballero will be acting Chair of the LEC PPC until a new Chair is voted in. This will be an agenda item for the December LEC PPC Meeting.

Adjournment

The next regular meeting of the PPC is scheduled for Monday, December 11, 2017.

The meeting was adjourned at 11:44am.

Submitted by: Michelle Schellentrager



Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 3

Meeting Date: December 11, 2017

To: Lodi Energy Center Project Participant Committee

Subject: Approval of Issuance of Up to \$40 Million Fixed Rate Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A

Proposal

Staff recommends the Indenture Group A Participants approve and direct the NCPA Commission to:

- 1) approve the direct purchase by Bank of America, N.A. of the Lodi Energy Center Project Revenue Refunding bonds, Issue One, 2017 Series A (the “Bonds”);
- 2) delegate final negotiation of financing costs to the NCPA General Manager and Assistant General Manager – Administrative Services and Chief Financial Officer;
- 3) designate the NCPA General Manager and Assistant General Manager – Administrative Services and Chief Financial Officer as the authorized representatives (“Authorized Representatives”) for execution of legal documents;
- 4) direct the Authorized Representatives to take all necessary actions to complete the direct purchase of the Bonds for no more than \$40,000,000.00; and
- 5) recommend the NCPA Commission adopt a Resolution as presented with its associated staff report at today’s meeting.

Background

The NCPA Finance Committee, NCPA staff and the agency’s financial advisors carefully monitor the bond market for potential opportunities to refinance NCPA bonds for savings. According to the NCPA Variable Rate Debt and Interest Rate Management Policy, a target of 5% net present value (NPV) savings is desired before considering a bond refunding. In October 2017, PFM and NCPA staff issued a Request for Proposal (RFP) to over a dozen banks to refund the Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A bonds. Since these bonds are not callable until June 2020, responses were for the ‘Advance Refunding’ of these bonds and included options for both a capital markets refunding (typical bond refinancing) as well as rates for direct purchase refunding.

In November 2017, the House of Representatives adopted the Tax Cuts and Jobs Act (Act) and one of the proposed reforms included the repeal of the Advance Refunding exemption. Under current law, interest on advance refunding bonds, bonds issued more than 90 days before the redemption date of the refunded bonds, generally is not taxable for governmental bonds. The proposed legislation would keep the tax-exemption for interest on current refunding bonds, but eliminate the exemption for interest on advance refunding bonds. If approved, the Act would go into effect at the first of the year and eliminate any advance refunding opportunity. Since a traditional refunding includes such tasks as an update to an official statement and presentations to rating agencies, the amount of time required to complete this type of transaction normally takes

3-4 months. If the Act was to be enacted, the only option available to advance refund these bonds would be through the Direct Purchase option.

Upon evaluation of the various Direct Purchase proposals received from the banks, the Finance Committee recommended proceeding with the proposal from Bank of America. The estimated savings based on the bank's indicative interest rate of 2.15% (LIBOR Swap rate plus 5 basis points) was in excess of \$2 million and over 6% NPV savings. The estimated, average annual debt service savings was over \$300,000 per year to the participants. However, the rate will not be fixed until after approval of the bond documents and assuming the market is still in a favorable position for the refunding.

Upon approval from the Indenture Group A Participants, to complete the bond refunding transaction, the Commission will be required to approve a Resolution authorizing the bonds and approving related documents including the following:

1. The Bond Purchase and Continuing Covenant Agreement with Bank of America, N.A.;
2. The First Supplemental Indenture of Trust with US Bank N.A.; and
3. The Escrow Deposit Agreement with U.S. Bank N.A.

Upon final approval by the Commission, documents will be completed and executed. The rate for the bonds is tentatively scheduled to be fixed on December 18th and the bond closing is scheduled for December 20th.

Draft copies of these documents are attached.

Fiscal Impact

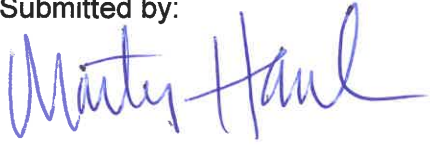
The NPV savings of the refunding is estimated at \$2.2 million or 6.08% of refunded bonds. The average annual debt service savings is a little over \$300,000 per year (in total) for the participants. Cost allocation for savings from this refunding is based on project participation percentages for the Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A. Savings are net of the estimated cost of issuance which is approximately \$200,000 for bank fees, legal, financial advisory and other services.

Indenture Group A Participant	Issue One Cost Share Percentage	Estimated NPV Savings
City of Azusa	4.9936%	\$ 109,524
City of Biggs	0.4802%	\$ 10,532
City of Gridley	3.5212%	\$ 77,230
City of Healdsburg	2.9448%	\$ 64,588
City of Lodi	17.0295%	\$ 373,506
City of Lompoc	3.6491%	\$ 80,035
City of Santa Clara	46.1588%	\$ 1,012,395
City of Ukiah	3.2010%	\$ 70,207
Plumas-Sierra Rural Electric Cooperative	1.4084%	\$ 30,890
Power and Water Resources Pooling Authority	4.7824%	\$ 104,892
San Francisco Bay Area Rapid Transit District	11.8310%	\$ 259,488
Total	100.0000%	\$ 2,193,286

Environmental Analysis

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

Submitted by:



MONTY HANKS
Assistant General Manager
Administrative Services / CFO

Attachments: (3)

- The Bond Purchase and Continuing Covenant Agreement with Bank of America, N.A.;
- The First Supplemental Indenture of Trust with US Bank N.A.; and
- The Escrow Deposit Agreement with U.S. Bank N.A.

FIRST SUPPLEMENTAL INDENTURE OF TRUST

between

NORTHERN CALIFORNIA POWER AGENCY

and

U.S. BANK NATIONAL ASSOCIATION, as TRUSTEE

relating to

Lodi Energy Center Revenue Refunding Bonds,
Issue One, 2017 Series A

Dated as of December 1, 2017

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FIRST SUPPLEMENTAL INDENTURE OF TRUST

This **FIRST SUPPLEMENTAL INDENTURE OF TRUST**, made and entered into as of December 1, 2017, by and between Northern California Power Agency, a joint exercise of powers agency established pursuant to the laws of the State of California (“NCPA”), and U.S. Bank National Association, a national banking association, incorporated under the laws of the United States of America and authorized to accept and execute trusts of the character herein set out, with its principal corporate trust office located at 100 Wall Street, New York, New York, as successor trustee (the “Trustee”);

W I T N E S S E T H :

WHEREAS, NCPA has heretofore entered into an Indenture of Trust, dated as of June 1, 2010 (the “Original Indenture of Trust”), by and between NCPA and the Trustee, to provide for the securing of Bonds; and

WHEREAS, NCPA has heretofore issued the Refunded Prior Bonds (capitalized terms used herein and not otherwise defined shall have the meanings given such terms in Section 1.03 hereof) pursuant to the Original Indenture of Trust; and

WHEREAS, the Original Indenture of Trust authorized NCPA and the Trustee to enter into a Supplemental Indenture to provide for the issuance of Refunding Bonds such as the 2017 Series A Bonds; and

WHEREAS, NCPA desires to issue \$_____ aggregate principal amount of its 2017 Series A Bonds in order to provide a portion of the moneys to refund the Refunded Prior Bonds and to pay certain costs of issuance in connection with the issuance of the 2017 Series A Bonds; and

WHEREAS, all acts and things have been done and performed which are necessary to make this First Supplemental Indenture of Trust a valid and binding agreement for the security of the 2017 Series A Bonds authenticated and delivered hereunder;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST WITNESSETH:

That, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created and originally created by the Original Indenture of Trust, the mutual covenants herein contained and the purchase and acceptance of the 2017 Series A Bonds issued hereunder by the Holders thereof, and for other valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, Redemption Price, if any, and interest on the Bonds according to their tenor and effect, and the performance and observance by NCPA of all the covenants and conditions herein and therein contained on its part to be performed, it is agreed by and between NCPA and the Trustee as follows:

ARTICLE I

AUTHORITY AND DEFINITIONS

1.01. Supplemental Indenture of Trust. This First Supplemental Indenture of Trust is supplemental to the Original Indenture of Trust as heretofore amended and supplemented.

1.02. Authority for the First Supplemental Indenture of Trust. This First Supplemental Indenture of Trust is adopted (i) pursuant to the provisions of Article 4 of the Act and (ii) in accordance with Article II and Article XI of the Original Indenture of Trust.

1.03. Definitions.

(a) Except as provided by this First Supplemental Indenture of Trust, all terms which are defined in Section 1.01 of the Original Indenture of Trust shall have the same meanings, respectively, in this First Supplemental Indenture of Trust as such terms are given in said Section 1.01 of the Original Indenture of Trust.

(b) **Additional Definitions.** The following terms shall, for all purposes of the Indenture of Trust, have the following meanings set forth below:

2010 Series A Bonds means the Outstanding Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A authorized by the Original Indenture of Trust.

2010 Series A Bonds Escrow Agreement means the Escrow Deposit Agreement, dated as of December 1, 2017, between NCPA and U.S. Bank National Association, as trustee of the 2010 Series A Bonds, as the same may be amended, modified, supplemented or restated in accordance with the terms thereof.

2010 Series A Bonds Escrow Fund means the Fund so designated established under the 2010 Series A Bonds Escrow Agreement.

2017 Series A Bonds shall mean NCPA's Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A authorized by Article II of this First Supplemental Indenture of Trust.

2017 Series A Bonds Costs of Issuance Account means the Account so designated established pursuant to Section 2.08 of this First Supplemental Indenture of Trust.

2017 Series A Bonds Rebate Fund means the Fund so designated established in Section 3.02 of this First Supplemental Indenture of Trust.

2017 Series A Bonds Rebate Instructions means those calculations and written directions required to be delivered to the Trustee by NCPA pursuant to Section 3.02 of this First Supplemental Indenture of Trust.

2017 Series A Bonds Rebate Requirement means the Rebate Requirement as defined in the 2017 Series A Bonds Tax Certificate.

2017 Series A Bonds Tax Certificate means that certain Tax Certificate signed by NCPA on the date the 2017 Series A Bonds are issued and relating to the requirements of Section 148 of the Code.

Authorized Denomination means with respect to the 2017 Series A Bonds, \$250,000 and any integral multiple of \$5,000 in excess thereof.

Bond Purchase Agreement means the Bond Purchase and Continuing Covenant Agreement, dated as of December 1, 2017, between NCPA and Bank of America, N.A., as the same may be amended, modified, supplemented or restated.

BPA Event of Default has the meaning ascribed to the term “Event of Default” in Section 1.01 of the Bond Purchase Agreement.

Dated Date means, with respect to the 2017 Series A Bonds, December __, 2017.

Default Rate has the meaning ascribed to such term in Section 1.01 of the Bond Purchase Agreement.

Determination of Taxability has the meaning ascribed to such term in Section 1.01 of the Bond Purchase Agreement.

First Supplemental Indenture of Trust shall mean this First Supplemental Indenture of Trust, amending and supplementing the Original Indenture of Trust as heretofore amended and supplemented.

Refunded Prior Bonds means the \$_____ aggregate principal amount of the 2010 Series A Bonds maturing on June 1, 2025.

Taxable Rate has the meaning ascribed to such term in Section 1.01 of the Bond Purchase Agreement.

(a) **Rules of Construction.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. Defined terms shall include any variant of the terms set forth in this Article I.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this First Supplemental Indenture of Trust, refer to this First Supplemental Indenture of Trust as a whole and not to any particular Article or Section hereof.

ARTICLE II

THE 2017 SERIES A BONDS

2.01. Principal Amount, Designation and Series. Pursuant to the provisions of the Original Indenture of Trust and this First Supplemental Indenture of Trust and the provisions of Article 4 of the Act, a Series of Bonds entitled to the benefit, protection and security of such provisions is hereby authorized in the aggregate principal amount of \$_____. Such Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, “Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A.” Each of the 2017 Series A Bonds shall be in fully registered form in an Authorized Denomination. The 2017 Series A Bonds shall be numbered one upward in consecutive numerical order preceded by the letter “R”. The 2017 Series A Bonds shall be in substantially the form attached hereto as Exhibit A with such variations and omissions as are necessary to reflect the particular terms of each 2017 Series A Bond.

2.02. Purpose. The 2017 Series A Bonds are issued for the purpose of paying all or a portion of the moneys needed to refund the Refunded Prior Bonds and to pay certain costs in connection with the issuance of the 2017 Series A Bonds.

2.03. Terms of the 2017 Series A Bonds. (a) The 2017 Series A Bonds shall be dated the Dated Date, shall mature on June 1, 2025 and shall bear interest from the Dated Date at the rate of ____ percent per annum; provided, however, the interest on the 2017 Series A Bonds shall be calculated at the Default Rate upon the occurrence and during the continuance of a BPA Event of Default and the interest on the 2017 Series A Bonds shall be calculated at the Taxable Rate upon the occurrence and during the continuance of a Determination of Taxability.

(b) **Interest.** Interest on the 2017 Series A Bonds shall be payable semi-annually on each June 1, and December 1, commencing June 1, 2018, until payment of the 2017 Series A Bonds is made to the respective Holders thereof, computed using a year of 360 days comprised of twelve 30-day months.

(c) **No Debt Service Reserve Account for 2017 Series A Bonds.** Pursuant to Section 2.07 of the Original Indenture, the 2017 Series A Bonds shall not constitute Participating Bonds. There shall be no Series Debt Service Reserve Account established for the 2017 Series A Bonds.

2.04. Redemption Prices And Terms.

(a) The 2017 Series A Bonds are not subject to optional redemption prior to their stated maturity dates.

(b) In accordance with Article V of the Original Indenture of Trust, the 2017 Series A Bonds are subject to mandatory redemption in accordance with Section 7.02 of the Bond Purchase Agreement. Notice of redemption made pursuant to Section 5.05 of the Original Indenture of Trust shall not be required to be made for 2017 Series A Bonds subject to redemption pursuant to this Section 2.04(b).

(c) The 2017 Series A Bonds shall be subject to mandatory redemption from Sinking Fund Installments for the 2017 Series A Bonds, which Sinking Fund Installments are payable on the dates and in the amounts set forth below at a Redemption Price equal to the principal amount thereof:

<u>Date</u>	<u>Sinking Fund Installment</u>
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2.05. Place of Payment. The principal and Redemption Price of the 2017 Series A Bonds shall be payable upon surrender thereof at the corporate trust office of the Trustee in New York, New York, as shall be designated from time to time.

2.06. Application of Proceeds of 2017 Series A Bonds. In accordance with Section 2.03 of the Original Indenture of Trust, the proceeds of the sale of the 2017 Series A Bonds of \$_____, shall be applied simultaneously with the delivery of the 2017 Series A Bonds, as follows:

(a) There shall be deposited in the 2010 Series A Bonds Escrow Fund, the sum of \$_____;

(b) There shall be no money deposited in the Debt Service Reserve Account in the Debt Service Fund because the balance in the Debt Service Reserve Account is at least equal to the Debt Service Reserve Requirement upon the issuance of the 2017 Series A Bonds; and

(c) There shall be deposited in the 2017 Series A Bonds Costs of Issuance Fund the sum of \$_____.

2.07. Establishment and Application of 2017 Series A Bonds Costs of Issuance Fund. The Trustee shall establish and maintain in trust a separate fund designated as the “2017 Series A Bonds Costs of Issuance Fund.” Moneys deposited in said fund shall be used to pay costs of issuance with respect to the 2017 Series A Bonds upon receipt by the Trustee of a requisition of an NCPA Authorized Representative stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said Fund. At the end of one year from the date of initial delivery of the 2017 Series A Bonds, or upon earlier receipt of a statement of an NCPA Authorized Representative that amounts in said fund are no longer required for the payment of such costs, expenses and obligations, said Fund shall be terminated and any amounts then remaining in said fund shall be transferred to the Debt Service Account in the Debt Service Fund.

ARTICLE III

CERTAIN TAX MATTERS

3.01. Tax Covenants.

(a) NCPA covenants that it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code. NCPA shall not directly or indirectly use or permit the use of any proceeds of the Bonds in such a manner as would adversely affect the exclusion of interest on any Bonds from gross income under Section 103 of the Code. NCPA shall not directly or indirectly use or permit the use of any proceeds of any Bonds, or of any facilities financed thereby, or other funds of NCPA, or take or omit to take any action, that would cause any Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, NCPA shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Bonds. In the event that at any time NCPA is of the opinion that for purposes of this Section it is necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee under the Indenture of Trust, NCPA shall so instruct the Trustee in writing, and the Trustee shall take such action as may be directed in such instructions.

(b) NCPA specifically covenants that:

(i) NCPA shall not allow the amount of Gross Proceeds of the 2017 Series A Bonds invested during any Bond Year in Nonpurpose Investments with a Yield in excess of the Yield on the 2017 Series A Bonds to exceed the lesser of (a) one hundred fifty percent (150%) of the scheduled debt service for that Bond Year or (b) the amounts on deposit in the Debt Service Reserve Account and attributed to the 2017 Series A Bonds (provided that such amounts do not exceed ten percent (10%) of the proceeds of the 2017 Series A Bonds) plus \$100,000.

(ii) NCPA shall pay or cause to be paid the 2017 Series A Bonds Rebate Requirement as provided in the 2017 Series A Bonds Tax Certificate.

(iii) NCPA shall determine the amount of and cause to be deposited in the 2017 Series A Bonds Rebate Fund the 2017 Series A Bonds Rebate Requirement as provided in the 2017 Series A Bonds Tax Certificate (which is incorporated herein by reference). Subject to the provisions of this Section, moneys held in the 2017 Series A Bonds Rebate Fund are hereby pledged to secure payments to the United States of America, and NCPA and the Holders of the Bonds shall have no rights in or claim to such moneys. The Trustee shall invest all amounts held in the 2017 Series A Bonds Rebate Fund as directed in writing by an Authorized NCPA Representative.

Upon receipt of the 2017 Series A Bonds Rebate Instructions required to be delivered to the Trustee, the Trustee shall remit part or all of the balance held in the 2017 Series A Bonds Rebate Fund, together with any completed forms to be filed therewith prepared by NCPA and delivered with such 2017 Series A Bonds Rebate Instructions, to the United States of America to the extent so directed, including rebate due in connection with any Series of Bonds. In addition,

if the 2017 Series A Bonds Rebate Instructions so direct, the Trustee shall deposit moneys into or transfer moneys out of the 2017 Series A Bonds Rebate Fund from or into such Accounts or Funds as the 2017 Series A Bonds Rebate Instructions direct.

The Trustee shall conclusively be deemed to have complied with the provisions of this Section if it follows the directions of NCPA set forth in the 2017 Series A Bonds Rebate Instructions and shall not be required to take any actions thereunder in the absence of 2017 Series A Bonds Rebate Instructions from an Authorized NCPA Representative.

(iv) For purposes of this Section 3.01, capitalized terms not defined in Section 1.03 hereof shall have the meanings ascribed to such terms in the 2017 Series A Bonds Tax Certificate.

3.02. Rebate Fund. For purposes of complying with tax covenants contained in the Original Indenture of Trust and in Section 3.01 hereof, there is hereby established a fund designated the “2017 Series A Bonds Rebate Fund” to be held by the Trustee. Amounts on deposit in the 2017 Series A Bonds Rebate Fund shall be applied as provided in Section 3.01 of this First Supplemental Indenture of Trust.

ARTICLE IV

MISCELLANEOUS

4.01. Indenture of Trust to Remain in Effect. Save and except as heretofore amended and supplemented and as amended and supplemented by this First Supplemental Indenture of Trust, the Indenture of Trust shall remain in full force and effect.

4.02. No Financial Guaranty. As long as any 2017 Series A Bonds are outstanding, NCPA will not substitute a Financial Guaranty for the cash in the Debt Service Reserve Account.

4.03. Counterparts. This First Supplemental Indenture of Trust may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

4.04. Sinking Fund Redemption of 2017 Series A Bonds. Notwithstanding anything to the contrary in the Indenture of Trust, the following provisions shall apply to the 2017 Series A Bonds with respect to the Sinking Fund Installment redemptions:

(a) no notice of redemption need be given, and

(b) in lieu of the surrender of any 2017 Series A Bond as a requirement for payment of the redemption price, the Trustee shall wire transfer on the applicable Sinking Fund Installment redemption date the redemption price to the owners of the 2017 Series A Bonds to be redeemed (in whole) to such account(s) as shall be specified by such registered owners and shall maintain a record as to the Sinking Fund Installment as to principal amount of 2017 Series A Bonds which remain outstanding following each Sinking Fund Installment redemption. The record of the Trustee as to the Outstanding principal amount of the 2017 Series A Bonds shall conclusively

evidence the Outstanding principal amount of 2017 Series A Bonds notwithstanding anything to the contrary, contained in the 2017 Series A Bonds.

4.05. Restrictions on Sales and Transfers by Bondholder. Transfers of the 2017 Series A Bonds shall be limited by the provisions of Section 8.06 of the Bond Purchase Agreement. Any Non-Purchaser Transferee (as defined in the Bond Purchase Agreement) shall deliver to the Agency, the Trustee and the selling Bondholder an investment letter in substantially the form attached as Exhibit B, prior to the effectiveness of such transfer.

IN WITNESS WHEREOF, Northern California Power Agency has caused these presents to be signed in its name and on its behalf by its General Manager and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and on its behalf by one of its authorized officers, all as of the first day of December, 2017.

NORTHERN CALIFORNIA POWER AGENCY

By:_____

Name: Randy Howard

Title: General Manager

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By:_____

Authorized Officer

EXHIBIT A

FORM OF 2017 SERIES A BOND

NORTHERN CALIFORNIA POWER AGENCY

**LODI ENERGY CENTER REVENUE REFUNDING BOND,
ISSUE ONE, 2017 SERIES A**

No. R-1 \$ _____

Interest Rate	Dated Date	Maturity Date
____%	December __, 2017	June 1, 2025

Registered Owner: BANK OF AMERICA, N.A.

Principal Amount: THIRTY EIGHT MILLION NINE HUNDRED FORT-FIVE THOUSAND
DOLLARS

NORTHERN CALIFORNIA POWER AGENCY (herein called “NCPA”), a joint exercise of powers agency established pursuant to the laws of the State of California, acknowledges itself indebted to, and for value received hereby promises to pay to, the registered owner specified above, or registered assigns, on the Maturity Date stated hereon, unless sooner paid as provided in the Indenture of Trust mentioned below, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association, in New York, New York, as trustee (such bank and any successor thereto being referred to herein as the “Trustee”), or the principal corporate trust office of any successor trustee, the principal amount specified above in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and to pay interest on such principal amount, by wired funds or check of the Trustee, mailed to such owner at his address as shown on the bond register at the interest rate per annum (calculated on the basis of a 360-day year of twelve thirty-day months) stated hereon, payable on the first days of June and December in each year, commencing June 1, 2018 (each an “Interest Payment Date”), until payment of this bond is made to the registered owner hereof. Such interest shall be payable by wired funds or check of the Trustee from the most recent Interest Payment Date next preceding the date of authentication hereof to which interest has been paid, unless the date of authentication hereof is a December 1 or June 1 to which interest has been paid, in which case from the date of authentication hereof, or unless the date of authentication hereof is on or prior to May 15, 2017, in which case from the Dated Date set forth above, or unless the date of authentication hereof is between a Record Date and the next Interest Payment Date, in which case from such Interest Payment Date. The interest so payable on any Interest Payment Date will be paid to the person in whose name this bond is registered at the close of business on the 15th day of the calendar month immediately preceding such Interest Payment Date.

This bond is one of a duly authorized issue of bonds of NCPA designated as “Lodi Energy Center Revenue Refunding Bonds, Issue One” (the “Bonds”) and of a series of Bonds

designated as “Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A” (the “2017 Series A Bonds”). The 2017 Series A Bonds are issued pursuant to the Article 4 of the Act. The 2017 Series A Bonds have been issued in the aggregate principal amount of \$_____. The 2017 Series A Bonds are issued under, and, together with all other Bonds issued and outstanding thereunder, are equally and ratably secured by the Trust Estate and entitled to the protection given by, the Indenture of Trust, dated as of June 1, 2010, as amended and supplemented, which Indenture of Trust was duly executed and delivered by NCPA to U.S. Bank National Association, New York, New York, the successor Trustee (said Indenture of Trust, as amended and supplemented and as the same may be further amended and supplemented, is herein called the “Indenture of Trust”).

Copies of the Indenture of Trust are on file at the office of NCPA and at the principal corporate trust office of the Trustee and reference is hereby made to the Indenture of Trust and to all amendments and supplements thereto for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of NCPA and the Trustee and the terms upon which the Bonds are or may be issued and secured under the Indenture of Trust, the rights and remedies of the owners of the Bonds, the limitations on such rights and remedies. Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Indenture of Trust.

This bond is a special, limited obligation of NCPA. The principal amount and redemption price of, and interest on, the Bonds are payable solely from the funds available from the Trust Estate and are secured by a pledge of the Trust Estate; provided, however, that the pledge of that portion of the Trust Estate constituting the Pledged Power Sales Agreement Rights Bonds shall be on a parity with any pledge of the Pledged Power Sales Agreement Rights securing the payment of Parity Debt. The Bonds do not constitute a charge against the general credit of NCPA. The Bonds are not secured by a legal or equitable pledge of, or lien or charge upon, any property of NCPA or any of its income or receipts except the Trust Estate subject to the provisions of the Power Sales Agreement and the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein. Neither the faith and credit nor the taxing power of the State of California or any public agency thereof or any Member of NCPA or any Participant is pledged to the payment of the principal or redemption price of, or interest on, the Bonds. Neither the payment of the principal or redemption price of, or interest on, the Bonds constitutes a debt, liability or obligation of the State of California or any public agency thereof (other than NCPA) or any Member of NCPA or any Participant. Neither the members of the Commission nor any officer or employee of NCPA shall be individually liable on the Bonds, or the interest thereon, or in respect of any undertakings by NCPA under the Indenture.

The 2017 Series A Bonds were issued for the purpose of paying a portion of the of the amounts needed to refund the Refunded Prior Bonds and to pay certain costs in connection with the issuance of the 2017 Series A Bonds.

As provided in the Indenture of Trust, Bonds of NCPA may be issued thereunder from time to time pursuant to Supplemental Indentures of Trust in one or more Series, in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Indenture of Trust provided. The aggregate principal amount of Bonds which may be issued under the Indenture of Trust is not limited except as provided in the Indenture

of Trust, and all Bonds issued and to be issued under the Indenture of Trust are and will be equally secured by the pledge and assignment and covenants made therein, except as otherwise expressly provided or permitted in the Indenture of Trust. At the time of issuance of the 2017 Series A Bonds, there was Outstanding under the Indenture of Trust \$31,585,000 aggregate principal amount of Bonds in addition to the 2017 Series A Bonds.

The 2017 Series A Bonds are issuable in the form of fully registered bonds in authorized denominations which are \$250,000 and any integral multiple of \$5,000 in excess thereof.

Subject to the terms of the Bond Purchase and Continuing Covenant Agreement, dated as of December 1, 2017 (the "Purchase Agreement"), the 2017 Series A Bonds are subject to redemption, at the option of NCPA, in whole on any Interest Payment Date, at a Redemption Price equal to the principal amount of the 2017 Series A Bonds being redeemed, together with accrued, unpaid interest to the redemption date from insurance or condemnation proceeds with respect to the Project; or from any source of money if all or substantially all of the Project or the Capital Improvements refinanced with the proceeds of the 2017 Series A Bonds are damaged or destroyed, taken by any public entity in exercise of its powers of eminent domain or disposed of or abandoned; provided, however, that the option of NCPA to call 2017 Series A Bonds for redemption from insurance or condemnation proceeds shall expire 180 days following the receipt of such insurance or condemnation proceeds.

In accordance with Article V of the Original Indenture of Trust, the 2017 Series A Bonds are subject to mandatory redemption in accordance with Section 7.02 of the Bond Purchase Agreement. Notice of redemption made pursuant to Section 5.05 of the Original Indenture of Trust shall not be required to be made for 2017 Series A Bonds subject to redemption pursuant to such redemption provisions.

The 2017 Series A Bonds are subject to mandatory redemption from the Sinking Fund Installments established for the 2017 Series A Bonds on the dates, in the amounts and in the manner (including that there shall be no notice of such redemption) set forth in the Indenture of Trust. This bond need not be presented or surrendered in connection with the payment of the Sinking Fund Installments when due.

If less than all of the 2017 Series A Bonds are to be redeemed on a redemption date, the particular 2017 Series A Bonds to be redeemed shall be selected as provided in the Indenture of Trust.

The 2017 Series A Bonds are payable upon redemption at the principal corporate trust office of the Trustee. Notice of redemption, setting forth the place of payment and the redemption date, shall be mailed, postage prepaid, not less than 30 days before the Redemption Date to the registered owners of any 2017 Series A Bonds or portions of the 2017 Series A Bonds to be redeemed; provided, however, that receipt of such mailing shall not be a condition precedent to such redemption and failure to receive any such notice or any defect therein shall not affect the validity of the proceedings for the redemption of the 2017 Series A Bonds. If notice of redemption shall have been given as aforesaid, the 2017 Series A Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the

Redemption Date, moneys for the redemption of all the 2017 Series A Bonds or portions thereof to be redeemed, together with unpaid interest thereon to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such 2017 Series A Bonds or portions thereof so called for redemption shall cease to accrue and be payable.

Subject to the terms of the Bond Purchase Agreement, this bond is transferable, as provided in the Indenture of Trust, only upon the books of NCPA kept for that purpose at the principal corporate trust office of the Trustee, by the registered owner hereof, or by his duly authorized attorney, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney. Upon payment of the charges prescribed in the Indenture of Trust a new registered 2017 Series A Bond or Bonds, without coupons, and for the same aggregate principal amount, shall be issued to the transferee in exchange therefor as provided in the Indenture of Trust. NCPA and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and interest due hereon and for all other purposes.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture, or any indenture amendatory thereof or supplemental thereto, may be modified or amended by NCPA with the written consent of the registered owners of at least a majority in principal amount of the affected Bonds then Outstanding. No such modification or amendment shall (1) extend the fixed maturity of any Bond, or reduce the principal amount or redemption price thereof, or reduce the amount of any applicable sinking fund installment therefor, or reduce the rate of interest thereon or extend the time of payment of interest thereon, without the consent of the registered owner of each Bond so affected; or (2) reduce the aforesaid percentage of Bonds the consent of the registered owners of which is required to effect any such modification or amendment, or permit the creation of any other lien on the Trust Estate, or deprive the registered owners of the Bonds of the lien of the pledge made pursuant to the Indenture on the Trust Estate (except as expressly provided in the Indenture), in each such case without the consent of the registered owners of all Bonds then Outstanding; or (3) shall change or modify any of the rights or obligations of the Trustee without its written assent thereto.

The Indenture may also be modified or amended without the consent of the registered owners of any Bonds so long as such modification or amendment shall not materially, adversely affect the interests of the owners of the Bonds.

The registered owner of this bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture.

It is hereby certified and recited that all conditions, acts and things required by law and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed in due time, form and manner, and that the Bonds, together with all other indebtedness of NCPA, comply in all respects with the applicable laws of the State of California.

This bond shall not be entitled to any benefit under the Indenture or be valid or become obligatory for any purpose until this bond shall have been authenticated by the manual execution by the Trustee of the Trustee's Certificate of Authentication hereon.

IN WITNESS WHEREOF, NORTHERN CALIFORNIA POWER AGENCY has caused this bond to be signed in its name and on its behalf by the manual or facsimile signature of the Chairman of its Commission and its seal (or a facsimile thereof) to be hereunto affixed, imprinted, engraved or otherwise reproduced and attested by the manual or facsimile signature of an Assistant Secretary, all as of the Dated Date specified above.

**NORTHERN CALIFORNIA POWER
AGENCY**

[SEAL]

ATTEST: _____
ASSISTANT SECRETARY

BY: _____
CHAIRMAN

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the within mentioned Indenture of Trust.

Date of Authentication
Trustee

U.S. BANK NATIONAL ASSOCIATION, as

BY: _____
AUTHORIZED OFFICER

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

(Name, Address and Tax Identification or
Social Security Number of Assignee)

the within Bond of the Northern California Power Agency and does hereby irrevocably
constitute and appoint

_____ attorney to
transfer the said Bond on the books kept for registration thereof with full power of substitution in
the premises.

Dated: _____

Notice: The Signature of this assignment and
transfer must correspond with the name
as written upon the face of this bond in
every particular, without alteration or
enlargement or any change whatsoever.

Signature guaranteed by

Notice: Signature must be guaranteed by a
member of the National Association of
Securities Dealers or a commercial bank
or trust company.

2. We have not offered, offered to sell, offered for sale or sold any of the Bonds by means of any form of general solicitation or general advertising, and we are not an underwriter of the Bonds within the meaning of Section 2(11) of the 1933 Act.

3. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds.

4. The Purchaser is a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act and is able to bear the economic risks of such investment.

5. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Bonds. The Purchaser has made its own inquiry and analysis with respect to the Issuer, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds. The Purchaser is aware that the business of the Issuer involves certain economic and regulatory variables and risks that could adversely affect the security for the Bonds.

6. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the Issuer, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals, including its own counsel, concerning the Issuer, the Bonds and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bonds.

7. The Purchaser has reviewed the documents executed in conjunction with the issuance of the Bonds, including, without limitation, the Indenture and the Project Number 3 Member Agreement (as defined in the Indenture). The Purchaser acknowledges and agrees that the Issuer takes no responsibility for, and makes no representation to the Purchaser, or any subsequent purchaser, with regard to, a sale, transfer or other disposition of the Bonds in violation of the provisions hereof, or any securities law or income tax law consequences thereof. The Purchaser also acknowledges that, with respect to the Issuer’s obligations and liabilities, the Purchaser is solely responsible for compliance with the sales restrictions on the Bonds provided in the BPA in connection with any subsequent transfer of the Bonds made by the Purchaser.

8. The Purchaser acknowledges that the sale of the Bonds to the Purchaser is made in reliance upon the certifications, representations and warranties herein by the addressees hereto.

9. The interpretation of the provisions hereof shall be governed and construed in accordance with California law without regard to principles of conflicts of laws.

10. The Bonds are being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution; *provided, however*, that the Purchaser reserves the right to sell, transfer or redistribute the Bonds, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person:

- (a) that is an affiliate of the Purchaser;

(b) that is a trust or other custodial arrangement established by the Purchaser or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers;

(c) that is a secured party, custodian or other entity in connection with a pledge by the Purchaser to secure public deposits or other obligations of the Purchaser or one of its affiliates to state or local governmental entities; or

(d) that the Purchaser reasonably believes to be a qualified institutional buyer and who executes an investor letter substantially in the form of this letter.

Very truly yours,

[NON-PURCHASER TRANSFEREE]

By: _____

Name: _____

Title: _____

BOND PURCHASE AND CONTINUING COVENANT AGREEMENT

dated as of December 1, 2017,

between

NORTHERN CALIFORNIA POWER AGENCY

and

BANK OF AMERICA, N.A.

relating to:

[\$38,945,000]¹

Northern California Power Agency
Lodi Energy Center Revenue Refunding Bonds,
Issue One, 2017 Series A

¹ To be updated.

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BOND PURCHASE AND CONTINUING COVENANT AGREEMENT

This BOND PURCHASE AND CONTINUING COVENANT AGREEMENT dated as of December 1, 2017 (as amended, modified or restated from time to time, this “*Agreement*”), between Northern California Power Agency, a public entity organized under the laws of the State of California (the “*Issuer*”), and BANK OF AMERICA, N.A., a national banking association (“*Bank of America*”).

RECITALS

WHEREAS, the Issuer has issued its Lodi Energy Center Project Revenue Refunding Bonds, Issue One, 2017 Series A (the “*Bonds*”) pursuant to an Indenture of Trust dated as of June 1, 2010 (as the same may be amended, modified or restated in accordance with the terms thereof and hereof, the “*Master Indenture*”), by and between the Issuer and U.S. Bank National Association, as trustee (the “*Trustee*”) as supplemented by the First Supplemental Indenture of Trust dated as of December 1, 2017 (as amended, modified or restated in accordance with the terms thereof and hereof, the “*Supplemental Indenture*” and together with the “*Master Indenture*,” the “*Indenture*”); and

WHEREAS, Bank of America, as initial Purchaser, has agreed to purchase the Bonds, and as a condition to such purchase, Bank of America has required the Issuer to enter into this Agreement.

NOW, THEREFORE, to induce the Purchaser to purchase the Bonds, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Issuer and the Purchaser hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01. Defined Terms. In addition to the terms defined in the recitals and elsewhere in this Agreement and the Indenture, the following terms shall have the meanings set forth below:

“*Affiliate*” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

“Audited Financial Statements” means the report on examination of financial statements and additional combining information of the Issuer for the fiscal year ended June 30, 2015, including the notes thereto.

“Bond Counsel” means Orrick, Herrington & Sutcliffe LLP, or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Issuer.

“Bondholder” means the Purchaser and each Purchaser Transferee or Non-Purchaser Transferee pursuant to Section 8.06 hereof so long as such Purchaser Transferee or Non-Purchaser Transferee is an owner of Bonds, or, with respect to Sections 2.04, 8.04 and 8.05 hereof and Article III hereof, was a Bondholder during the relevant period of time.

“Bonds” has the meaning set forth in the recitals hereof.

“Breakage Fee” has the meaning set forth in Section 2.06 hereof.

“Business Day” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the Issuer or the principal corporate trust office of the Trustee is located are authorized by Law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal office of the Purchaser is closed.

“Code” means the Internal Revenue Code of 1986, as amended, and, where appropriate any statutory predecessor or any successor thereto.

“Compliance Certificate” means a certificate substantially in form of Exhibit A hereto.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means, for any day, the lesser of (i) a rate of interest per annum equal to twelve percent (12.00%) and (ii) the maximum rate of interest on the Bonds permitted by applicable Law.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“*Determination of Taxability*” means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the Issuer files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when a Bondholder notifies the Issuer that it (or a former Bondholder) has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within two hundred seventy (270) days after receipt by the Issuer of such notification from such Bondholder, the Issuer shall deliver to such Bondholder, a ruling or determination letter issued to or on behalf of the Issuer by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) or a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the Issuer shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the Issuer, or upon any review or audit of the Issuer or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when the Issuer shall receive notice from a Bondholder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on the Bonds, that was previously determined to be excludable, due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless the Issuer has been afforded the reasonable opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined with no further right to appeal afforded to the Issuer; *provided further, however*, that upon demand from a Bondholder, the Issuer shall promptly reimburse such Bondholder or former Bondholder for any payments, including any taxes, interest, penalties or other charges, such Bondholder (or former Bondholder) shall be obligated to make as a result of the Determination of Taxability.

“*DTC*” means The Depository Trust Company.

“*Effective Date*” means December 21, 2017, subject to the satisfaction or waiver by the Purchaser of the conditions precedent set forth in Article IV hereof.

“*EMMA*” means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“*Environmental Laws*” means any and all federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

“*ERISA*” means the Employee Retirement Income Security Act of 1974.

“*Event of Default*” with respect to this Agreement has the meaning set forth in Section 7.01 of this Agreement and, with respect to any Related Document, has the meaning assigned therein.

“*Event of Taxability*” means a (i) change in Law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Issuer, or the failure to take any action by the Issuer, or the making by the Issuer of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bonds) which has the effect of causing interest paid or payable on the Bonds, that was previously determined to be excludable, to become includable, in the gross income of a Bondholder or any former Bondholder for federal income tax purposes or (ii) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action shall be final under applicable procedural Law, in either case, which has the effect of causing interest on the Bonds, that was previously determined to be excludable, to become includable, in the gross income of any Bondholder or such former Bondholder for federal income tax purposes.

“*Fiscal Year*” means each fiscal year of NCPA currently ending on June 30 of each calendar year.

“*Fitch*” means Fitch, Inc., and any successor rating agency.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“Generally Accepted Accounting Principles” or *“GAAP”* means accounting principles generally accepted and consistently applied to governmental entities in the United States, as set forth in the opinions and pronouncements of the Accounting Principles Board, the American Institute of Certified Public Accountants, the Governmental Accounting Standards Board and the Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession as in effect on the date hereof as modified in the manner described in the notes to the Audited Financial Statements of NCPA.

“Governing Documents” means, collectively the Lodi Energy Center Project Management Agreement dated as of August 1, 2010 and the Amended and Restated Rules of Procedure of the Northern California Power Agency, as amended, as applicable to the establishment and maintenance of NCPA as a joint exercise of powers entity.

“Governmental Approval” means an authorization, consent, approval, license, or exemption of, registration or filing with any Governmental Authority.

“Governmental Authority” means the government of the United States or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the *“primary obligor”*) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term *“Guarantee”* as a verb has a corresponding meaning.

“Indebtedness” of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the

deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all Indebtedness of others secured by a lien on any asset of such Person, whether or not such Indebtedness are assumed by such Person, (f) all Guarantees by such Person of Indebtedness of other Persons, (g) the maximum amount of all contingent or differ obligations of such Person arising under letters of credit (including standing and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments and (h) all obligations of such Person under any Swap Contract.

"Indemnatee" has the meaning set forth in Section 8.04 hereof.

"Indenture" has the meaning set forth in the recitals hereof.

"Interest Payment Date" has the meaning set forth in the Indenture.

"Investment Policy" means the investment policy of the Issuer delivered to the Purchaser, pursuant to Section 4.01(a)(iv) hereof.

"Investor Letter" has the meaning set forth in Section 8.06 hereof.

"Issuer" has the meaning set forth in the recitals hereof.

"Issuer Representative" means any person authorized from time to time in writing by the Issuer, or its successors and assigns, to perform a designated act or execute a designated document.

"Laws" means, collectively, all federal, state and local statutes, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Majority Bondholder" means, as of any time, Bondholders owning more than 50% of the aggregate principal amount of outstanding Bonds as of such time. As of the Effective Date, the Purchaser shall be the Majority Bondholder.

"Margin Stock" has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

“Material Adverse Effect” means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Issuer relating to the Project; (b) a material impairment of the ability of the Issuer to perform its obligations under any Related Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer of any Related Document to which it is a party or the rights, security, interests or remedies of the Purchaser hereunder or under any other Related Document.

“Maturity Date” has the meaning set forth in the Supplemental Indenture.

“Moody’s” means Moody’s Investors Service, Inc. and any successor rating agency.

“1933 Act” means the Securities Act of 1933, as amended.

“Non-Purchaser Transferee” has the meaning set forth in Section 8.06(c) hereof.

“Obligations” means all amounts payable by the Issuer, and all other obligations to be performed by the Issuer, pursuant to this Agreement and the other Related Documents (including, without limitation, all obligations of the Issuer to pay principal of and interest on the Bonds when due and any amounts to reimburse the Purchaser for any advances or expenditures by it under any of such documents).

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Parity Debt” means any Indebtedness issued or incurred by or on behalf of the Issuer and secured on a parity with the Lien on the Trust Estate securing the payment of the principal of and interest on the Bonds.

“Patriot Act” has the meaning set forth in Section 8.15 hereof.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Pledged Power Sales Agreement Rights” has the meaning set forth in the Indenture.

“Power Sales Agreement” has the meaning set forth in the Indenture.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“Purchase Price” has the meaning set forth in Section 2.01(a) hereof.

“Purchaser” means, initially, Bank of America, N.A., a national banking association, and its successors and assigns, and upon the receipt from time to time by the Trustee and the

Issuer of a notice described in Section 8.06(a) from time to time means the Person designated in such notice as the Purchaser, as more fully provided in Section 8.06(a) hereof.

“Purchaser Transferee” has the meaning set forth in Section 8.06(b) hereof.

“Rating Agency” means any of Fitch, Moody’s or S&P, as applicable.

“Rating Documentation” has the meaning set forth in Section 4.01(d)(iv) hereof.

“Related Documents” means this Agreement, the Indenture, the Bonds, the Governing Documents, the Power Sales Agreement, and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing permitted hereunder and thereunder.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“S&P” means S&P Global Ratings, and any successor rating agency.

“Sanction(s)” means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC) or other relevant sanctions authority.

“State” means the State of California.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a *“Master Agreement”*), including any such obligations or liabilities under any Master Agreement.

“Taxable Date” means the date on which interest on the Bonds is first includable in gross income of the Bondholder (including, without limitation, any previous Bondholder) thereof as a

result of an Event of Taxability as such date is established pursuant to a Determination of Taxability.

“Taxable Period” has the meaning set forth in Section 2.04 hereof.

“Taxable Rate” means, with respect to a Taxable Period, the product of (i) the interest rate on the Bonds during such period and (ii) 1.54.

“Trust Estate” has the meaning set forth in the Indenture.

“Trustee” has the meaning set forth in the recitals hereof.

Section 1.02. Other Interpretive Provisions. With reference to this Agreement and each other Related Document, unless otherwise specified herein or in such other Related Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words *“include,” “includes”* and *“including”* shall be deemed to be followed by the phrase *“without limitation.”* The word *“will”* shall be construed to have the same meaning and effect as the word *“shall.”* Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Related Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words *“hereto,” “herein,” “hereof”* and *“hereunder,”* and words of similar import when used in any Related Document, shall be construed to refer to such Related Document in its entirety and not to any particular provision thereof, (iv) all references in a Related Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Related Document in which such references appear, (v) any reference to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Law and any reference to any Law or regulation shall, unless otherwise specified, refer to such Law or regulation as amended, modified or supplemented from time to time, and (vi) the words *“asset”* and *“property”* shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word *“from”* means *“from and including;”* the words *“to”* and *“until”* each mean *“to but excluding;”* and the word *“through”* means *“to and including.”*

(c) Section headings herein and in the other Related Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Related Document.

Section 1.03. Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, *except* as otherwise specifically prescribed herein.

Section 1.04. Rounding. Any financial ratios required to be maintained by the Issuer pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

ARTICLE II

PURCHASE OF BONDS AND THE ISSUER'S OBLIGATIONS

Section 2.01. Purchase of Bonds.

(a) *Purchase Price.* Upon the satisfaction of the conditions set forth in Article IV hereof and based on the representations, warranties and covenants of the Issuer set forth herein, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell to the Purchaser, all, but not less than all, of the Bonds at par in an aggregate principal amount equal to \$38,945,000 (the "*Purchase Price*").

(b) *Closing.* On the Effective Date, the Issuer shall deliver to the Purchaser the documents described in and otherwise satisfy the conditions described in Article IV hereof. Upon the satisfaction of the conditions precedent set forth in Article IV hereof (or waiver thereof by the Purchaser), the Purchaser will pay the Purchase Price for the Bonds in immediately available federal funds payable to the Trustee on behalf of the Issuer. One fully registered Bond, in the aggregate principal amount equal to the Purchase Price, shall be issued to and registered in the name of the Purchaser or as otherwise directed by the Purchaser.

Section 2.02. Payment Obligations. (a) The Issuer hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of all payment obligations owed to the Bondholders under the Related Documents and to pay any other Obligations owing to the Bondholders whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates provided in such Related Documents and under such Obligations.

(b) The Issuer shall pay within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all costs and expenses of the Purchaser in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights and remedies under this Agreement, the other Related Documents and such other documents which may be delivered in connection therewith;

(ii) a fee for each amendment to this Agreement or any other Related Document or any consent or waiver by the Purchaser with respect to any Related Document, in each case, in a minimum amount of \$3,500 plus the reasonable fees and expenses of counsel to the Purchaser;

(iii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Purchaser in connection with advising the Purchaser as to its rights, remedies and obligations under this Agreement and the other Related Documents or in connection with responding to requests from the Issuer for approvals, consents and waivers; and

(iv) any amounts advanced by or on behalf of the Purchaser to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate.

All fees payable pursuant to this Agreement shall be deemed to be fully earned when due and non-refundable when paid.

Section 2.03. Default Rate. Upon the occurrence and during the continuance of an Event of Default, the Obligations shall bear interest at the Default Rate, which shall be payable by the Issuer to each Bondholder (or, if applicable, the Purchaser) upon demand therefor and be calculated on the basis of a 360-day year and actual days elapsed.

Section 2.04. Determination of Taxability. (a) In the event a Determination of Taxability occurs, to the extent not payable to each Bondholder under the terms of the Indenture and the Bonds, the Issuer hereby agrees to pay to each Bondholder on demand therefor (i) an amount equal to the difference between (A) the amount of interest that would have been paid to such Bondholder on the Bonds during the period for which interest on the Bonds is included in the gross income of such Bondholder if the Bonds had borne interest at the Taxable Rate, beginning on the Taxable Date (the “*Taxable Period*”), and (B) the amount of interest actually paid to the Bondholder during the Taxable Period, and (ii) an amount equal to any interest, penalties or charges owed by such Bondholder as a result of interest on the Bonds becoming included in the gross income of such Bondholder, together with any and all attorneys’ fees, court costs, or other out-of-pocket costs incurred by such Bondholder in connection therewith;

(b) Subject to the provisions of paragraph (c) below, such Bondholder shall afford the Issuer the reasonable opportunity, at the Issuer’s sole cost and expense, to contest (i) the validity of any amendment to the Code which causes the interest on the Bonds to be included in the gross income of such Bondholder or (ii) any challenge to the validity of the tax exemption with respect

to the interest on the Bonds, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals); *provided* that, in no event shall a Bondholder be required to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Issuer or any other Person; and

(c) As a condition precedent to the exercise by the Issuer of its right to contest set forth in paragraph (b) above, the Issuer shall, on demand, immediately reimburse such Bondholder for any reasonable expenses (including attorneys' fees for services that may be required by such Bondholder that may be incurred by the Bondholder in connection with any such contest, and shall, on demand, immediately reimburse the Bondholder for any payments, including any taxes or interest and all penalties or other charges payable by such Bondholder for failure to include such interest in its gross income.

Section 2.05. Obligations Absolute. (a) The payment obligations of the Issuer under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(i) any lack of validity or enforceability of this Agreement, the Bonds or any of the other Related Documents;

(ii) any amendment or waiver of or any consent to departure from all or any of the Related Documents;

(iii) the existence of any claim, set-off, defense or other right which the Issuer may have at any time against the Purchaser, any other Bondholder or any other person or entity, whether in connection with this Agreement, the other Related Documents, the transactions contemplated herein or therein or any unrelated transaction; or

(iv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

(b) All obligations of the Issuer to make payments under this Agreement are special obligations payable only from amounts included in the Trust Estate available for such payments under the Indenture.

Section 2.06. Breakage. The Issuer shall pay to the Purchaser a Breakage Fee (the "*Breakage Fee*") in connection with each redemption of the Bonds prior to the Maturity Date in accordance with the calculation set forth on Exhibit B hereto. Any such redemption shall be applied to the most remote payment of principal on the Bonds due pursuant to the terms of the Supplemental Indenture.

ARTICLE III

RESERVED

ARTICLE IV

CONDITIONS PRECEDENT TO PURCHASE OF BONDS

Section 4.01. Documentary Requirements. The obligation of the Purchaser to purchase the Bonds is subject to the conditions precedent that the Purchaser shall have received, on or before the Effective Date, the items listed below in this Section, each dated and in form and substance as is satisfactory to the Purchaser.

(a) The following Issuer documents:

(i) copies of the resolutions of the governing body of the Issuer approving the execution and delivery of the Related Documents executed and delivered in connection with the issuance of the Bonds to which the Issuer is a party, and the other matters contemplated hereby, certified by an Issuer Representative as being true and complete and in full force and effect on the Effective Date;

(ii) the Governing Documents, certified by an Issuer Representative to be in full force and effect as of the Effective Date;

(iii) the audited annual financial statements of the Issuer for the Fiscal Year ended June 30, 2017;

(iv) a copy of the Issuer's Investment Policy in effect as of the Effective Date;
and

(v) a certificate dated the Effective Date and executed by an Issuer Representative certifying the names, titles, offices and signatures of the persons authorized to sign, on behalf of the Issuer, the Related Documents executed and delivered in connection with the issuance of the Bonds to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following financing documents:

(i) an executed original or certified copy, as applicable, of each of the Related Documents; and

(ii) a specimen copy of the Bond.

(c) The following opinions, dated the Effective Date and addressed to the Purchaser or on which the Purchaser is otherwise expressly authorized to rely:

(i) from counsel to the Issuer, opinions as to the due authorization, execution, delivery and enforceability of the Related Documents executed and delivered in connection with the issuance of the Bonds to which the Issuer is a party, and such other customary matters as the Purchaser may reasonably request including, without limitation, valid security interest and pledge opinions;

(ii) from Bond Counsel, opinions to the effect that the interest on the Bonds is excludable from gross income for federal income tax purposes.

(d) The following documents and other information:

(i) a certificate dated the Effective Date and executed by a Issuer Representative certifying (A) that there has been no event or circumstance since June 30, 2017, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (B) that the representations and warranties contained in Article V hereof are true and correct in all material respects on the Effective Date, (C) no event has occurred and is continuing, or would result from entry into this Agreement, which would constitute a Default or Event of Default and (D) since the dated date of the Rating Documentation, the unenhanced long-term debt ratings assigned to any Parity Debt has not been withdrawn, suspended or reduced;

(ii) a certificate dated the Effective Date and executed by an Issuer Representative, certifying that the Issuer is in compliance with, the covenants set forth in Sections 2.03 and 8.05 of the Indenture;

(iii) true and correct copies of all Governmental Approvals, if any, necessary for the Issuer to execute, deliver and perform the Related Documents to which it is a party;

(iv) recent evidence (which may consist entirely of publically available information) that the unenhanced long-term debt rating assigned by Moody's, S&P and Fitch to any Parity Debt is at least ["A1," "A-" and "A+,"] respectively (the "*Rating Documentation*"); and

(vi) an opinion of counsel to each Project Participant².

Section 4.02. Litigation. The Purchaser shall have received a written description of all actions, suits or proceedings pending or threatened against the Issuer in any court or before any arbitrator of any kind or before or by any governmental or non-governmental body which could reasonably be expected to result in a Material Adverse Effect, if any, and such other statements,

² To be discussed.

certificates, agreements, documents and information with respect thereto as the Purchaser may reasonably request.

Section 4.03. Other Matters. All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to the Purchaser and its counsel, and the Purchaser shall have received such other statements, certificates, agreements, documents and information with respect to the Issuer and the other parties to the Related Documents and matters contemplated by this Agreement as the Purchaser may reasonably request.

Section 4.04. Payment of Fees and Expenses. Within thirty (30) calendar days of the Effective Date, (i) the Purchaser shall receive reimbursement of the Purchaser's fees and expenses and any other fees incurred in connection with the transaction contemplated by this Agreement or the Indenture, including without limitation, any fee payable to the California Debt and Investment Advisory Commission by the Purchaser with respect to the Bonds and (ii) counsel to the Purchaser shall have received payment of its reasonable legal fees and expenses incurred in connection with the preparation, review, negotiation, execution and delivery of the Related Documents executed and delivered in connection with the issuance of the Bonds.

Section 4.05. No Bond Rating; DTC; Offering Document. The Bonds shall not be (i) assigned a specific rating by any Rating Agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document or (iv) placed or offered by a broker-dealer in the capacity of an underwriter or a placement agent.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Issuer makes the following representations and warranties to each Bondholder:

Section 5.01. Organization, Powers, Etc. The Issuer is a joint exercise of powers agency established and validly existing under and pursuant to the laws of the State and has: (a) full power and authority under the laws of the State, to enter into and perform its obligations under this Agreement and the other Related Documents and (b) all material governmental licenses, authorization, consents and approvals required to carry its business as now conducted and to enter into and perform its obligations under this Agreement and the other Related Documents.

Section 5.02. Authorization, No Contravention. The execution, delivery and performance by the Issuer of this Agreement and each other Related Document have been duly authorized by all necessary action, and require no action or consent by or in respect of, or filing with, any Governmental Authority other than the California Debt and Investment Advisory Commission. The execution and delivery by the Issuer of this Agreement and the other Related Documents to which it is a party do not and will not (a) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award as currently in effect to which the Issuer is subject; (b) result in a material breach of or constitute a material default under the

provisions of any resolution, indenture, loan or credit agreement or any other agreement, lease or instrument to which the Issuer may be or is subject or by which it, or any of its Property related to the Project, is bound; or (c) result in, or require, the creation or imposition of any mortgage, deed of trust, assignment, pledge, lien, security interest or other charge or encumbrance of any nature or with respect to any of its Property related to the Project other than the pledge of Trust Estate created by the Indenture. The performance by the Issuer of this Agreement and the other Related Documents to which it is a party does not and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award as currently in effect to which the Issuer is subject; (ii) result in a breach of or constitute a default under the provisions of any resolution, indenture, loan or credit agreement or any other agreement, lease or instrument to which the Issuer may be or is subject or by which it, or any of its Property related to the Project, is bound; or (iii) result in, or require, the creation or imposition of any mortgage, deed of trust, assignment, pledge, lien, security interest or other charge or encumbrance of any nature or with respect to any of its Property related to the Project (other than the pledge of the Trust Estate created by the Indenture), except in the case of clause (ii) or (iii) any such breach, default, creation or imposition that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 5.03. Binding Effect. This Agreement, the Bonds and each other Related Document executed and delivered in connection with the issuance of the Bonds to which the Issuer is a party constitute legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles whether or not an equitable remedy is sought, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against municipal corporations in the State.

Section 5.04. Financial Statements. The Audited Financial Statements, which financial statements, accompanied by the audit report of Baker Tilly Virchow Krause, LLP, independent public accountants, heretofore furnished to the Purchaser, which are consistent in all material respects with the audited financial statements of the Issuer for the Fiscal Year ended June 30, 2017, fairly present the financial condition of the Issuer in all material respects as of such dates and the results of its operations for the periods then ended in conformity with GAAP. Since the date of the Audited Financial Statements, there has been no material adverse change in the financial condition or operations of the Issuer that could reasonably be expected to result in a Material Adverse Effect.

Section 5.05. Litigation. There is no action, suit or proceeding pending against or, to the best knowledge of the Issuer, threatened against the Issuer relating to this Agreement, the Bonds or any other Related Document before any court or other Governmental Authority in which there is a reasonable possibility of an adverse decision which could reasonably be expected to have a Material Adverse Effect.

Section 5.06. Employee Benefit Plans, Etc. The Issuer is not subject to Title I reporting and disclosure requirements, Title II or Title IV of ERISA and has no obligation or liability under or in respect of any "employee benefit plan" within the meaning of Section 3(3) of ERISA

or any other form of bonus, incentive compensation, deferred compensation or other similar plan or arrangement.

Section 5.07. Environmental Laws. The Issuer has not received notice to the effect that the Project operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could reasonably be expected to result in a Material Adverse Effect.

Section 5.08. No Sovereign Immunity. Under existing law, the Issuer is not entitled to raise the defense of sovereign immunity in connection with any legal proceeding to enforce or collect upon this Agreement, the other Related Documents or the transactions contemplated hereby or thereby, including the payment of the principal of and interest on the Bonds or the payment of the other Obligations.

Section 5.09. Disclosure. All information heretofore furnished (including pursuant to any representation or warranty) by the Issuer to the Purchaser for purposes of or in connection with the negotiation of this Agreement and the transactions contemplated hereby is, and all such information hereafter furnished by the Issuer to the Purchaser in such connection will be, true, accurate and complete in all material respects on the date as of which such information is stated or certified. There is no fact known to the Issuer which the Issuer has not disclosed to the Purchaser in writing which the Issuer believes will result in a Material Adverse Effect or, so far as the Issuer can now reasonably foresee, is likely to result in a Material Adverse Effect.

Section 5.10. Security. (a) The Indenture creates, for the benefit of the owners of the Bonds, the legally valid, binding and irrevocable Lien on and pledge of the Trust Estate. There is no lien on the Trust Estate other than the lien created by the Indenture. The Indenture does not permit the issuance or incurrence of any Indebtedness secured by the Trust Estate to rank senior to the Bonds. The payment of the Bonds ranks on a parity with the payment of the principal and purchase price of and interest on all Parity Debt and is not subordinate to any payment secured by a lien on the Trust Estate, and is prior as against all other Persons having claims of any kind in tort, contract or otherwise, whether or not such Persons have notice of such lien. No filing, registration, recording or publication of the Indenture or any other instrument is required to establish the pledge provided for thereunder or to perfect, protect or maintain the Lien created thereby on the Trust Estate to secure the Bonds.

(b) The Obligations of the Issuer (other than the payment of the principal of or interest on the Bonds) constitute (NCPA Administrative Costs) (as defined in the Power Sales Agreement).

Section 5.11. Incorporated Representations. The Issuer makes each of the representations, warranties and covenants contained in the Related Documents, for the benefit of, the Purchaser as if the same were set forth at length herein together with all applicable definitions thereto. No amendment, modification, termination or replacement of any such

representations, warranties, covenants and definitions contained in the Indenture shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated herein by this reference, without the prior written consent of the Purchaser.

Section 5.12. Pending Legislation. There is no amendment to the Constitution of the State or any State law, or to the knowledge of the Issuer, proposed amendment to the Constitution of the State or any State law certified for placement on a ballot within the State, or any legislation that has passed either house of the United States Congress, or, to the knowledge of the Issuer, any published judicial decision interpreting any of the laws of the United States, the Constitution of the State or any State law, the effect of which could reasonably be expected to result in a Material Adverse Effect.

Section 5.13. Compliance. The Issuer is in compliance with all laws, ordinances, orders, rules and regulations applicable to the Issuer, except to the extent noncompliance could not reasonably be expected to result in a Material Adverse Effect.

Section 5.14. Default. The Issuer is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Related Document or other resolution, agreement or instrument to which it is a party which default could reasonably be expected to result in a Material Adverse Effect. No Event of Default has occurred and is continuing.

Section 5.15. Margin Stock. The Issuer is not engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no portion of the proceeds of the Bonds will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock.

Section 5.16. Tax-Exempt Status. The Issuer has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other person or entity, which action, if taken or omitted, would adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation or the exemption of such interest from State of California income taxes.

Section 5.17. Solvency. The Issuer is able to pay its debts and satisfy its liabilities as they come due, is solvent and has not made any assignment for the benefit of creditors.

Section 5.18. Sanctions Concerns and Anti-Corruption Laws. (a) *Sanctions Concerns.* Neither the Issuer, nor, to the knowledge of the Issuer, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals or (iii) located, organized or resident in a Designated Jurisdiction.

(b) *Anti-Corruption Laws.* The Issuer, to its knowledge, has conducted its business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

ARTICLE VI

COVENANTS

The Issuer covenants and agrees, until the full and final payment and satisfaction of all of the Obligations, unless the Purchaser shall otherwise consent in writing, that:

Section 6.01. Reporting Requirements. The Issuer shall furnish to the Purchaser:

(a) as soon as available, and in any event within 270 days after the end of the Fiscal Year, the annual audited financial statements of the Issuer together with the opinion of the Issuer's independent accountants;

(b) simultaneously with the delivery of each set of financial statements referred to in clause (i) above, a certificate of the Issuer signed by an Issuer Representative stating that, to the best knowledge of such officer executing such certificate, there exists on the date of such certificate no Event of Default or, if any Event of Default then exists, setting forth the details thereof and the action which the Issuer is taking or proposes to take with respect thereto;

(c) as soon as available to the Issuer, copies of all enacted legislation (including new legislation, amended legislation or repealed legislation) the effect of which, in the reasonable judgment of the Issuer, could reasonably be expected to have a Material Adverse Effect;

(d) from time to time such additional information regarding the financial position, operations or business of the Issuer as the Purchaser may reasonably request;

(e) (i) within five (5) Business Days of obtaining knowledge of any Default or Event of Default, or notice thereof, a certificate signed by a Issuer Representative specifying in reasonable detail the nature and period of existence thereof and what action the Issuer has taken or proposes to take with respect thereto; and (ii) promptly following a written request of the Purchaser, a certificate of a Issuer Representative as to the existence or absence, as the case may be, of a Default or an Event of Default under this Agreement;

(f) as promptly as practicable, written notice to the Purchaser of all actions, suits or proceedings pending or threatened against the Issuer before any arbitrator of any kind or before any court or any other Governmental Authority which could reasonably be expected to result in a Material Adverse Effect.

Section 6.02. Notices. In addition to the notices described in Section 6.01, the Issuer will provide promptly to the Purchaser the following:

(a) notice of any event or circumstance known to the Issuer which in the reasonable judgment of the Issuer could reasonably be expected to result in a Material Adverse Effect;

(b) notice of any inquiry, investigation or audit of the Issuer by the Securities and Exchange Commission, the Department of Justice or the Internal Revenue Service, of which the Issuer has actual knowledge;

(c) notice of any proposed amendment or supplement to the Indenture and copies of all such amendments and supplements promptly following the execution thereof, in each case, other than any supplement to the Indenture setting forth only the terms of a new series of Parity Debt; and

(d) any reportable event notice relating to the Parity Debt (as described in b(5)(i)(C) of Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934, as amended) disseminated, distributed or provided in satisfaction of or as may be required pursuant to such requirements (or notice that such event notice has been filed with the Electronic Municipal Market Access service and is publicly available).

Section 6.03. Further Assurances. The Issuer shall execute, acknowledge where appropriate, and deliver, and cause to be executed, acknowledged where appropriate, and delivered, from time to time promptly at the request of the Purchaser, all such instruments and documents as in the reasonable opinion of the Purchaser are necessary to effectuate the provisions of this Agreement and the other Related Documents.

Section 6.04. Inspection of Property, Books and Record. The Issuer shall keep adequate records and books of account, in which complete entries will be made, reflecting all financial transactions; and at any reasonable time and from time to time upon reasonable notice thereof, permit the Purchaser or any agents or representatives thereof, at the expense of the Purchaser (so long as no Event of Default shall have occurred), to examine and make copies of and abstracts from the records and books of account of, and to the extent permitted by applicable law, visit the properties of, the Issuer and to discuss the affairs, finances and accounts of the Issuer relating to the Project with any of the Issuer's officers, trustees and (with notice to the Issuer) independent auditors (and by this provision, the Issuer authorizes said auditors to discuss with the Purchaser or its representatives the affairs, finances and accounts of the Issuer relating to the Project).

Section 6.05. Waiver of Immunity. If as a result of a change in Law the defense of sovereign immunity in respect of contract claims becomes available to the Issuer, the Issuer agrees, to the fullest extent permitted by law, not to assert the defense of sovereign immunity in any proceeding to enforce any of the obligations of the Issuer under this Agreement, the Bonds or any other Related Document in any court of competent jurisdiction. For clarity, such waiver does not include waiver of the provisions of the Government Claims Act, California Government Code section 810, *et seq.*

Section 6.06. Compliance with Laws; Compliance with Agreements. The Issuer covenants that it will comply with the requirements of (a) all applicable laws of any Governmental Authority having jurisdiction over the Issuer and any of its Property, including, without limitation, all Environmental Laws, and (b) all investment policy guidelines of the Issuer; in each case, the non-compliance with which would have a Material Adverse Effect, unless the same is being contested in good faith and by appropriate proceedings and such contest shall operate to stay the Material Adverse Effect of any such non-compliance. The Issuer will observe and perform all of its obligations under this Agreement and the Bonds and all of its material obligations under the Indenture except to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect. The Issuer will maintain in effect and enforce policies and procedures designed to ensure compliance by the Issuer and its commission members, officers, employees and agents with applicable Sanctions.

Section 6.07. Disclosure to Purchaser Transferees, Non-Purchaser Transferees and Participants. The Issuer shall permit the Purchaser to disclose any information received by the Purchaser in connection herewith including, without limitation, the financial information described in Section 6.01(a) hereof, to any Assignee or Participant.

Section 6.08. Incorporation of Covenants. From and after the date hereof and so long as this Agreement is in effect the Issuer agrees that it will, for the benefit of the Purchaser, comply with, abide by, and be restricted by all the agreements, covenants, obligations and undertakings contained in the provisions of the Indenture material to the performance of the Issuer's obligations hereunder (the obligations of the Issuer set forth in Article V and Article VII of the Indenture shall, for purposes of this Section 6.08, be considered material to the performance of the Issuer's obligations hereunder), together with the related definitions, exhibits and ancillary provisions, all of which are incorporated herein by reference, *mutatis mutandis*, and made a part hereof to the same extent and with the same force and effect as if the same had been herein set forth in their entirety, and no termination, amendment, modification or waiver to any of the foregoing shall in any manner constitute a termination, amendment, modification or waiver of the provisions thereof as incorporated herein unless consented to in writing by the Purchaser. The Issuer will not amend or modify, or permit to be amended or modified in any manner whatsoever any Related Document in a manner which would materially adversely affect the Issuer's ability to repay Indebtedness that is secured by the Trust Estate or which adversely affects the security for the Bonds or the other Obligations or the Issuer's ability to repay when due the Bonds or the other Obligations or the interests, security, rights or remedies of the Purchaser without the prior written consent of the Purchaser.

Section 6.09. Maintenance of Tax-Exempt Status of the Bonds. The Issuer shall not take any action or omit to take any action which, if taken or omitted, would adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation or the exemption of such interest from California income taxes.

Section 6.10. Liens; Indebtedness; Swaps; Consolidation and Mergers. (a) Except for the Lien over the Trust Estate created by the Indenture, the Issuer will not hereafter create or suffer to exist any Lien on the Trust Estate on a basis that is senior to or on parity with the Lien created pursuant to the Bonds. The Issuer will not create or suffer to exist any Lien over any of its

Property which could reasonably be expected to have a Material Adverse Effect. Without limiting the foregoing, in the event a Lien attaches after the Effective Date (i) to the Trust Estate or (ii) to any of its Property and which if not removed could reasonably be expected to have a Material Adverse Effect, in either case the Issuer shall take all reasonable action necessary to remove such Lien as soon as practicable. For avoidance of doubt, the Purchaser acknowledges that nothing herein is intended to preclude the future issuance by the Issuer of additional Parity Debt in accordance with the terms of the Indenture and nothing in this Agreement shall be construed to limit the ability of the Issuer to incur NCPA Operating Expenses.

(b) After the Effective Date, other than Parity Debt, the Issuer will not issue or incur any additional Indebtedness secured by a pledge of or lien upon the Trust Estate unless such issuance or incurrence complies with the laws of the State or is made expressly subordinate to the payment of the Obligations; *provided, however*, that the Issuer has, and may in the future, enter into one or more Swap Contracts that constitute Parity Debt in order to hedge interest rate exposure in respect of additional Bonds with termination payments secured by the Trust Estate on parity with the pledge of the Trust Estate made for the payment of the Bonds. The Issuer will not issue any Indebtedness secured by a pledge of and lien upon the Trust Estate that is senior in right of payment to the Bonds and the Parity Debt; *provided that*, nothing herein is intended to preclude the future issuance by the Issuer of additional Parity Debt in accordance with the terms of the Indenture and nothing in this Agreement shall be construed to limit the ability of the Issuer to incur NCPA Operating Expenses (as defined in the Indenture).

(c) The Issuer will preserve and maintain its existence under the laws of the State and will not merge or consolidate with or into any other Person or acquire substantially all of the assets of any other Person unless (i) the Issuer continues to maintain exclusive control over the direction and operation of the Issuer and the of its Property, (ii) no Event of Default has occurred and is continuing or would result from such merger, consolidation or acquisition and (iii) such merger, consolidation or acquisition could not reasonably be expected to result in a Material Adverse Effect.

Section 6.11. Use of Proceeds; Federal Reserve Regulations. The Issuer covenants that it will not knowingly, directly or indirectly, use the proceeds of the Bonds to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions. No proceeds from moneys received hereunder shall be used by the Issuer to purchase Margin Stock in violation of Regulation U, as amended, promulgated by the Board of Governors of the Federal Reserve System.

Section 6.12. Accounting Changes. The Issuer shall not change its method of accounting or the times of commencement or termination of Fiscal Years or other accounting periods without first disclosing in writing such change to the Purchaser.

Section 6.13. Maintenance of its Property. The Issuer shall maintain, preserve and keep related to the Project in good repair, working order and condition (ordinary wear and tear excepted) and will, from time to time, make all needful and proper repairs, renewals, replacements, and additions and betterments thereto so that at all times the efficiency thereof shall be full preserved and maintained; *provided, however*, that nothing herein shall preclude the

Issuer from selling, transferring or disposing of portions of its Property related to the Project that have become nonoperative, worn out, obsolete or are otherwise not needed for the efficient and proper operation of the Project. The Issuer shall not change in any fundamental manner the use of the Project.

Section 6.14. Preferential Repayment. The Issuer shall not permit any Person party to any agreement with the Issuer the obligations of which are secured by a pledge of the Trust Estate on parity with the Issuer's payment obligations under this Agreement, including, without limitation, any credit provider or liquidity provider, to have any right under such agreement to cause the acceleration, tender, redemption or repayment (including by term-out or shortened amortization) of such obligations, on a basis that is shorter than or more favorable than the basis that the Purchaser is entitled to receive hereunder.

Section 6.15. Filing of the Agreement. In the event the Issuer delivers or permits, authorizes or consents to the delivery of this Agreement to any Person for delivery to the Municipal Securities Rulemaking Board, prior to such delivery the Issuer agrees that it shall redact such information contained herein as may be requested by the Purchaser and which is consistent with MSRB Notice 2011-17 (February 23, 2011). Only such copy of this Agreement reflecting such redacted material shall be delivered to the Municipal Securities Rulemaking Board.

Section 6.16. Underlying Rating. The Issuer shall at all times maintain a rating on its long-term unenhanced Parity Debt from at least one Rating Agency. The Issuer covenants and agrees that it shall not at any time withdraw any long-term unenhanced rating on its Parity Debt from any of Fitch, Moody's or S&P if the effect of such withdrawal would be to cure a Default or an Event of Default under this Agreement or reduce the Applicable Spread.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.01. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of Law) shall be an "*Event of Default*" hereunder, unless waived in writing by Purchaser:

(a) the Issuer shall fail to pay the principal of or interest on any Bonds when due (whether by scheduled maturity, required prepayment, redemption or otherwise);

(b) the Issuer shall fail to pay any Obligation (other than the obligation to pay the principal of or interest on the Bonds) when due and such failure shall continue for two (2) Business Days;

(c) any representation or warranty made by or on behalf of the Issuer in this Agreement or in any other Related Document or in any certificate or statement delivered hereunder or thereunder shall be incorrect or untrue in any material respect when made or deemed to have been made or delivered;

(d) the Issuer shall default in the due performance or observance of any of the covenants set forth in Sections 6.01 (other than Sections 6.01(c) and 6.01(f)), 6.04, 6.05, 6.09, 6.10 or 6.16 hereof; or

(e) the Issuer shall default in the due performance or observance of any other term, covenant or agreement contained in this Agreement or any other Related Document and such default shall remain unremedied for a period of thirty (30) days after the occurrence thereof;

(f) the Issuer shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) become insolvent or shall not pay, or be unable to pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any Law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 7.01(g) of this Agreement;

(g) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Issuer or any substantial part of its Property, or a proceeding described in Section 7.01(f)(v) shall be instituted against the Issuer and such proceeding continues undischarged or any such proceeding continues undismissed or unstayed for a period of thirty (30) or more days;

(h) a debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment when due and payable of the principal of or interest on any Indebtedness of the Issuer by the Issuer or any Governmental Authority with appropriate jurisdiction;

(i) (i) any provision of this Agreement or any Related Document related to (A) payment of principal of or interest on the Bonds or any Parity Debt or (B) the validity or enforceability of the pledge of the Trust Estate or any other pledge or security interest created by the Indenture shall at any time for any reason cease to be valid and binding on the Issuer as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction, or shall be declared, in a final nonappealable judgment by any court of competent jurisdiction, to be null and void, invalid or unenforceable; or

(ii) the validity or enforceability of any material provision of this Agreement or any Related Document related to (A) payment of principal of or interest on the Bonds or any Parity Debt, or (B) the validity or enforceability of the pledge of the Trust Estate or any other pledge or security interest created by the Indenture shall be publicly contested by the Issuer; or

(iii) any other material provision of this Agreement or any other Related Document, other than a provision described in clause (i) above, shall at any time for any reason cease to be valid and binding on the Issuer as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction or shall be declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be publicly contested by the Issuer;

(j) dissolution or termination of the existence of the Issuer;

(k) the Issuer shall (i) default on the payment of the principal of or interest on any Parity Debt beyond the period of grace, if any, provided in the instrument or agreement under which such Parity Debt was created or incurred; or (ii) default in the observance or performance of any agreement or condition relating to any Parity Debt or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event shall occur or condition exist, the effect of which default, event of default or similar event or condition is to permit (determined without regard to whether any notice is required) any such Parity Debt to become immediately due and payable in full as the result of the acceleration, mandatory redemption or mandatory tender of such Parity Debt;

(l) any final, unappealable judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, which are not covered in full by insurance, with written acknowledgement of such coverage having been provided by the provider of such insurance coverage to the Purchaser, in an aggregate amount in excess of \$5,000,000 shall be entered or filed against the Issuer or against any of its Property and remain unpaid, unvacated, unbonded or unstayed for a period of thirty (30) days;

(m) any “event of default” under any Related Document (as defined respectively therein) shall have occurred; or

(n) (i) S&P shall have downgraded its rating of any long-term unenhanced Parity Debt of the Issuer to below “BBB-” (or its equivalent), or suspended or withdrawn its rating of the same; or (ii) any of Fitch, Moody’s and S&P shall have downgraded its rating of any long-term unenhanced Parity Debt of the Issuer to below “BBB-” (or its equivalent), “Baa3” (or its equivalent), or “BBB-” (or its equivalent) respectively, or suspended or withdrawn its rating of the same.

Section 7.02. Consequences of an Event of Default. If an Event of Default specified in Section 7.01 hereof shall occur and be continuing, the Purchaser may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) (i) by written notice to the Trustee and the Issuer, declare the outstanding amount of the Obligations under this Agreement (except as set forth in Section 7.02(a)(ii) below) to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived;

(ii) deliver a written notice to the Trustee and the Issuer that an Event of Default has occurred and is continuing and direct the Trustee and the Issuer, as applicable, to cause the Bonds to be subject to mandatory redemption or take such other remedial action as is provided for in the Indenture;

(iii) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Indenture or to enforce performance or observance of any obligation, agreement or covenant of the Issuer under the Related Documents, whether for specific performance of any agreement or covenant of the Issuer or in aid of the execution of any power granted to the Purchaser in the Related Documents;

(iv) at the expense of the Issuer, cure any Default, Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however,* that the Purchaser shall have no obligation to effect such a cure; and

(v) exercise, or cause to be exercised, any and all remedies as it may have under the Indenture (other than as provided for in clause (ii) of this Section 7.02(a)) and as otherwise available at law and at equity.

(b) Notwithstanding the provisions of Section 7.02(a)(i) or 7.02(a)(ii), (x) the Bonds shall not be subject to mandatory redemption as described in Section 7.02(a)(i) or 7.02(a)(ii) until seven (7) days after the occurrence of an Event of Default specified in Section 7.01(a), 7.01(f), 7.01(g), 7.01(h), 7.01(i)(i), 7.01(i)(ii), 7.01(j), 7.01(k) or 7.01(n)(i) and (y) the Purchaser shall notify the Issuer that the Bonds shall be subject to mandatory redemption at least one hundred eighty (180) days prior thereto in the case of any Event of Default not specified in the immediately preceding clause (x). Notwithstanding the foregoing sentence of this Section 7.02(b), if any other holder or credit enhancer of Indebtedness or any counterparty under any Swap Contract related thereto (i) has the right to cause such Indebtedness to be immediately due and payable (whether by repurchase, mandatory tender, mandatory redemption, acceleration or otherwise) on a date earlier than, or pursuant to a notice period which is shorter than what is set forth in the first sentence of this section 7.02(b) in connection with a default related to such Indebtedness, then the Purchaser shall automatically have such right or shorter

notice period, as applicable, or (ii) causes any such Indebtedness or other obligations of the Issuer to become immediately due and payable (whether by repurchase, mandatory tender, mandatory redemption, acceleration or otherwise), then the Purchaser may immediately, without notice, avail itself of the remedies set forth in Section 7.02(a)(i) or 7.02(a)(ii) hereof and/or declare or cause to be declared the unpaid principal amount of all outstanding Bonds, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder to be immediately due and payable.

Section 7.03. Solely for the Benefit of Purchaser. The rights and remedies of the Purchaser specified herein are for the sole and exclusive benefit, use and protection of the Purchaser, and the Purchaser is entitled, but shall have no duty or obligation to the Issuer, the Trustee or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Purchaser hereunder or under any of the other Related Documents.

Section 7.04. Discontinuance of Proceedings. In case the Purchaser shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Purchaser shall have the unqualified right so to do and, in such event, the Issuer and the Purchaser shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Purchaser hereunder shall continue as if the same had never been invoked.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Amendments, Etc.. No amendment or waiver of any provision of this Agreement, and no consent to any departure by the Issuer therefrom, shall be effective unless in writing signed by the Purchaser and the Issuer, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the case of any such waiver or consent relating to any provision hereof, any Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Default or Event of Default or impair any right consequent thereto.

Section 8.02. Notices; Effectiveness; Electronic Communications. (a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, to the address, fax number, e-mail address or telephone number specified the Issuer, the Purchaser or the Trustee on Schedule 8.02 hereof. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission shall be

deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (c).

(b) *Electronic Communications.* Notices and other communications to the Purchaser hereunder may be delivered or furnished by electronic communication (including e-mail, FPML messaging and Internet or intranet websites) pursuant to procedures approved by the Purchaser. The Purchaser or the Issuer, in its discretion, agrees to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it provided that the approval of such procedures may be limited to particular notices or communications.

(c) Unless the Purchaser otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices and other communications posted to an Internet or intranet website shall be deemed received by the intended recipient upon the sender's receipt of an acknowledgment by the intended recipient (such as by the "return receipt requested" function, as available, return email address or other written acknowledgment) including that such notice or communication is available and identifying the website address therefor; *provided* that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(d) *Change of Address, Etc.* Each of the Issuer, the Purchaser and the Trustee may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(e) *Reliance by the Purchaser.* The Purchaser shall be entitled to rely and act upon any notices (including, without limitation, telephonic or electronic notices) purportedly given by or on behalf of the Issuer even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Issuer shall indemnify the Purchaser and any of Purchaser's Related Parties from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Issuer.

Section 8.03. No Waiver; Cumulative Remedies. No failure by the Purchaser to exercise, and no delay by the Purchaser in exercising, any right, remedy, power or privilege hereunder or under any other Related Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Related Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and

provided under each other Related Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Section 8.04. Expenses; Indemnity. (a) The Issuer shall pay (i) all reasonable out-of-pocket expenses incurred by the Purchaser and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Purchaser), in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Related Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Purchaser in connection with the purchase of the Bonds and (iii) all out-of-pocket expenses incurred by the Purchaser (including the fees, charges and disbursements of any counsel for the Purchaser), and shall pay all fees and time charges for attorneys who may be employees of the Purchaser, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Related Documents, including its rights under this Section, or (B) in connection with the purchase of the Bonds, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such purchase of the Bonds.

(b) *Indemnification by the Issuer.* To the extent permitted by applicable law, the Issuer shall indemnify the Purchaser and each Bondholder and each Related Party of the Purchaser or such Bondholder (each such Person being called an “*Indemnatee*”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnatee), and shall indemnify and hold harmless each Indemnatee from all reasonable fees and time charges and disbursements for attorneys who may be employees of any Indemnatee, incurred by any Indemnatee or asserted against any Indemnatee by any Person (including the Issuer) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Related Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or the administration of this Agreement and the other Related Documents (including in respect of any matters addressed in Section 3.01), (ii) the purchase of the Bonds or the use or proposed use of the proceeds therefrom, or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Issuer, and regardless of whether any Indemnatee is a party thereto; *provided* that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable Law, the Issuer shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnatee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby,

the purchase of the Bonds or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Related Documents or the transactions contemplated hereby or thereby.

(d) *Payments.* All amounts due under this Section shall be payable not later than twenty (20) Business Days after demand therefor.

(e) *Survival.* The agreements in this Section shall survive the payment in full of the Bonds, the repayment, satisfaction or discharge of all other Obligations and the termination of this Agreement.

Section 8.05. Payments Set Aside. To the extent that any payment by or on behalf of the Issuer is made to a Bondholder, or such Bondholder exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the such Bondholder in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

Section 8.06. Successors and Assigns.

(a) *Successors and Assigns Generally.* This Agreement is a continuing obligation and shall be binding upon the Issuer, its successors, transferees and assigns and shall inure to the benefit of the Bondholders and their respective permitted successors, transferees and assigns. The Issuer may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Purchaser. Each Bondholder may, in its sole discretion and in accordance with applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement, its interest in the Bonds and the Related Documents in accordance with the provisions of paragraph (b) or (c) of this Section. Each Bondholder may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (d) of this Section. Each Bondholder may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section. Bank of America, N.A. shall be the Purchaser hereunder until such time as it no longer owns any portion of the Bonds. At the time Bank of America, N.A. no longer owns any of the Bonds, the Majority Bondholder shall designate an alternate Person to serve as the Purchaser hereunder by delivery of written notice to the Issuer and the Trustee and such Person accepts and agrees to act as the Purchaser hereunder and under the Related Documents. The Majority Bondholder may so designate an alternate Person to act as the Purchaser from time to time. Upon acceptance and notification thereof to the Issuer and the Trustee, the successor to the Purchaser for such purposes shall thereupon succeed to and become vested with all of the rights, powers, privileges and responsibilities of the Purchaser, and Bank of

America, N.A. or any other Person being replaced as the Purchaser shall be discharged from its duties and obligations as the Purchaser hereunder.

(b) *Sales and Transfers by Bondholder to a Purchaser Transferee.* Without limitation of the foregoing generality, a Bondholder may at any time sell or otherwise transfer to one or more transferees all or a portion of the Bonds to a Person that is (i) an Affiliate of the Purchaser or (ii) a trust or other custodial arrangement established by the Purchaser or an Affiliate of the Purchaser, the owners of any beneficial interest in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the 1933 Act (each, a “*Purchaser Transferee*”). From and after the date of such sale or transfer, Bank of America, N.A. (and its successors) shall continue to have all of the rights of the Purchaser hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however*, that (A) no such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall in any way affect the obligations of the Purchaser hereunder, (B) the Issuer and the Trustee shall be required to deal only with the Purchaser with respect to any matters under this Agreement and (C) in the case of a sale or transfer referred to in clause (b)(i) or (b)(ii) hereof, only the Purchaser shall be entitled to enforce the provisions of this Agreement against the Issuer.

(c) *Sales and Transfers by Bondholder to a Non-Purchaser Transferee.* Without limitation of the foregoing generality, a Bondholder may at any time sell or otherwise transfer to one or more transferees which are not Purchaser Transferees but each of which constitutes a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act (each a “*Non-Purchaser Transferee*”) all or a portion of the Bonds if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Purchaser Transferee, together with addresses and related information with respect to the Non-Purchaser Transferee, shall have been given to the Issuer, the Trustee and the Purchaser (if different than the Bondholder) by such selling Bondholder and Non-Purchaser Transferee, and (B) the Non-Purchaser Transferee shall have delivered to the Issuer, the Trustee and the selling Bondholder, an investment letter in substantially the form attached as Exhibit A to the Supplemental Indenture (the “*Investor Letter*”).

From and after the date the Issuer, the Trustee and the selling Bondholder have received written notice and an executed Investor Letter, (A) the Non-Purchaser Transferee thereunder shall be a party hereto and shall have the rights and obligations of a Bondholder hereunder and under the other Related Documents, and this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Purchaser Transferee, and any reference to the assigning Bondholder hereunder and under the other Related Documents shall thereafter refer to such transferring Bondholder and to the Non-Purchaser Transferee to the extent of their respective interests, and (B) if the transferring Bondholder no longer owns any Bonds, then it shall relinquish its rights and be released from its obligations under this Agreement and the other Related Documents; *provided, however*, that (1) the issuer and the Trustee shall be required to deal only with the Purchaser with respect to any matters under this Agreement; and (2) only the Purchaser shall be entitled to enforce the provisions of this Agreement against the issuer.

(d) *Participations.* Each Bondholder shall have the right to grant participations in all or a portion of such Bondholder's interest in the Bonds, this Agreement and the other Related Documents to one or more other banking institutions; *provided, however,* that (i) no such participation by any such participant shall in any way affect the obligations of the Issuer or the Purchaser hereunder and (ii) the Issuer and the Trustee shall be required to deal only with the Purchaser, with respect to any matters under this Agreement, the Bonds and the other Related Documents and no such participant shall be entitled to enforce any provision hereunder against the Issuer. The Issuer agrees that each participant shall be entitled to the benefits of Section 8.04 hereof to the same extent as if it were a Bondholder hereunder.

(e) *Certain Pledges.* In addition to the rights of each Bondholder set forth above, each Bondholder may at any time pledge or grant a security interest in all or any portion of its rights or interests under the Bonds, this Agreement and/or the Related Documents to secure obligations of such Bondholder or an Affiliate of such Bondholder, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release such Bondholder from any of its obligations hereunder or substitute any such pledgee or assignee for such Bondholder as a party hereto.

Section 8.07. Treatment of Certain Information; Confidentiality (a) Each of the Issuer, the Purchaser, each Bondholder and the Trustee agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations, including without limitation the California Public Records Act, or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Related Document or any action or proceeding relating to this Agreement or any other Related Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Issuer and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Issuer or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the Bonds, (h) with the consent of the Issuer or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Purchaser, a Bondholder or any of its Affiliates on a nonconfidential basis from a source other than the Issuer. For purposes of this Section, "Information" means all information received from the Issuer relating to the Issuer or any of its respective businesses, other than any such information that is available to the Purchaser, a Bondholder or the Trustee on a nonconfidential basis prior to disclosure by the Issuer, provided that, in the case of information

received from the Issuer after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. In addition, the Purchaser may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers the Purchaser in connection with the administration of this Agreement and the other Related Documents.

(b) *Customary Advertising Material.* The Issuer consents to the publication by the Purchaser of customary advertising material relating to the transactions contemplated hereby using the name, product photographs, logo or trademark of the Issuer.

Section 8.08. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, and any separate letter agreements with respect to fees payable to the Purchaser constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Purchaser and when the Purchaser shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement, or any certificate delivered thereunder by fax transmission or e-mail transmission (*e.g.*, “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Related Document, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

Section 8.09. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Purchaser, regardless of any investigation made by the Purchaser or on its behalf and notwithstanding that the Purchaser may have had notice or knowledge of any Default at the time of the purchase of the Bonds, and covenants made hereunder shall continue in full force and effect as long as any Obligation hereunder shall remain unpaid or unsatisfied.

Section 8.10. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.11. Governing Law; Jurisdiction; Etc. (a) *GOVERNING LAW.* THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF CALIFORNIA.

(b) *Submission to Jurisdiction.* THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREE THAT THEY WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST ANOTHER PARTY OR ANY RELATED PARTY OF THE PURCHASER OR ISSUER IN ANY WAY RELATING TO THIS AGREEMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF CALIFORNIA SITTING IN SACRAMENTO COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF CALIFORNIA, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH CALIFORNIA STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(c) *Waiver of Venue.* EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) *Service of Process.* EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 8.12. Waiver of Jury Trial. (a) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER

INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) IF ANY ACTION OR PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE COURT SHALL, AND IS HEREBY DIRECTED TO, MAKE A GENERAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 TO A REFEREE (WHO SHALL BE A SINGLE ACTIVE OR RETIRED JUDGE) TO HEAR AND DETERMINE ALL OF THE ISSUES IN SUCH ACTION OR PROCEEDING (WHETHER OF FACT OR OF LAW) AND TO REPORT A STATEMENT OF DECISION, *PROVIDED* THAT AT THE OPTION OF ANY PARTY TO SUCH PROCEEDING, ANY SUCH ISSUES PERTAINING TO A “PROVISIONAL REMEDY” AS DEFINED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1281.8 SHALL BE HEARD AND DETERMINED BY THE COURT.

Section 8.13. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the Issuer acknowledges and agrees, that: (a) (i) the services regarding this Agreement provided by the Purchaser and any Affiliate thereof are arm’s-length commercial transactions between the Issuer, on the one hand, and the Purchaser and its Affiliates, on the other hand, (ii) the Issuer has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Issuer is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents; (b) (i) the Purchaser and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Issuer, or any other Person and (ii) neither the Purchaser nor any of its Affiliates has any obligation to the Issuer with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Related Documents; and (c) the Purchaser and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Issuer, and neither the Purchaser nor any of its Affiliates has any obligation to disclose any of such interests to the Issuer. To the fullest extent permitted by law, the Issuer, hereby waives and releases any claims that it may have against the Purchaser or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 8.14. Electronic Execution of Certain Documents. The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Purchaser, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary, the Purchaser and the Issuer are under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by

the Purchaser, or the Issuer, as applicable, pursuant to procedures approved by it; *provided further* without limiting the foregoing, upon the request of the Purchaser, any electronic signature shall be promptly followed by such manually executed counterpart.

Section 8.15. USA Patriot Act. The Purchaser hereby notifies the Issuer that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “*Patriot Act*”), it is required to obtain, verify and record information that identifies the Issuer, which information includes the name and address of the Issuer and other information that will allow the Purchaser to identify the Issuer in accordance with the Patriot Act. The Issuer agrees to, promptly following a request by the Purchaser, provide all such other documentation and information that the Purchaser requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

Section 8.16. Time of the Essence. Time is of the essence of the Related Documents.

Section 8.17. Entire Agreement. THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

Section 8.18. Further Assurances. From time to time upon the request of either party hereto, the other shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the requesting party may in its reasonable discretion deem necessary or desirable to confirm this Agreement, and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable the requesting party to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Purchaser, the Issuer will, at the Issuer’s expense, (a) correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents executed in connection with the issuance of the Bonds, and (b) make, execute, deliver and record, or cause to be made, executed, delivered and recorded, any and all further instruments, certificates, and other documents as may, in the opinion of the Purchaser, be necessary or desirable in order to complete, perfect or continue and preserve the Lien of the Indenture. Upon any failure by the Issuer to do so, the Purchaser or the Trustee may make, execute and record any and all such instruments, certificates and other documents for and in the name of the Issuer, all at the sole expense of the Issuer, and the Issuer hereby appoints the Purchaser and the Trustee the agent and attorney-in-fact of the Issuer to do so, this appointment being coupled with an interest and being irrevocable. Without limitation of the foregoing, the Issuer irrevocably authorizes the Purchaser at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements deemed necessary or desirable by the Purchaser to establish or maintain the validity, perfection and priority of the security interests granted in the Indenture, and the Issuer ratifies any such filings made by the Purchaser prior to the date hereof. In addition, at any time, and from time to time, upon request by the Purchaser or the Trustee, the Issuer will, at the Issuer's expense, provide any and all further instruments, certificates and other documents as may, in the opinion of the Purchaser or the Trustee, be necessary or desirable in

order to verify the Issuer's identity and background in a manner satisfactory to the Purchaser or the Trustee, as the case may be.

Section 8.19. No Third-Party Rights. Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the parties hereto and the Bondholders any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the Effective Date.

NORTHERN CALIFORNIA POWER AGENCY

By _____
Name: _____
Title: _____

BANK OF AMERICA, N.A.

By _____
Name: _____
Title: _____

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: _____, _____

To: Bank of America, N.A.,

Ladies and Gentlemen:

Reference is made to that certain Continuing Covenant Agreement dated as of December 1, 2017 (the "*Agreement*"), between the Northern California Power Agency (the "*Issuer*") and Bank of America, N.A. (the "*Purchaser*"). Unless otherwise defined herein, the terms used in this Certificate shall have the meanings assigned thereto in the Agreement.

The undersigned Issuer Representative hereby certifies as of the date hereof that he/she is the _____ of the Issuer, and that, as such, he/she is authorized to execute and deliver this Certificate to the Purchaser on the behalf of the Issuer, and that:

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 6.01(a) of the Agreement for the fiscal year of the Issuer ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a review of the transactions and condition (financial or otherwise) of the Issuer during the accounting period covered by the attached financial statements.

3. A review of the activities of the Issuer during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Issuer performed and observed all its Obligations under the Related Documents, and

[select one:]

[to the best knowledge of the undersigned during such fiscal period, the Issuer performed and observed each covenant and condition of the Related Documents applicable to it, and no Default or Event of Default has occurred and is continuing.]

--or--

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default or Event of Default and its nature and status:]

4. The representations and warranties of the Issuer contained in Article V of the Agreement are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Certificate, the representations and warranties contained in Section 5.06 of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to Section 6.05 of the Agreement, including the statements in connection with which this Certificate is delivered.

Delivery of an executed counterpart of a signature page of this Certificate by fax transmission or other electronic mail transmission (*e.g.* “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Certificate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of _____, _____.

[ISSUER]

By: _____

Name: _____

Title: _____

SCHEDULE 8.02

The Issuer:	Northern California Power Agency 651 Commerce Drive Roseville, California 95678 Attention: Chief Financial Officer Telephone: (916) 781-4244 Facsimile: (916) 781-4255
The Bank:	Bank of America, N.A. 211 N. Robinson OK1-100-02-30 Oklahoma City, OK 73102 Attention: Brent Riley (Senior Vice President) Telephone: (405) 230-1717
The Trustee:	U.S. Bank Global Corporate Trust Services 111 Fillmore Avenue E St. Paul, MN 55107

EXHIBIT B

The Bonds may be redeemed in whole on any Interest Payment Date, with three (3) days prior written notice to the Purchaser, by payment in an amount equal to the principal amount to be redeemed plus accrued interest thereon to the date of redemption plus the Breakage Fee. For purposes hereof, the Breakage Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

(i) The Purchaser will first determine the amount of interest which would have accrued each month at the Taxable Equivalent Rate for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.

(ii) The Purchaser will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.

(iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Purchaser will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Purchaser will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Breakage Fee:

(i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.

(ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.

(iii) "Taxable Equivalent Rate" means the interest rate per annum derived from the following formula: interest rate on the Bond divided by the difference of (1 minus the Maximum Corporate Income Tax Rate). The "Maximum Corporate Income Tax Rate" is the highest marginal federal income tax rate charged to U.S. corporations in effect at the time of the prepayment calculation. The "Maximum Corporate Income Tax Rate" is currently 35% (or 0.35 in numerical terms).

(iv) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments (calculated as of the date of redemption/prepayment -*Use Applicable Language in accordance with accepted financial practice and rounded to the nearest quarter-year), as reported

in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the Purchaser shall select a comparable publication to determine the Treasury Rate.

ESCROW DEPOSIT AGREEMENT

Between

NORTHERN CALIFORNIA POWER AGENCY

and

U.S. BANK NATIONAL ASSOCIATION, as Trustee

Dated as of December 1, 2017

Relating to

**Lodi Energy Center Revenue Bonds,
Issue One, 2010 Series A**

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ESCROW DEPOSIT AGREEMENT

Relating to

Northern California Power Agency

Lodi Energy Center Revenue Bonds,
Issue One, 2010 Series A

THIS ESCROW DEPOSIT AGREEMENT, dated as of December 1, 2017, by and between Northern California Power Agency (“NCPA”) and U.S. Bank National Association, New York, New York, as trustee (the “Trustee”) under the Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), as supplemented and amended, by and between NCPA and the Trustee,

W I T N E S S E T H:

WHEREAS, NCPA has previously authorized and issued its Lodi Energy Center Revenue Bonds, Issue Bonds, 2010 Series A under the Indenture (the “2010 Series A Bonds”); and

WHEREAS, the outstanding 2010 Series A Bonds are subject to redemption at the option of NCPA as a whole on any date and in part on any date on and after June 1, 2020; and

WHEREAS, NCPA has determined to exercise its option to redeem all of the outstanding 2010 Series A Bonds maturing on June 1, 2025 (the “Refunded Bonds”) on July 1, 2019 (the “Redemption Date”) at a redemption price equal to one hundred percent of the principal amount of the Refunded Bonds together with accrued but unpaid interest on the Refunded Bonds to the Redemption Date (the “Redemption Price”); and

WHEREAS, NCPA has determined to provide the Trustee with the funds which, together with the interest thereon as provided herein, will provide the funds necessary to pay the interest on the Refunded Bonds on all interest payment dates commencing June 1, 2018 for the Refunded Bonds and the Redemption Price of the Refunded Bonds on the Redemption Date (such interest and Redemption Price being referred to herein as the “Escrow Requirements”); and

WHEREAS, for the purpose of paying and refunding the Refunded Bonds, NCPA has issued \$38,945,000 aggregate principal amount of its Lodi Energy Center Revenue Refunding Bonds, Issue One, 2017 Series A (the “2017 Series A Bonds”) pursuant to the Indenture; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, NCPA and the Trustee agree as follows:

SECTION 1. Definitions. Unless otherwise defined herein, capitalized terms shall have the meanings herein given such terms in the Indenture, as amended and supplemented by the Supplemental Indentures of Trust.

In addition, the following terms shall, unless the context otherwise requires, have the meanings set forth below.

“Defeasance Securities” shall mean the noncallable, direct obligations of the United States of America described in Exhibit A hereto.

“Escrow Fund” shall mean the fund established pursuant to Section 2(a) of this Agreement.

SECTION 2. The Escrow Fund.

(a) There is hereby established with the Trustee a fund designated the “Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A Escrow Fund” (the “Escrow Fund”) to be held in irrevocable trust by the Trustee for the benefit of the Holders of the Refunded Bonds separate and apart from all other funds of NCPA and the Trustee, subject, nonetheless, to the application thereof as provided in this Agreement.

Subject to the provisions of this Agreement, amounts in the Escrow Fund shall be applied solely to the payment of the Escrow Requirements as specified in Section 4 hereof. All Defeasance Securities purchased with moneys in the Escrow Fund shall be held for the credit of the Escrow Fund and all payments, including without limitation, all principal and interest payments with respect to such Defeasance Securities, shall be deposited upon receipt by the Trustee into the Escrow Fund.

(b) NCPA acknowledges that it has no right, title or interest in or to any of the moneys or Defeasance Securities held in the Escrow Fund. Under no circumstances shall any money or Defeasance Securities held in the Escrow Fund be paid over or delivered to, or upon the order of, NCPA.

(c) There has been deposited with the Trustee for deposit in the Escrow Fund the sum of \$_____ consisting of a portion of the proceeds of the 2017 Series A Bonds and funds released from the Debt Service Fund.

(d) The Trustee acknowledges receipt of the moneys described in Section 2(c) and agrees to deposit such moneys in the Escrow Fund and apply such moneys as provided in this Agreement.

SECTION 3. Use and Investment of Moneys.

(a) The Trustee is hereby directed to apply, on December __, 2017, \$_____ of the moneys deposited in the Escrow Fund pursuant to Section 2(c) to the purchase of the Defeasance Securities at the purchase price and from the vendor set forth in Exhibit A hereto. Except as provided in this subsection (a), the moneys on deposit in the Escrow Fund or otherwise held by the Trustee under this Agreement shall be held uninvested by the Trustee.

(b) NCPA represents, and the Accountant’s Certificate delivered by Precision Analytics Inc. to the Trustee at the time of execution and delivery of this Agreement verifies, that

the moneys to be received from the maturing principal of and interest on the Defeasance Securities shall be sufficient, together with the other funds held in the Escrow Fund, to pay the Escrow Requirements when due.

(c) The moneys held in the Escrow Fund, including receipts of payments of the principal of and interest on the Defeasance Securities, shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment to the Holders of the Refunded Bonds of the Escrow Requirements when due as required by Section 4.

(d) The Trustee shall not be held liable for investment losses resulting from compliance with the provisions of this Agreement.

SECTION 4. Payment of Escrow Requirements. From the maturing principal of any Defeasance Securities held in the Escrow Fund and the investment income and other earnings thereon and any uninvested money then held in the Escrow Fund, U.S. Bank National Association, as Trustee for the Refunded Bonds, shall the Redemption Price of the Refunded Bonds on the Redemption Date.

SECTION 5. Notice of Redemption and Defeasance.

(a) NCPA irrevocably directs the Trustee to give the notice of redemption of the Refunded Bonds on the Redemption Date by the time and in the manner required by the Indenture. Such notice shall be in substantially the form attached hereto as Exhibit B.

(b) NCPA irrevocably directs the Trustee to give the notice of defeasance of the Refunded Bonds on December __, 2017. Such notice shall be in substantially the form attached hereto as Exhibit C.

SECTION 6. Termination of Obligations. As provided in Section 12.01 of the Indenture, upon the deposit of the amounts specified in Section 2(c) hereof and the purchase of Defeasance Securities pursuant to Section 3(a) hereof, the pledge of the Trust Estate under the Indenture and all covenants, agreements, and other obligations of NCPA to the Owners (other than the tax covenants as specified in the Indenture) shall cease, terminate, and become void and be discharge and satisfied.

Notwithstanding the provisions for payment of the Refunded Bonds as provided in, and with the effect stated in, Section 12.01 of the Indenture, the provisions of the Indenture relating to record dates, medium of payment, registration, transfer, exchange and replacement shall continue to apply to the Refunded Bonds.

SECTION 7. Performance of Duties. The Trustee agrees to perform the duties set forth herein.

SECTION 8. Trustee's Authority to Make Investments. The Trustee shall have no power or duty to invest any funds held under this Agreement except as provided in Section 3 hereof. The Trustee shall have no power or duty to transfer or otherwise dispose of the moneys held hereunder except as provided in this Agreement.

SECTION 9. Indemnity. NCPA hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Trustee and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Trustee at any time (whether or not also indemnified against the same by NCPA or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds and securities deposited therein, the purchase of any securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof and any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement; provided, however, that NCPA shall not be required to indemnify the Trustee against the Trustee's own negligence or willful misconduct or the negligence or willful misconduct of the Trustee's respective successors, assigns, agents and employees or the material breach by the Trustee of the terms of this Agreement. In no event shall NCPA or the Trustee be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

SECTION 10. Responsibilities of Trustee. The Trustee and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys or any securities deposited therein, the purchase of the securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof, the sufficiency of the securities or any uninvested moneys held hereunder to accomplish the redemption of the Refunded Bonds, or any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Trustee made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of NCPA, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the sufficiency of the securities to be purchased pursuant hereto and any uninvested moneys to accomplish the redemption of the Refunded Bonds pursuant to the Indenture or to the validity of this Agreement as to NCPA and, except as otherwise provided herein, the Trustee shall incur no liability in respect thereof. The Trustee shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Trustee shall be determined by the express provisions of this Agreement. The Trustee may consult with counsel, who may or may not be counsel to NCPA, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter (except the matters set forth herein as specifically requiring an Accountant's Certificate or an Opinion of Bond Counsel) may be deemed to be conclusively established by a certificate signed by an Authorized NCPA Representative. Whenever the Trustee shall deem it

necessary or desirable that a matter specifically requiring an Accountant's Certificate or an Opinion of Bond Counsel be proved or established prior to taking, suffering, or omitting any such action, such matter may be established only by such an Accountant's Certificate or such Opinion of Bond Counsel.

SECTION 11. Compensation. The Trustee's acts hereunder shall constitute services rendered under the Indenture for purposes of Section 905 of the Indenture; provided, however, that under no circumstances shall the Trustee be entitled to any lien whatsoever on any moneys or Defeasance Securities in the Escrow Fund for the payment of fees and expenses for services rendered or expenses incurred by the Trustee under this Agreement, the Indenture or otherwise.

SECTION 12. Amendments. This Agreement is irrevocable and no provision hereof may be amended except as specifically set forth herein. NCPA and the Trustee may, without the consent of, or notice to, the Holders of the Bonds, amend this Agreement or enter into such agreements supplemental to this Agreement as shall not adversely affect the interests of the Holders of the Refunded Bonds. The Trustee shall be entitled to rely conclusively upon an Opinion of Bond Counsel with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the Holders of the Refunded Bonds or that any instrument executed hereunder complies with the conditions and provisions of this Section.

SECTION 13. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the date the principal of and interest on the Refunded Bonds has been paid to the respective Holders of the Refunded Bonds as required by Section 4 hereof. After such payment, any moneys remaining in the Escrow Fund shall be transferred by the Trustee to the General Debt Service Subaccount in the Debt Service Account in the Debt Service Fund.

SECTION 14. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of NCPA or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 15. Representations. NCPA represents and warrants that the statements contained in the preambles to this Agreement are true and correct.

SECTION 16. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all of which shall constitute and be but one and the same instrument.

SECTION 17. Governing Law. This Agreement shall be construed under the laws of the State of California.

SECTION 18. Assignment. This Agreement shall not be assigned by the Trustee or any successor thereto without the prior written consent of NCPA.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

**NORTHERN CALIFORNIA POWER
AGENCY**

By: _____
Assistant General Manager, Finance and
Administrative Services and
Chief Financial Officer

**U.S. BANK NATIONAL ASSOCIATION, as
Trustee**

By: _____
Authorized Signatory

EXHIBIT A
DEFEASANCE SECURITIES

Description of Defeasance Securities	Maturity Date	Interest Rate	Par Amount
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EXHIBIT B

FORM OF NOTICE OF REDEMPTION

**NORTHERN CALIFORNIA POWER AGENCY
LODI ENERGY CENTER REVENUE BONDS
ISSUE ONE, 2010 SERIES A**

<u>Issue Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>CUSIP</u>
June 24, 2010	June 1, 2025	\$36,020,000	664845DZ4

TO: The Owners of the above-captioned bonds (the “Bonds”)

U.S. Bank National Association acts as the trustee (the “Trustee”) with respect to the above-referenced Bonds pursuant to the Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between the Northern California Power Agency (“NCPA”) and the Trustee, as trustee.

On behalf of the Agency, you are hereby notified that:

1. NCPA has exercised its option to redeem all of the Bonds on June 1, 2020 (the “Redemption Date”);
2. on the Redemption Date, there shall become due and payable upon each Bond the Redemption Price thereof, which is the principal amount of the Bonds, without premium, plus unpaid accrued interest thereon to the Redemption Date;
3. on the Redemption Date, the Redemption Price shall be due and payable. by the Trustee at:

BY MAIL:

U.S. Bank National Association
100 Wall Street
New York, New York 10005

BY HAND OR OVERNIGHT DELIVERY:

U.S. Bank National Association
100 Wall Street
New York, New York 10005
Telephone: (212) ____-____

EXHIBIT C

FORM OF NOTICE OF DEFEASANCE

NORTHERN CALIFORNIA POWER AGENCY LODI ENERGY CENTER REVENUE BONDS ISSUE ONE, 2010 SERIES A

<u>Issue Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>CUSIP</u>
June 24, 2010	June 1, 2025	\$36,020,000	664845DZ4

TO: The Owners of the above-captioned bonds (the “Bonds”)

U.S. Bank National Association, as trustee (the “Trustee”) is hereby providing notice of defeasance of the Bonds in accordance with the Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between the Northern California Power Agency (“NCPA”) and U.S. Bank National Association, as trustee (the “Trustee”) relating to the Bonds. As of the date hereof, proceeds in the Escrow Fund established under the Escrow Agreement, dated the date hereof (the “Escrow Agreement”), among the Trustee, as escrow agent and NCPA, will be used to pay the principal and interest with respect to the Bonds, as directed in the Escrow Agreement. The Bonds will be redeemed on June 1, 2020.

Capitalized terms used but undefined herein shall have the meaning given such terms in the Indenture.



12745 N. Thornton Road
Lodi, CA 95242

phone (209) 333-6370
fax (209) 333-6374
web www.ncpa.com

Lodi Energy Center Project Participant Committee Operational Report

Agenda Item No.: 4

Date: 12/11/2017
To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents

Notice of Violations

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

Outage Summaries:

- None

Planned Outage Summaries:

- 2018 – April 4th – 15th Steam Turbine , BOP, HRSG Seals, Generator Inspections

Generating Unit Statistics:**Report
Date:**

11/1/2017

1. Monthly Production 126,577 MWH
2. Productivity Factor
 - a. Service Hours 487 Hours
 - b. Service Factor 67.7 %
 - c. Capacity Factor @ 280MW Pmax 62.8 %
 - d. Capacity Factor @ 302MW Pmax 58.2 %
3. Equivalent Operating Availability (EOA) 100.0 %
4. Forced Outage Rate (FOR)
 - a. Total LEC Plant FOR 0.0 %

5. Heat Rate Deviation

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

MW Range	PMOA HR BTU/kW- Hr	Average HR BTU/kW- Hr	Deviation %	Production MWH	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	6,997	1.85%	142	\$72
Seg. 3 275 - 284	6971	7,018	0.67%	2,347	\$438
Seg. 4 250 - 275	7081	7,080	-0.02%	16,315	-\$83
Seg. 5 225 - 250	7130	7,139	0.13%	4,693	\$177
Seg. 6 200 - 225	7200	7,242	0.58%	2,953	\$492
Seg. 7 175 - 225	7450	7,538	1.18%	3,800	\$1,338
Seg. 8 165 - 175	7760	7,875	1.48%	1,948	\$894
	7,164	7,270	0.67%	32,197	\$3,327

6. AGC Control Deviation

MW Range	High Dev MWH	Low Dev MWH	Total Dev MWH	Cost \$
Bad AGC Data for May				
Seg. 1 296 +	0	0	0	\$0
Seg. 2 284 - 296	101	-485	586	\$16,399
Seg. 3 275 - 284	36	-231	267	\$7,489
Seg. 4 250 - 275	69	-39	109	\$3,082
Seg. 5 225 - 250	42	-27	69	\$1,970
Seg. 6 200 - 225	24	-36	60	\$1,748
Seg. 7 175 - 225	26	-65	91	\$2,743
Seg. 8 165 - 175	5	-4	9	\$274
	303	-887	1,191	\$33,704

7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	8	16	0
Start Time Benchmark (Minutes)	75	110	200
Start Time Actual (Average Minute)	70	89	0
Start Time Deviation (%)	-7%	-19%	0%
Start Fuel Benchmark PMOA (mmBTU)	1,300	1,800	3,500
Start Fuel Actual (Average mmBTU)	1,270	1,640	0
Fuel Deviation (%)	-2%	-9%	0%
Costs of Fuel Deviations (\$)	-\$121	-\$641	\$0

Definitions:

1. Monthly Production = Plant Net MWH's
2. Capacity Factor
 - a. Service Hours = In Production or in Service State
 - b. Service Factor = $SH / PH \times 100\%$
 - c. Capacity Factor = $Production / 302MW \times PH$
 - d. Capacity Factor = $Production / 280MW \times PH$
3. Monthly Equivalent Availability Factor (EAF) = $(AH - EPDH - EFDH) / PH \times 100\%$
4. Forced Outage Rate = $(FOH / (FOH + SH)) \times 100\%$
5. Heat Rate Deviation (HRD)
 - a. Fuel Cost = Cost of Fuel in \$/mmBTU
 - b. Average Heat Rate = The Average Heat Rate for the given Range
 - c. Heat Rate Deviation = $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
 - d. Production = The Sum of Production for the given Range
 - e. Costs of Heat Rate Deviations = $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
 - a. MWH's = AGC Set Point Generation - LEC Actual Generation
 - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
 - a. Number of Starts = Start Count for Hot, Warm, and Cold
 - b. Start Time = Average Time from 0 Fuel Flow to Pmin
 - c. Start Fuel = Average Fuel Consumption to Pmin
 - d. Cost of Fuel Deviation = $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$

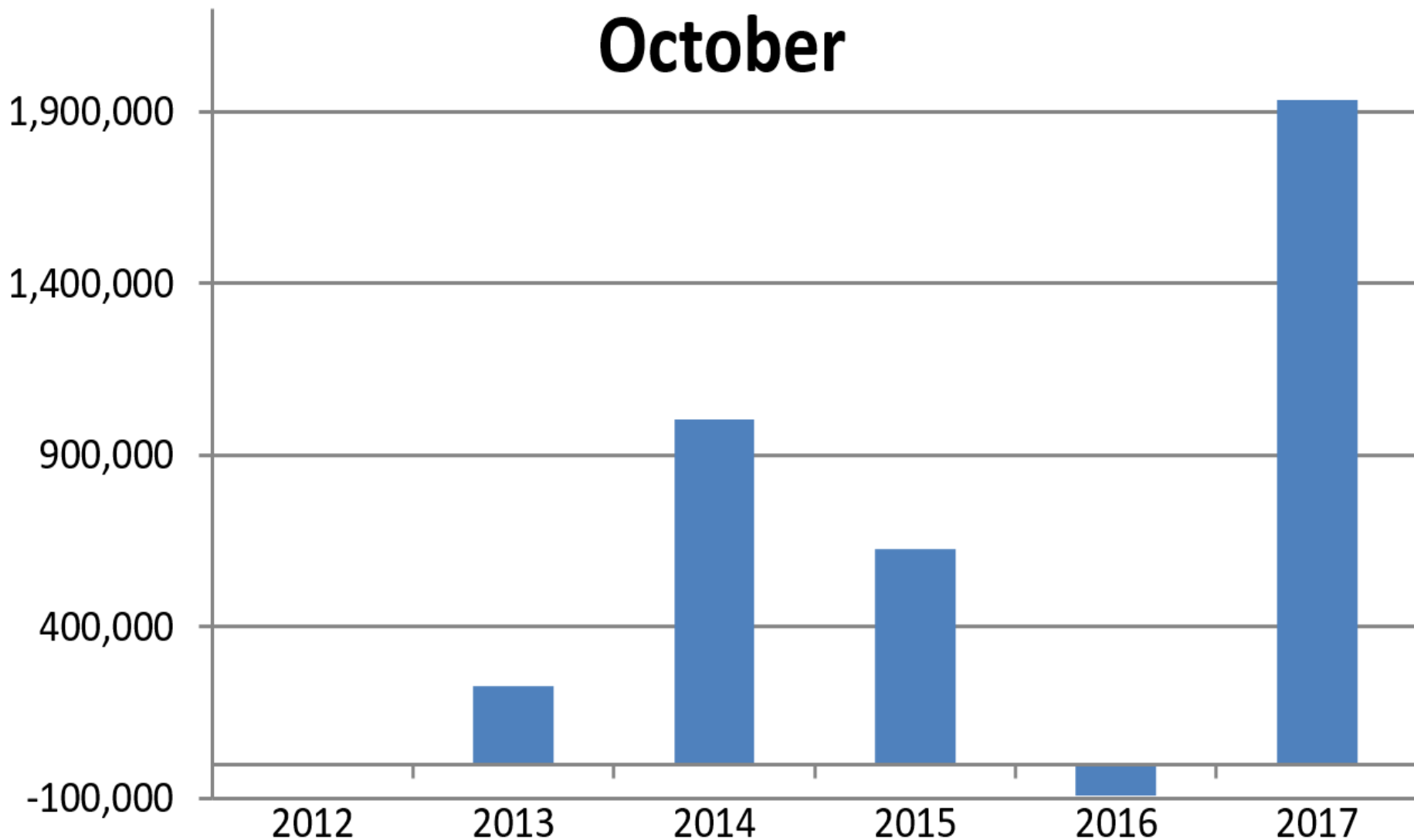


October Asset Report

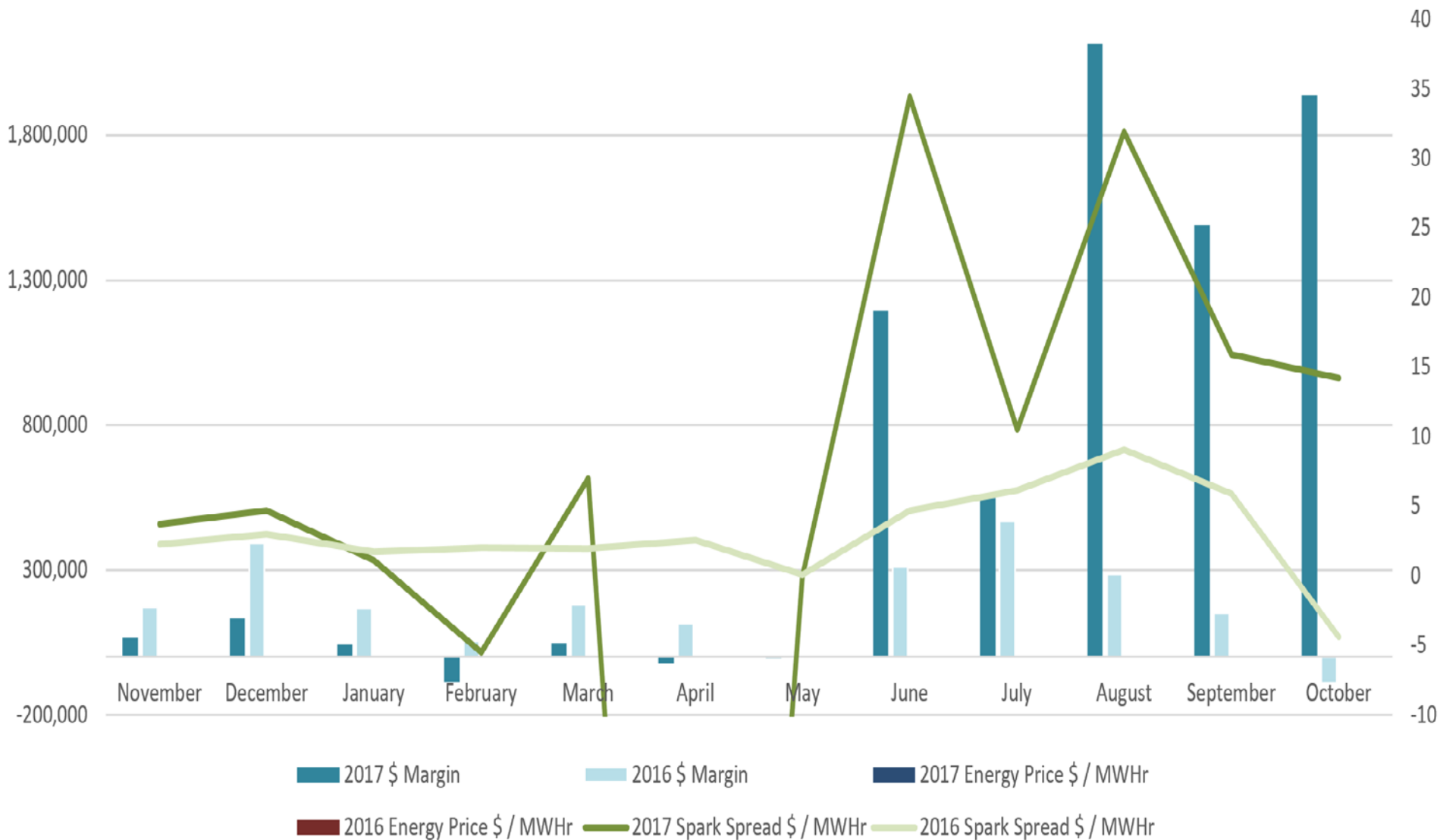
	Most Recent			Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	6,728,660	2,964,403	2,345,254	3,764,257	127%	
VOM	5,791,354	2,403,677	2,170,603	3,387,677	141%	
Fixed	741,746	856,779	929,651	(115,033)	-13%	
Projects	171,602	219,704	219,704	(48,102)	-22%	
A&G	153,371	186,895	186,895	(33,524)	-18%	
Debt	2,201,387	2,201,387	2,201,387	0	0.00%	
Net Cost	(2,330,800)	(2,904,039)	(3,362,986)	573,239	-20%	
Net Annual Cost		(29,015,208)	(41,127,058)	\$12,111,850		
				Below budget by 29.45%		

Historical Margins

October



Historical Monthly Comparison



Lodi Energy Center
Monthly Budget Analysis
Expenditures
Report Date: 12/03/2017

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY 2017 Budget	Percent Used	Comments
VOM	2,131,885	2,263,977	3,222,709	5,791,354	1,595,337	2,186,131	2,695,434	1,658,773	1,701,972	1,225,944	1,477,061	1,724,152	27,674,729	18,381,034	150.6%	
Capacity Factor	25%	32%	46%	65%	21%	28%	30%	21%	20%	11%	18%	19%	28%	16%	178.4%	Higher than planned
Fuel Consumed (mmBTU, estimated)	408,530	491,555	682,614	978,397	285,700	397,540	430,653	283,371	290,899	155,707	256,711	263,622	4,925,299	2,587,320	190.4%	
Avg Fuel Cost (\$/mmBTU)	4.26	4.31	3.75	3.57	4.59	4.55	4.51	4.82	4.82	4.65	4.70	4.60	4.24	5.75	73.8%	Lower than planned
Power Produced (MWHr, estimated)	54,015	66,206	93,624	136,039	41,708	58,035	62,869	41,368	42,467	22,731	37,476	38,485	695,023	377,711	184.0%	
Avg Power Price (\$/MWHr)	51.53	73.18	52.16	49.46	58.25	58.25	56.71	70.56	71.94	55.90	56.91	71.59	58.63	52.32	112.1%	Less than forecast
Operations / Variable / LTSA	29,334	86,135	58,161	1,442,649	44,284	44,284	375,787	44,284	44,284	365,566	44,284	260,420	2,839,473	1,263,067	224.8%	
Fuel (estimated)	1,738,553	2,120,273	2,560,852	3,494,733	1,312,483	1,809,887	1,940,799	1,365,205	1,401,781	723,400	1,206,947	1,213,492	20,888,405	14,877,170	140.4%	
AB32 GHG Offset (estimated)	329,888	22,196	556,527	795,806	221,469	308,166	353,072	232,323	238,495	127,657	210,465	216,132	3,612,196	2,044,488	176.7%	
CA ISO Charges (estimated)	34,109	35,373	47,170	58,166	17,100	23,794	25,776	16,961	17,411	9,320	15,365	34,109	334,656	196,309	170.5%	
Routine O&M (Fixed)	725,314	810,496	882,256	741,746	1,036,812	941,780	1,356,780	871,738	783,780	1,328,812	788,781	806,780	11,075,075	11,210,509	98.8%	
Maintenance / Fixed	170,690	182,526	274,205	255,132	385,000	235,000	235,000	316,592	235,000	535,000	235,000	235,000	3,294,145	3,336,592	98.7%	
Administration	14,307	2,096	4,956	5,999	17,000	17,000	17,000	17,000	17,000	17,000	17,000	17,000	163,358	230,934	70.7%	
Mandatory Costs	36,388	135,865	10,376	6,814	18,000	5,000	10,000	3,000	7,000	60,000	12,000	30,000	334,443	291,959	114.6%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	380,095	350,342	460,520	350,541	490,000	397,968	397,968	397,968	397,968	590,000	397,968	397,968	5,009,306	5,051,714	99.2%	
Insurance	0	0	0	0	0	160,000	570,000	10,367	0	0	0	0	740,367	765,367	96.7%	
Power Management & Settlements	123,260	123,260	123,260	123,260	123,260	123,260	123,260	123,259	123,260	123,260	123,260	123,260	1,479,118	1,479,117	100.0%	
Other Costs	574	16,407	8,939	0	3,552	3,552	3,552	3,552	3,552	3,552	3,553	3,553	54,338	54,826	99.1%	
Projects	167,733	167,733	172,993	171,602	219,704	219,705	219,704	219,704	219,705	219,704	219,704	219,705	2,437,696	2,636,452	92.5%	
Maintenance Reserve	167,733	167,733	167,733	167,733	167,733	167,734	167,733	167,733	167,734	167,733	167,733	167,734	2,012,799	2,012,800	100.0%	
Operations & Maintenance Projects	0	0	5,260	3,869	5,304	5,305	5,304	5,304	5,305	5,304	5,304	5,305	51,564	63,652	81.0%	
Capital Projects	0	0	0	0	46,667	46,666	46,667	46,667	46,666	46,667	46,667	46,666	373,333	560,000	66.7%	
A&G	153,787	164,932	191,347	153,371	186,895	186,895	186,895	186,896	186,896	186,896	186,896	186,895	2,158,601	2,242,744	96.2%	
Administrative & General (Allocated)	134,528	143,874	163,801	132,923	156,946	156,946	156,946	156,947	156,947	156,947	156,947	156,946	1,830,698	1,883,356	97.2%	
Generation Services Shared	19,259	21,058	27,546	20,448	29,949	29,949	29,949	29,949	29,949	29,949	29,949	29,949	327,903	359,388	91.2%	
Total O&M Cost	3,178,719	3,407,138	4,469,305	6,858,073	3,038,748	3,534,511	4,458,813	2,937,111	2,892,353	2,961,356	2,672,442	2,937,532	43,346,101	34,470,739	125.7%	
Debt Service	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,387	2,201,386	2,201,386	2,201,386	2,201,386	26,416,640	26,416,640	100.0%	
Revenues	2,783,231	4,844,949	4,883,330	6,728,660	2,429,321	3,380,614	3,565,036	2,918,725	3,054,994	1,270,703	2,132,660	2,755,309	40,747,533	19,760,321	206.2%	
ISO Energy Sales (estimated)	2,783,231	4,844,744	4,883,142	6,728,660	2,429,321	3,380,614	3,565,036	2,918,725	3,054,994	1,270,703	2,132,660	2,755,309	40,747,140	19,760,321	206.2%	
Other Income	0	205	188	0	0	0	0	0	0	0	0	0	393	0		
Net	(\$2,596,875)	(\$763,576)	(\$1,787,362)	(\$2,330,800)	(\$2,810,814)	(\$2,355,284)	(\$3,095,164)	(\$2,219,773)	(\$2,038,745)	(\$3,892,038)	(\$2,741,169)	(\$2,383,609)	(\$29,015,208)	(\$41,127,058)	Below budget by 29.45%	



651 Commerce Drive
Roseville, CA 95678

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

LEC Treasurer's Report

AGENDA ITEM NO.: 7

Date: December 11, 2017
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended November 30, 2017

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 \$42,228.

Investments - The carrying value of the LEC's investment portfolio totaled \$39,643,027 at month end. The current market value of the portfolio totaled \$39,368,342.

The overall portfolio had a combined weighted average interest rate of 1.394% with a bond equivalent yield (yield to maturity) of 1.129%. Investments with a maturity greater than one year totaled \$21,328,000. During the month \$7.6 million was invested.

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

Interest Rates - During the month, rates on 90 day T-Bills increased by 19 basis points (from 1.11% to 1.30%) and rates on one year T-Bills increased by 19 basis points (from 1.43% to 1.62%).

To the best of my knowledge and belief, all securities held by LEC as of November 30, 2017 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

NOVEMBER 30, 2017

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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
November 30, 2017

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
MANDATORY FUNDS					
Debt Service Account	-	16,377,355	16,377,355	41.27%	16,377,354
Debt Service Reserve	-	12,030,805	12,030,805	30.32%	11,851,101
O & M Reserve	-	11,162,830	11,162,830	28.13%	11,067,850
	-	39,570,990	39,570,990	99.71%	39,296,305
ADDITIONAL PROJECT FUNDS					
GHG Cash Account	-	72,037	72,037	0.18%	72,037
Transmission Upgrade Escrow ¹	42,228	-	42,228	0.11%	-
Participant Deposit Account	-	0	0	0.00%	-
	\$ 42,228	\$ 39,643,027	\$ 39,685,255	100.00%	\$ 39,368,342

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
November 30, 2017

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
MANDATORY FUNDS							
Debt Service Account	\$ -	\$ 0	\$ 2,209,000	\$ -	\$ (7,516,572)	\$ 5,307,572	-
Debt Service Reserve	-	36,189	-	-	(36,189)	-	-
O & M Reserve	-	-	3	-	(3)	-	-
	-	36,189	2,209,003	-	(7,552,764)	5,307,572	-
ADDITIONAL PROJECT FUNDS							
GHG Cash Account	-	-	-	-	-	-	-
Transmission Upgrade Escrow ¹	-	7	-	-	-	-	7
Participant Deposit Account	-	-	-	-	-	-	-
TOTAL	\$ -	\$ 36,196	\$ 2,209,003	\$ -	\$ (7,552,764)	\$ 5,307,572	\$ 7

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
November 30, 2017

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR MATURED	DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
MANDATORY FUNDS						
Debt Service Account	7,516,572	(2,209,000)	9,492	-	-	5,317,064
Debt Service Reserve	36,189	-	(6,815)	-	-	29,374
O & M Reserve	3	(3)	(1,531)	-	-	(1,531)
	\$ 7,552,764	\$ (2,209,003)	\$ 1,146	\$ -	\$ -	\$ 5,344,907
ADDITIONAL PROJECT FUNDS						
GHG Cash Account	-	-	-	-	-	-
Participant Deposit Acct.	-	-	-	-	-	-
TOTAL	\$ 7,552,764	\$ (2,209,003)	\$ 1,146	\$ -	\$ -	\$ 5,344,907

Less Non- Cash Activity

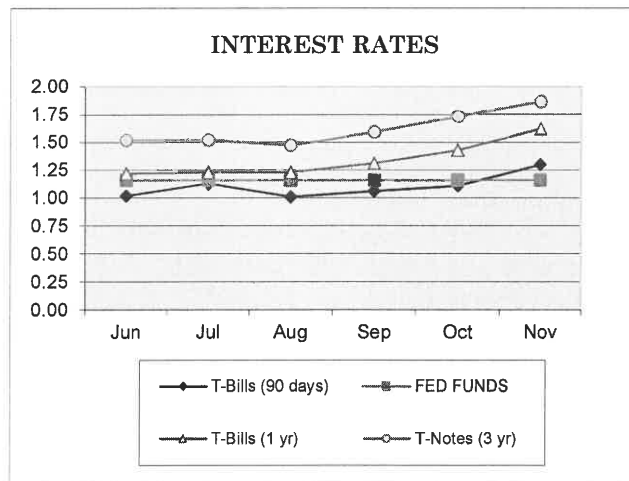
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(1,146)
Net Change in Investment --Before Non-Cash Activity	\$ 5,343,761

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Lodi Energy Center
Interest Rate/Yield Analysis
November 30, 2017**

	WEIGHTED AVERAGE INTEREST RATE	BOND EQUIVALENT YIELD
OVERALL COMBINED	1.394%	1.129%
Debt Service Account	0.607%	0.616%
Debt Service Reserve	2.370%	1.644%
O & M Reserve	1.498%	1.328%
GHG Cash Account	1.074%	1.074%

KEY INTEREST RATES		
	CURRENT	PRIOR YEAR
Fed Fds (Ovrnight)	1.16%	0.41%
T-Bills (90da.)	1.30%	0.49%
Agency Disc (90da.)	1.28%	0.51%
T-Bills (1yr.)	1.62%	0.79%
Agency Disc (1yr.)	1.49%	0.71%
T-Notes (3yr.)	1.86%	1.38%



Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
November 30, 2017

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	\$ 8,858	\$ -	\$ -	\$ -	\$ -	\$ 21,328	\$ -	\$ 30,186	76.58%
Corporate Bonds (MTN)	-	-	-	-	-	-	-	-	0.00%
US Bank Trust Money Market	7,564	-	-	-	-	-	-	7,564	19.19%
Commercial Paper	-	-	-	-	-	-	-	-	0.00%
Investment Trusts (LAIF)	1,665	-	-	-	-	-	-	1,665	4.22%
U.S.Treasury Market Acct.	-	-	-	-	-	-	-	-	0.00%
U.S.Treasury Bill	-	-	-	-	-	-	-	-	0.00%
Certificates of Deposit	-	-	-	-	-	-	-	-	0.00%
Total Dollars	\$ 18,087	\$0	\$0	\$0	\$0	\$21,328	\$0	\$ 39,415	100.00%
Total Percents	45.89%	0.00%	0.00%	0.00%	0.00%	54.11%	0.00%	100.00%	

Investments are shown at Face Value, in thousands.

NORTHERN CALIFORNIA POWER AGENCY

Detail Report Of Investments

APPENDIX

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



Northern California Power Agency

Treasurer's Report

11/30/2017

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	CUSIP	Market Value	Investment #	Carrying Value
US Bank Trust	USB	1,389,252	0.100	07/01/2013	1,389,252		1	0.100	SYS79003	1,389,252	79003	1,389,252
Federal Home Loan Ba	USBT	701,000	1.050	06/30/2017	697,851	12/01/2017	0	1.069	313385PY6	701,000	26436	701,000
Federal Home Loan Ba	USBT	696,000	1.070	07/28/2017	693,393	12/01/2017	0	1.088	313385PY6	696,000	26445	696,000
Federal Home Loan Ba	USBT	694,000	1.015	09/27/2017	692,728	12/01/2017	0	1.030	313385PY6	694,000	26480	694,000
Federal Home Loan Ba	USBT	694,000	1.014	10/24/2017	693,256	12/01/2017	0	1.030	313385PY6	694,000	26487	694,000
Fund Total and Average		\$ 4,174,252	0.726		\$ 4,166,480		0	0.737		\$ 4,174,252		\$ 4,174,252

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	3,548,295	0.100	07/01/2013	3,548,295		1	0.100	SYS79004	3,548,295	79004	3,548,295
Federal Home Loan Ba	USBT	732,000	1.050	06/30/2017	728,712	12/01/2017	0	1.069	313385PY6	732,000	26437	732,000
Federal Home Loan Ba	USBT	729,000	1.070	07/28/2017	726,270	12/01/2017	0	1.088	313385PY6	729,000	26446	729,000
Federal Home Loan Ba	USBT	727,000	1.015	09/27/2017	725,668	12/01/2017	0	1.030	313385PY6	727,000	26481	727,000
Federal Home Loan Ba	USBT	726,000	1.015	10/24/2017	725,222	12/01/2017	0	1.030	313385PY6	726,000	26488	726,000
Fund Total and Average		\$ 6,462,295	0.523		\$ 6,454,167		1	0.531		\$ 6,462,295		\$ 6,462,295

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	876,377	0.100	07/01/2013	876,377		1	0.100	SYS79011	876,377	79011	876,377
Federal Home Loan Ba	USBT	442,000	1.050	06/30/2017	440,015	12/01/2017	0	1.069	313385PY6	442,000	26438	442,000
Federal Home Loan Ba	USBT	439,000	1.070	07/28/2017	437,356	12/01/2017	0	1.088	313385PY6	439,000	26447	439,000
Federal Home Loan Ba	USBT	439,000	1.015	09/27/2017	438,195	12/01/2017	0	1.030	313385PY6	439,000	26482	439,000
Federal Home Loan Ba	USBT	437,000	1.015	10/24/2017	436,532	12/01/2017	0	1.030	313385PY6	437,000	26489	437,000
Fund Total and Average		\$ 2,633,377	0.726		\$ 2,628,475		0	0.737		\$ 2,633,377		\$ 2,633,377

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	1,705,430	0.100	07/01/2013	1,705,430		1	0.100	SYS79012	1,705,430	79012	1,705,430
Federal Home Loan Ba	USBT	353,000	1.050	06/30/2017	351,414	12/01/2017	0	1.069	313385PY6	353,000	26439	353,000
Federal Home Loan Ba	USBT	350,000	1.070	07/28/2017	348,689	12/01/2017	0	1.088	313385PY6	350,000	26448	350,000
Federal Home Loan Ba	USBT	350,000	1.015	09/27/2017	349,359	12/01/2017	0	1.030	313385PY6	350,000	26483	350,000
Federal Home Loan Ba	USBT	349,000	1.014	10/24/2017	348,626	12/01/2017	0	1.030	313385PY6	349,000	26490	349,000
Fund Total and Average		\$ 3,107,430	0.523		\$ 3,103,518		1	0.531		\$ 3,107,430		\$ 3,107,430

GRAND TOTALS:

\$ 16,377,354	0.607		\$ 16,352,640	0	0.616	\$ 16,377,354	\$ 16,377,354
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*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.



Northern California Power Agency
Treasurer's Report

11/30/2017

LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	40,512	0.100	07/01/2013	40,512		1	0.100	40,512	SYS79005	79005	40,512
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	1,271	1.659	4,287,450	3133EGBZ7	26337	4,360,000
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	1,350	1.699	144,911	3137EAECE9	26454	146,931
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	1,652	1.760	4,089,955	313379Q69	26463	4,164,617
Fund Total and Average		\$ 8,650,512	1.866		\$ 8,715,466		1449	1.701	\$ 8,562,828			\$ 8,712,060

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	1,494	0.100	07/01/2013	1,494		1	0.100	1,494	SYS79006	79006	1,494
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	06/12/2020	924	1.540	2,218,702	313370E38	26455	2,242,043
Fund Total and Average		\$ 2,146,494	3.373		\$ 2,256,640		923	1.539	\$ 2,220,196			\$ 2,243,537

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	2,743	0.100	07/01/2013	2,743		1	0.100	2,743	SYS79013	79013	2,743
Federal Home Loan Ba	USB	1,025,000	4.375	07/28/2017	1,082,708	07/01/2019	577	1.400	1,065,334	3133XU3G6	26456	1,072,465
Fund Total and Average		\$ 1,027,743	4.364		\$ 1,085,451		576	1.397	\$ 1,068,077			\$ 1,075,208
GRAND TOTALS:		\$ 11,824,749	2.370		\$ 12,057,557		1273	1.644	\$ 11,851,101.			\$ 12,030,805

*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 11/30/2017
Investment #26337 FFCB Callable anytime



Northern California Power Agency
Treasurer's Report
11/30/2017

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1,592,920	1.073	07/01/2013	1,592,920		1	1.073	1,592,920	SYS70047	70047	1,592,920
Union Bank of Califo	UBOC	0	0.002	07/18/2013	0		1	0.002	0	SYS70041	70041	0
Federal National Mtg	UBOC	2,933,000	1.875	08/28/2015	2,998,142	02/19/2019	445	1.220	2,937,194	3135G0ZA4	26248	2,955,807
Federal Home Loan Ba	USB	3,615,000	1.540	06/30/2017	3,613,952	06/05/2020	917	1.550	3,582,646	3130ABJ00	26440	3,614,102
Federal National Mtg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	942	1.300	2,955,090	3136G3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,140,920	1.498		\$ 11,205,014		668	1.328	\$ 11,067,850			\$ 11,162,829
GRAND TOTALS:		\$ 11,140,920	1.498		\$ 11,205,014		668	1.328	\$ 11,067,850			\$ 11,162,829

*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 11/30/2017



Northern California Power Agency
Treasurer's Report
11/30/2017

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		72,037	1.073	07/01/2013	72,037		1	1.073	72,037	SYS70046	70046	72,037
Fund Total and Average		\$ 72,037	1.074		\$ 72,037		1	1.074	\$ 72,037			\$ 72,037
GRAND TOTALS:		\$ 72,037	1.074		\$ 72,037		1	1.074	\$ 72,037.			\$ 72,037

*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 11/30/2017



Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 8

Date: December 11, 2017

To: Lodi Energy Center Project Participant Committee

Subject: November 30, 2017 Financial Reports (Unaudited)

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

		November	
		2017	2016
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	\$	72,037	\$ 71,419
Interest receivable		38	62
Inventory and supplies - at average cost		2,110,855	1,881,416
Prepaid insurance		4,412	-
Due from (to) Agency, net		19,168,623	10,329,669
TOTAL CURRENT ASSETS		21,355,965	12,282,566
RESTRICTED ASSETS			
Cash and cash equivalents		3,850,623	15,188,718
Investments		35,725,259	24,214,646
Interest receivable		151,896	53,030
TOTAL RESTRICTED ASSETS		39,727,778	39,456,394
ELECTRIC PLANT			
Electric plant in service		423,757,557	423,630,069
Less: accumulated depreciation		(73,029,422)	(58,420,103)
		350,728,135	365,209,966
Construction work-in-progress		107,024	102,031
TOTAL ELECTRIC PLANT		350,835,159	365,311,997
OTHER ASSETS			
Regulatory assets		22,373,464	20,197,256
TOTAL OTHER ASSETS		22,373,464	20,197,256
TOTAL ASSETS	\$	434,292,366	\$ 437,248,213

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

	November	
	2017	2016
LIABILITIES & NET POSITION		
CURRENT LIABILITIES		
Accounts and retentions payable	\$ 3,245,137	\$ 509,466
Operating reserves	13,208,514	12,044,811
Current portion of long-term debt	10,355,000	9,950,000
Accrued interest payable	11,137,599	11,327,937
TOTAL CURRENT LIABILITIES	37,946,250	33,832,214
NON-CURRENT LIABILITIES		
Operating reserves and other deposits	1,715,995	1,715,394
Long-term debt, net	340,762,287	351,582,189
TOTAL NON-CURRENT LIABILITIES	342,478,282	353,297,583
TOTAL LIABILITIES	380,424,532	387,129,797
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	41,861,971	42,779,061
NET POSITION		
Invested in capital assets, net of related debt	(19,770,635)	(16,908,668)
Restricted	14,840,638	17,076,371
Unrestricted	16,935,860	7,171,652
TOTAL NET POSITION	12,005,863	7,339,355
TOTAL LIABILITIES AND NET POSITION	\$ 434,292,366	\$ 437,248,213

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

		Five Months Ended November	
		2017	2016
SALES FOR RESALE			
Participants	\$	13,181,031	\$ 14,499,303
Other		26,410,994	8,314,231
TOTAL SALES FOR RESALE		39,592,025	22,813,534
OPERATING EXPENSES			
Operations		16,832,946	7,932,759
Depreciation		6,088,044	6,085,679
Purchased power		2,431,498	1,334,244
Maintenance		1,577,775	1,862,438
Administrative and general		1,895,546	1,664,356
Transmission		508,569	227,272
Intercompany (sales) purchases		88,311	96,140
TOTAL OPERATING EXPENSES		29,422,689	19,202,888
NET OPERATING REVENUES		10,169,336	3,610,646
OTHER REVENUES (EXPENSES)			
Interest expense		(6,500,755)	(6,633,294)
Interest income		299,823	69,666
Other		1,108,854	6,285,443
TOTAL OTHER REVENUES (EXPENSES)		(5,092,078)	(278,185)
FUTURE RECOVERABLE AMOUNTS		721,009	1,039,427
REFUNDS TO PARTICIPANTS		(35)	(18)
INCREASE IN NET POSITION		5,798,232	4,371,870
NET POSITION			
Beginning of year		6,207,631	2,967,485
End of period	\$	12,005,863	\$ 7,339,355

**Lodi Energy Center
FY 2018 Operating Costs
As of November 30, 2017**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
Routine O&M Costs					
Variable	\$ 1,263,067	\$ 1,734,891	\$ (471,824)	0%	A
Fixed	3,336,592	1,167,385	2,169,207	65%	
Administration	230,934	32,656	198,278	86%	B
Mandatory Costs	291,959	226,292	65,667	22%	
Routine O&M Costs without Labor	5,122,552	3,161,224	1,961,328	38%	
Labor	5,051,714	1,909,314	3,142,400	62%	
Total Routine O&M Cost	10,174,266	5,070,538	5,103,728	50%	
Other Costs					
Fuel	14,877,170	12,708,008	2,169,162	15%	C
CA ISO Charges	196,309	508,569	(312,260)	0%	
CA ISO Purchased Energy	3,724,590	2,431,498	1,293,092	35%	D
Debt Service	26,416,640	11,006,933	15,409,707	58%	
Insurance	765,367	4,525	760,842	99%	E
Other Costs	54,826	19,616	35,210	64%	
Generation Services Shared	359,388	113,311	246,077	68%	
Administrative & General (Allocated)	1,863,356	715,126	1,168,230	62%	
Power Management Allocated Costs	1,479,117	616,299	862,818	58%	
Total O&M Cost	59,931,029	33,194,423	26,736,606	45%	
Projects					
Operations & Maintenance	63,652	50,361	13,291	21%	F
Capital	560,000	-	560,000	100%	
Maintenance Reserve	2,012,800	838,667	1,174,133	58%	
Total Projects	2,636,452	889,028	1,747,424	66%	
Annual Cost	62,567,481	34,083,451	28,484,030	46%	
Less: Third Party Revenue					
Interest Income	171,889	115,577	56,312	33%	G
ISO Energy Sales	19,760,321	25,768,453	(6,008,132)	0%	
Ancillary Services Sales	396,879	642,541	(245,662)	0%	
	20,329,089	26,526,964	(6,197,875)	0%	
Net Annual Cost to Participants	\$ 42,238,392	\$ 7,556,487	\$ 34,681,905	82%	
Total Variable Costs	20,061,136	17,382,966	2,678,170		
Total Fixed Costs	42,506,345	16,700,485	25,805,860		
	<u>\$ 62,567,481</u>	<u>\$ 34,083,451</u>	<u>\$ 28,484,030</u>		
Net Cumulative Generation (MWh)	377,711	464,243			
Total O&M Cost Per MWh	\$ 158.67	\$ 71.50			
Net Annual Cost Per MWh	\$ 111.83	\$ 16.28			

Footnotes:

General - The plant ran each day of the month.

November payroll, A&G allocation and generation services allocation are estimated.

A - Higher variable maintenance and chemical costs due to higher year to date generation.

B - Payments for annual CEC fee and Air Resources Board fee were higher than expected.

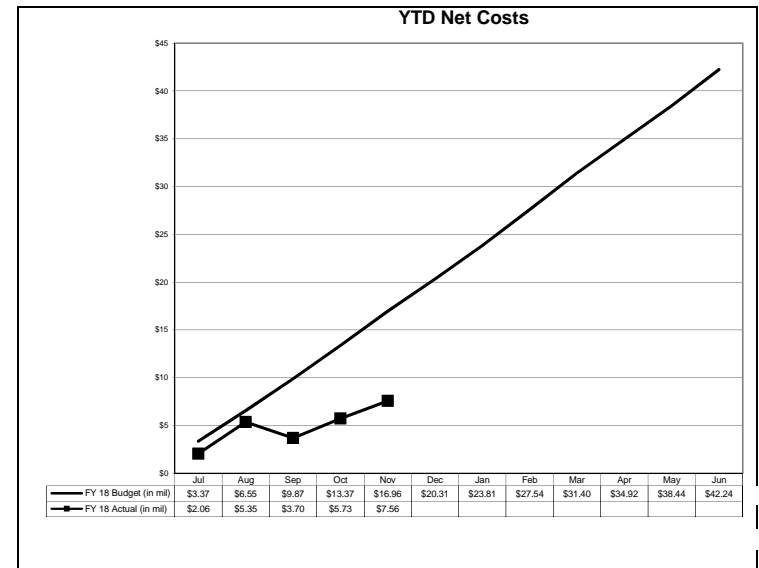
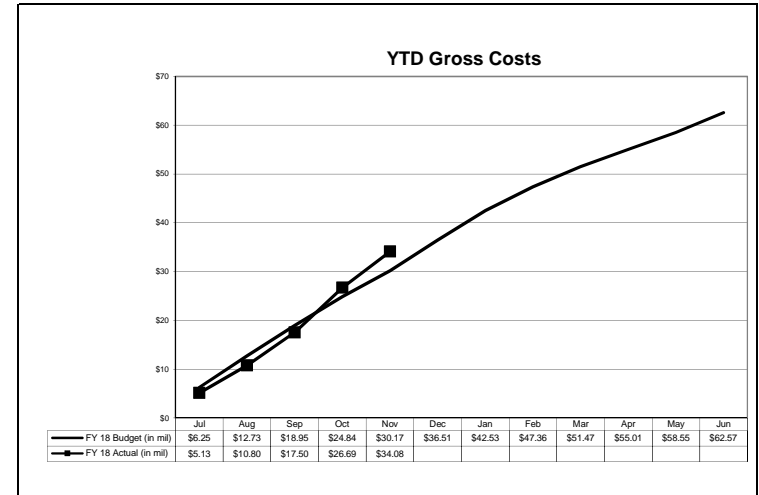
C - Higher fuel costs due to higher generation and higher natural gas costs per mmBtu.

D - Higher than budgeted CA ISO costs due to higher than anticipated GMC costs and transmission costs due to volume.

E - Higher than budgeted costs due to CA ISO real time settlement resulting in additional market purchases by NCPA and for Participants purchasing energy from CA ISO using LEC as the SC.

F - Engineering costs for relay replacements - costs projected to normalize for remainder of fiscal year.

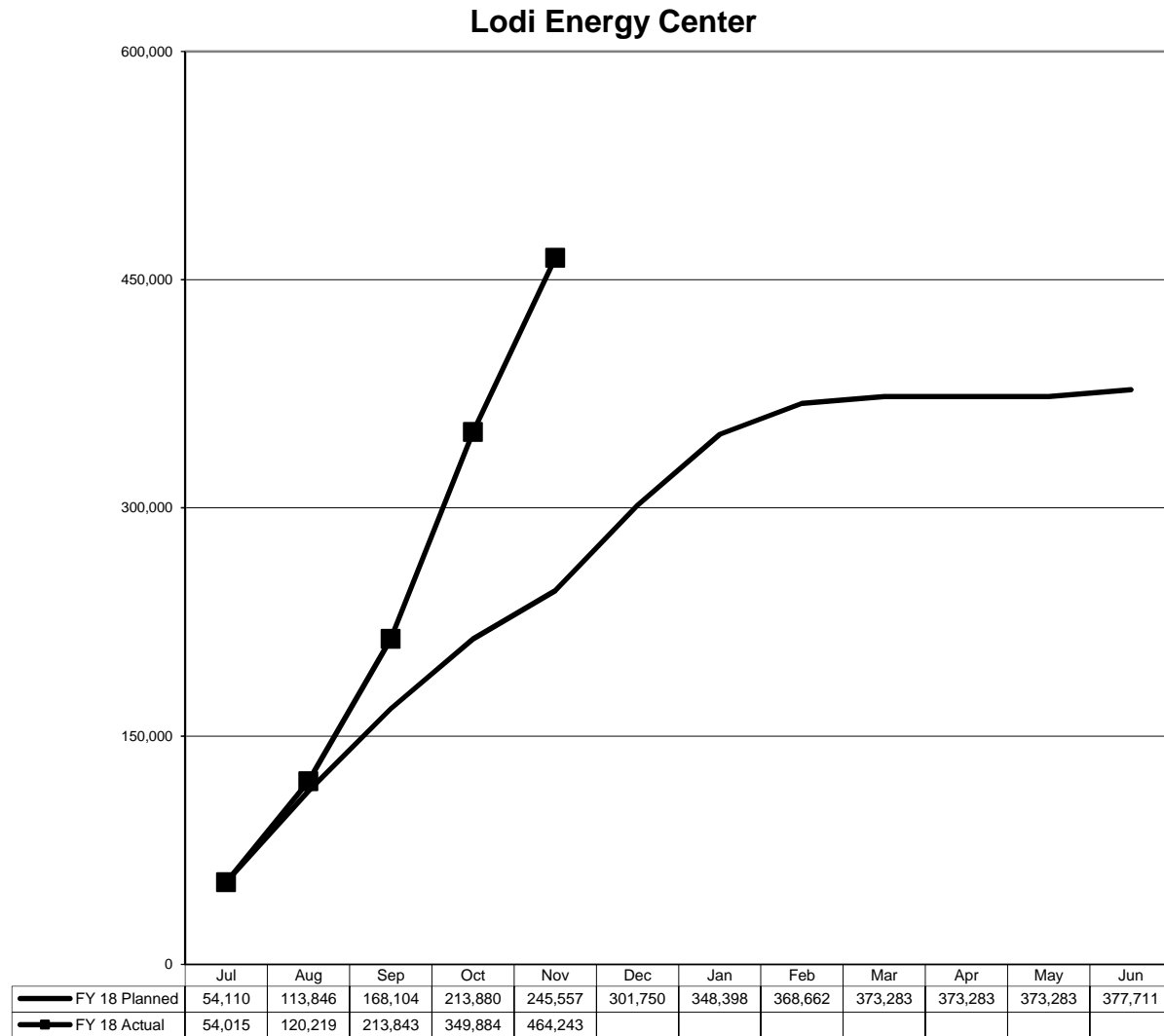
G - Higher than budgeted interest income due to increase in short term interest rates.



Note: Decrease in September net costs due to adjustment of energy sales in prior periods.

Annual Budget LEC Generation Analysis Planned vs. Actual FY 2018

In MWh



Note: Increase in generation due to decrease in gas transmission costs, making it economical for the plant to run.



Lodi Energy Center Project Participant Committee

LEC GHG Reports

AGENDA ITEM NO.: 9

Date: December 11, 2017

To: Lodi Energy Center Project Participant Committee

Subject: GHG Reports (excerpted from monthly ARB)

2013 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center														
	Actual													Compliance Year 2013
IDENTIFIER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	0	82,787	101,925	128,167	134,284	32,545	80,153	122,492	94,615	92,091	98,739	105,078	138,068	1,210,944
Gas Schedule (MMBtu)	0	593,484	723,038	894,657	952,529	229,724	579,650	870,331	673,965	650,250	692,396	738,008	965,292	8,563,324
Emissions Factor (MT/MMBtu)	0	0.054	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)													86,000	
Monthly MT Emissions (MT)	0	32,027	39,019	48,280	51,403	12,397	31,281	46,967	36,371	35,091	37,365	39,827	52,178	462,206
Cumulative MT Obligation (MT)	0	32,027	71,046	119,326	170,730	183,127	214,407	261,375	297,745	332,836	370,201	410,028	462,206	462,206
Compliance Instrument Participant Transfers (to LEC)														
Auction Allowances	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	498,133
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)	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	498,133
NCPA Compliance Instrument Purchases (for LEC)														
Auction Purchases	47,000	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Monthly Activity (MT)	139,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	37,500	0	46,290	545,133
Cumulative MT Account Balance [MTA] (MT)	139,695	145,045	145,045	158,689	263,689	314,321	344,949	346,549	448,749	461,343	498,843	498,843	545,133	545,133
MTA Shortfall (MT)	(139,695)	(113,018)	(73,999)	(39,363)	(92,959)	(131,194)	(130,542)	(85,174)	(151,004)	(128,507)	(128,642)	(88,815)	(82,927)	(82,927)

	2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												Compliance Year 2014
	Actual												Total
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
Energy (MWh)	136,604	156,089	120,489	55,378	71,210	51,037	118,473	69,006	178,831	197,715	51,636	106,338	1,312,806
Gas Schedule (MMBtu)	951,700	1,092,730	858,805	391,272	512,068	371,695	836,762	496,327	1,251,547	1,371,546	372,826	759,691	9,266,969
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)												173,000	
Monthly MT Emissions (MT)	51,358	58,969	46,345	21,115	27,634	20,059	45,156	26,784	67,540	74,015	20,120	41,170	500,265
Cumulative MT Obligation (MT)	513,564	572,533	618,879	639,994	667,628	687,686	732,842	759,626	827,166	901,181	782,385	823,555	823,555
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	138,916	0	138,916
Total Monthly Activity (MT)	102,347	40,000	48,066	25,000	1,290	163,248	0	0	13,586	50,520	80,350	350	524,757
Cumulative MT Account Balance [MTA] (MT)	647,480	687,480	735,546	760,546	761,836	925,084	925,084	925,084	938,670	989,190	930,624	930,974	930,974
MTA Shortfall (MT)	(133,916)	(114,947)	(116,667)	(120,552)	(94,208)	(237,398)	(192,242)	(165,458)	(111,504)	(88,009)	(148,239)	(107,419)	(107,419)

	2015 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												
	Actual												Compliance Year 2015
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	196,019	151,600	184,507	181,244	91,067	142,275	103,883	137,266	131,608	165,737	75,231	131,779	1,692,216
Gas Schedule (MMBtu)	1,368,474	1,073,330	1,299,294	1,269,481	646,027	1,009,450	740,553	971,283	927,730	1,171,129	541,136	940,340	11,958,227
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	0.054
HVAC/Water Heater (MT)													
Monthly MT Emissions (MT)	73,850	57,922	70,116	68,508	34,863	54,475	39,964	52,415	50,065	63,200	29,202	50,745	645,326
Cumulative MT Obligation (MT)	897,404	955,327	1,025,443	1,093,951	1,128,814	1,183,288	1,223,252	1,275,668	1,325,733	1,388,933	593,540	644,285	644,285
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	824,595	0	824,595
Total Monthly Activity (MT)	41,342	250	172,100	15,000	86,000	107,327	104,000	26,021	0	58,201	375	200	610,816
Cumulative MT Account Balance [MTA] (MT)	972,316	972,566	1,144,666	1,159,666	1,245,666	1,352,993	1,456,993	1,483,014	1,483,014	1,541,215	716,995	717,195	717,195
MTA Shortfall (MT)	(74,912)	(17,239)	(119,223)	(65,715)	(116,852)	(169,705)	(233,741)	(207,346)	(157,281)	(152,282)	(123,455)	(72,910)	(72,910)

2016 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center													
	Actual												Compliance Year 2016
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	97,230	27,160	91,578	45,437	3,423	66,596	76,008	31,653	25,597	20,636	17,488	28,418	531,223
Gas Schedule (MMBtu)	695,120	194,179	678,033	339,504	27,754	485,792	547,510	234,782	192,679	158,835	158,835	214,109	3,927,132
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)													
Monthly MT Emissions (MT)	37,512	10,479	36,590	18,321	1,498	26,216	29,546	12,670	10,398	8,572	8,572	11,554	211,928
Cumulative MT Obligation (MT)	681,798	692,276	728,867	747,188	748,686	774,901	804,448	817,118	827,516	836,087	650,684	662,238	662,238
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	193,975	0	193,975
Total Monthly Activity (MT)	211,481	0	2,500	31,000	0	55,000	0	56,600	0	0	0	0	356,581
Cumulative MT Account Balance [MTA] (MT)	928,676	928,676	926,176	895,176	895,176	840,176	840,176	896,776	896,776	896,776	1,090,751	1,090,751	1,090,751
MTA Shortfall (MT)	(246,878)	(236,400)	(197,309)	(147,988)	(146,490)	(65,275)	(35,728)	(79,658)	(69,260)	(60,689)	(440,067)	(428,513)	(428,513)

	2017 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center												
	Actual										Estimated	Estimated	Compliance Year 2017
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	38,917	15,337	7,086	0	3,436	35,997	54,015	66,209	93,620	136,041	38,642	53,765	543,064
Gas Schedule (MMBtu)	301,781	115,019	59,077	0	29,558	266,056	403,302	464,997	675,267	969,402	278,222	387,108	3,949,789
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)													
Monthly MT Emissions (MT)	16,286	6,207	3,188	0	1,595	14,358	21,764	25,094	36,441	52,314	15,014	20,890	213,150
Cumulative MT Obligation (MT)	678,524	684,731	687,919	687,919	689,514	703,872	725,636	750,729	787,170	839,484	854,498	875,389	875,389
Compliance Instrument Participant Transfers (to LEC)													
Auction Allowances	0	0	5,000	0	0	0	0	0	0	0	0	0	5,000
Secondary Market Allowances	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
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	0	0	5,000	0	0	0	0	0	0	0	0	0	5,000
NCPA Compliance Instrument Purchases (for LEC)													
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Secondary Market Purchases	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
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Monthly Activity (MT)	0	0	5,000	0	0	0	0	0	0	0	0	0	5,000
Cumulative MT Account Balance [MTA] (MT)	1,090,751	1,090,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751
MTA Shortfall (MT)	(412,227)	(406,020)	(407,832)	(407,832)	(406,237)	(391,879)	(370,115)	(345,022)	(308,581)	(256,267)	(241,253)	(220,362)	(220,362)

	2018 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center								
	Estimated						Compliance Year 2018	Cumulative Totals	
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	Total	Total	Source
Energy (MWh)	180,904	144,527	35,659	2,834	16,798	77,600	458,320	5,748,574	Forecast/Meter
Gas Schedule (MMBtu)	1,302,506	1,040,591	256,744	20,405	120,943	558,719	3,299,908	40,965,349	Forecast/Meter
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054		0	MARS
HVAC/Water Heater (MT)								0	
Monthly MT Emissions (MT)	70,290	56,155	13,855	1,101	6,527	30,151	178,080	2,210,954	derived
Cumulative MT Obligation (MT)	924,788	980,943	994,799	995,900	1,002,427	1,032,578	1,032,578	4,500,251	derived
Compliance Instrument Participant Transfers (to LEC)									
Auction Allowances	0	0	0	0	0	0	0	1,995,287	CITSS
Secondary Market Allowances	0	0	0	0	0	0	0	0	CITSS
Reserve Sale Allowances	0	0	0	0	0	0	0	0	CITSS
Offsets	0	0	0	0	0	0	0	0	CITSS
Total Compliance Instrument Participant Transfers (MT)	0	0	0	0	0	0	0	1,995,287	
NCPA Compliance Instrument Purchases (for LEC)									
Auction Purchases	0	0	0	0	0	0	0	47,000	CITSS
Secondary Market Purchases	0	0	0	0	0	0	0	0	CITSS
Reserve Sale Purchases	0	0	0	0	0	0	0	0	CITSS
Offset Purchases	0	0	0	0	0	0	0	0	CITSS
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	47,000	
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	1,157,486	CITSS
Total Monthly Activity (MT)	0	0	0	0	0	0	0	2,042,287	derived
Cumulative MT Account Balance [MTA] (MT)	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	1,095,751	derived
MTA Shortfall (MT)	(170,963)	(114,808)	(100,952)	(99,851)	(93,324)	(63,173)	(63,173)		derived

NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) December 2017																
IDENTIFIER	AZUSA	BART	BIGGS	CDWR	GRI	HEA	LOD	LOM	MID	PLU	PWRPA	SNCL	UKI	TOTAL	Charge Code	Source
Allocation Percentages																
Generation Entitlement Share %	2.7857%	6.6000%	0.2679%	33.5000%	1.9643%	1.6428%	9.5000%	2.0357%	10.7143%	0.7857%	2.6679%	25.7500%	1.7857%	100%		MARS
Obligation Accounts																
Current MT Compliance Obligation (MTO) Balance (MT)	22,655	53,675	2,179	277,365	15,975	13,362	75,980	16,463	87,136	6,388	21,697	209,417	14,522	816,814		derived
Current MT Compliance Instrument Account (MTA) Balance (MT)	22,813	53,800	2,955	314,375	20,148	16,164	91,308	26,789	87,355	6,389	21,756	209,417	16,422	889,691		derived
MTA Shortfall (MT)	(158)	(124)	(776)	(37,010)	(4,173)	(2,802)	(15,328)	(10,326)	(219)	(1)	(59)	(0)	(1,900)	(72,878)	MTA SHORTFALL	Derived
Monthly GHG Price \$/MT	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	15.18	MTA SHORTFALL	ICE Index
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	MTA SHORTFALL	Derived
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	4,780	755	0	0	0	0	0	2,652	70,424	CCA BALANCE	Accounting
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	NET GHG OBLIG	Derived

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



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 11

Date: December 5, 2017

Meeting Date: December 11, 2017

To: Lodi Energy Center Project Participant Committee

Subject: Dekomte De Temple LLC – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal

Approve the Multi Task General Services Agreement with Dekomte De Temple, LLC for BOP/HRSG expansion joints and insulation services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background

BOP/HRSG expansion joints and insulation services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

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 currently has in place other agreements with similar service providers including Performance Mechanical, Inc., Babcock & Wilcox (pending) and Alstom (pending). NCPA seeks bids from multiple qualified providers whenever services are needed. 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 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:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Dekomte De Temple LLC



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
DEKOMTE DE TEMPLE LLC**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Dekomte De Temple LLC, a partnership with its office located at 885 Franklin Road, Suite 335, Marietta, GA 30067 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2017 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

4.3 Professional Liability Insurance. 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 (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000.00) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 Pollution Insurance. Intentionally left blank.

4.5 All Policies Requirements.

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

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

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

4.5.4 Additional Certificates and Endorsements. If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific

Agency member, SCPA and/or SCPA member for which the Work is to be performed.

- 4.6 **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.7 **Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. **STATUS OF CONTRACTOR.**

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

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

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

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

- 6.2 **Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial

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

- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 **Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

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

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

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.
- 8.4 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1 Immediately terminate the Agreement;
 - 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or
 - 8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any

longer period required by law, from the date of final payment to the Contractor under this Agreement.

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

9.4 Confidential Information and Disclosure.

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

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

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

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

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

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

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

Section 10. PROJECT SITE.

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

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

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

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

Section 11. WARRANTY.

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

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs

established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

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

and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

- 12.10 If Contractor is providing Work to an Agency Member, 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 Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

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

Dekomte De Temple LLC
Attention: Isaac Anderson
885 Franklin Road, Suite 335
Marietta, GA 30067

Any written notice to Agency shall be sent to:

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

With a copy to:

Jane 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

DEKOMTE DE TEMPLE LLC

Date_____

Date_____

RANDY S. HOWARD,
General Manager

COLIN BRODER,
Commercial Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

EXHIBIT A

SCOPE OF WORK

Dekomte ("Contractor") shall provide BOP and HRSG expansion joints and insulation material application 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:

Field service:

- Complete Turnkey Field Installation Services
- Splicing Services
- Emergency Response Teams during outages, 365 days a year
- Supervisory Services
- Fabrication of any Expansion Joint for Service Conditions up to 2200°F
- Full Engineering, Consulting and Design Services
- Custom Fabrication of Expansion Joints at site, if required
- Gas Turbine and Refractory Expansion Joint Specialists
- Specialists in High Vibration Applications

COMPENSATION SCHEDULE AND HOURLY FEES

For the delegation of erection personnel, the following rates are charged:

			Supervisor / Specialist Fitter	Engineer
Normal hours	Mon – Fri	07.00 – 16.00	\$ 120.00	\$ 165.00
1.5 x hours surcharge	Mon – Fri Saturday	16.00 – 07.00 07.00 – 16.00	\$ 177.00	\$ 242.00
2 x hours surcharge	Saturday Sunday	16.00 – 07.00 00.00 – 23.59	\$ 232.00	\$ 320.00
2.5 x hours surcharge	Public Holidays		\$ 294.00	\$ 404.00

per night receipted costs + 10% service charge

by car per mile	IRS Rate
small van per mile	IRS Rate
by public transport	receipted costs + 10% service charge
by plane	receipted costs + 10% service charge
excess baggage	receipted costs + 10% service charge
flight changes	receipted costs + 10% service charge

Travelling time is considered as working time and is charged as above applicable rates. (nominally 8 hours each way)

Costs for provision of VISA	as per receipted costs + 10% service charge
Customs fee, local taxes etc.	as per receipted costs + 10% service charge

For the period of installation skilled helpers, the necessary set-up and auxiliary tools, energy, washing- and changing rooms have to be provided as required. Rates for additional labor can be provided if required. For any damage caused by our personnel we are only liable in the case of intention or wilful negligence.

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

DEKOMTE DE TEMPLE LLC

(Company name)

for contract work at

LODI ENERGY CENTER, 12745 N. Thornton Road, Lodi, CA 95242

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

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

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 12

Date: December 5, 2017

Meeting Date: December 11, 2017

To: Lodi Energy Center Project Participant Committee

Subject: Transmission and Distribution Services, LLC – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal

Approve the Five Year Multi-Task General Services Agreement with Transmission and Distribution Services, LLC for oil leak detection and transformer maintenance, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five (5) years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background

Transformer, gasket, and bushing maintenance and assessment services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Selection Process

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. 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:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (2)

- Multi-Task General Services Agreement with Transmission and Distribution Services LLC



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

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Transmission and Distribution Services, LLC, a corporation with its office located at 28369 Davis Parkway, Suite 401, Warrenville, IL 60555 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 20__ ("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 \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

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

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

- 4.3 Professional Liability Insurance.** Intentionally omitted.
- 4.4 Pollution Insurance.** Intentionally omitted.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall have the right to require Contractor to provide the certificates of insurance and/or 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.
- 4.6 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.7 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

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

Section 6. STATUS OF CONTRACTOR.

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

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

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

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

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

of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

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

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding

Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

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

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

Section 8. TERMINATION AND MODIFICATION.

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

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

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by 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 Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

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

Neleen Lehman, President
Transmission and Distribution Services, LLC
28369 Davis Parkway, Suite 401
Warrenville, IL 60555
Phone (775) 586-8300

Any written notice to Agency shall be sent to:

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

With a copy to:

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

- 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

TRANSMISSION AND DISTRIBUTION
SERVICES, LLC

Date_____

Date_____

RANDY HOWARD, General Manager

NELEEN LEHMAN, President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A
SCOPE OF WORK

Transmission and Distribution Services, LLC ("Contractor") as requested by Northern California Power Agency ("Agency"), Agency Members, SCPPA, or SCPPA Members, shall perform the following services including, without limitation:

Contractor to provide leak sealing maintenance services on energized and de-energized equipment including:

- Leak detection;
- Transformer oil leaks;
- Bushing oil leaks;
- Gasket leaks;
- Circuit breaker SF6 gas leaks; and
- Other maintenance as requested.

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. Pricing for services to be performed at NCPA, NCPA Member or SCPPA locations will be quoted at the time services are requested. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

United States
TDS LEAK SEAL PRICE LIST
As of January 2017

Description	Price	Typical Method
4- bolt flange	\$716.00	Drill and Inject
Stem/shaft	\$458.00	Drill and Inject
Drain Plug (A, B, C size cap)	\$567.00	Plug Cap Only
Drain Plug	Per Quote	Clamp, Enclosure
Compartment lid/tank, tap changer, selector, etc	\$118.00	Per Bolt
8- bolt flange	\$860.00	Drill and Inject
Hex-to-coupling/pipe:<2-inch pipe size	\$1,663.00	Aluminum Clamp
Hex-to-coupling/pipe:>2-inch pipe size	\$1,828.00	Aluminum Clamp
Dresser Coupling: 2-inch	\$2,858.00	Aluminum Enclosure
Dresser Coupling: 4-inch	\$5,150.00	Aluminum Enclosure
Dresser Coupling: 6-inch	\$7,442.00	Aluminum Enclosure
Dresser Coupling: 8-inch	\$9,734.00	Aluminum Enclosure
Dresser Coupling: 10-inch	\$12,051.00	Aluminum Enclosure
Oil Circuit Breaker (OCB)	\$5,665.00	Aluminum Clamp Casting
Temperature Probe: hex coupling type	\$1,087.00	Aluminum Plate
Temperature Probe: flange type	\$1,427.00	Aluminum Plate
UST tap – Voltage Tap Recpital	\$747.00	Injection Bolts
UST tap – Capapitance Cap	\$3,863.00	Aluminum Clamp/Plate
(SF6) Westinghouse 345kV interrupter head	\$6,309.00	Aluminum Clamp Casting
(SF6) Westinghouse 345kV end cap	\$3,425.00	Flex Wrap
(SF6) Westinghouse 345kV base	\$5,150.00	Aluminum Clamp Casting

Description	Price	Typical Method
Temperature Probe Fitting	\$1,957.00	Clamp
OCB Bushing to Tank	\$4,326.00	Clamp
4 Bolt Radiator Drain Valve Stem	\$6,036.00	Clamp
Bushing Flange	\$2,946.00	Clamp
Bushing End Cap	\$2,678.00	Clamp
Bushing to Tank Mounting Flange	\$9,888.00	Clamp
Aluminum "T" Valve Clamp	\$2,451.00	Clamp
10 Bolt Manway Cover	\$3,852.00	Clamp
Oil Temp. Gauge	\$2,130.00	Clamp

No Load Tap Nozzle	\$1,416.00	Peen & Caulk
NLTC Shaft	\$876.00	Drill and Inject
6 Bolt Flapper Valve Flange	\$819.00	Drill and Inject
Liquid Level Gauge Flange (4 bolt)	\$773.00	Drill and Inject
10/20 Bolt Underground Cable to Bottom Compartment Flange	\$5,057.00	
Drain Valve Hex to Pipe Thread	\$2,075.00	
Bushing Base Mounting Flg. (12) bolt	\$1,324.00	
Flapper Valve Enclosure	\$3,296.00	
Bushing Base Mounting Flg. (8) bolt	\$963.00	
4 Screw Fiber Optic Box/Cover	\$1,193.00	
Clamp Removal (competitors)	\$361.00	
Repair Method "O'Ring"	\$412.00	
Aluminum Valve Handle	\$31.00	
10 Bolt Lower Butterfly Flange		
Radiator Fin Leak		

Notes:

1. Prices are subject to change based on customization, design and application.
2. Standby/Delay charges of \$1,000/day will apply if TDS technicians are unable to access equipment at no-fault of their own.
3. A minimum of 24-hour notice is required to cancel/postpone work otherwise cancellation fees may be incurred.

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

The rates set forth above are valid from January 2017 and may be subject to an annual escalation of up to 5% per year, effective upon 30 days' prior written notice to NCPA.

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.

EXHIBIT D – NOT APPLICABLE

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

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

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

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

EXHIBIT E – NOT APPLICABLE

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

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

The undersigned hereby certifies and agrees that:

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

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Lodi Energy Center Project Participant Committee Staff Report

AGENDA ITEM NO.: 13

Date: December 4, 2017
Meeting Date: December 11, 2017
To: Lodi Energy Center Project Participant Committee
Subject: Lodi Energy Center 2018 Spring Outage – April 2018

Proposal

Approve authorization for the NCPA General Manager to execute agreements and issue purchase orders for maintenance work related to the Lodi Energy Center (LEC) 2018 Spring Outage, for a total cost not to exceed \$1,798,856.

Background

The Lodi Energy Center has an outage scheduled for April 2-22 for work related to the 2018 Spring outage. During the outage, the LEC team will complete preventative maintenance work on equipment that cannot be worked on while the unit is operating without affecting the output of the facility. NCPA will hire a number of contractors to perform work during the 2018 Spring outage.

Listed below is a summary of the work to be performed as a part of the 2018 Spring outage:

1. Gas Turbine
 - a. Air Filters
 - b. Drain System
 - c. Bearing Thermocouple
 - d. Inlet Bleed Heater Paint
 - e. Fuel Valve Refurbishment
2. Steam Turbine
 - a. Valve Soft Goods
 - b. Condenser Seal
 - c. Insulation
3. Water Treatment
 - a. General Maintenance
 - b. Chemical Clean Injection Well
 - c. Cooling Tower Cleanout
 - d. Cooling Tower Booster Pump
 - e. Condensate MU Pump
 - f. Cooling Tower Repairs
4. Electrical Systems
 - a. Relay Upgrade
 - b. Miscellaneous Electric
5. HRSG / Steam

- a. High Energy Pipe Survey
- b. Critical Valve Maintenance
- c. Penetration Seals
- d. Insulation
- e. Stack Painting
- f. HRSG Potential Repairs
- g. HP Casing / Tube Guide
- h. Hot Spots
- i. Floor
- 6. Balance of Plant
 - a. Relief Valves
 - b. Diesel Fire
 - c. Condensate ARC Valves
- 7. Incidentals
 - a. Crane
 - b. Toilets
 - c. Trailers / Guard
 - d. Forklift / Manlift
 - e. Scaffold
 - f. Confined Space

Selection Process

All of the work has been put out for bid to qualified contractors and the lowest priced qualified contractors will be awarded the work.

Fiscal Impact

2018 Spring Outage	Anticipated Cost
Gas Turbine	\$211,000
Steam Turbine	\$125,000
Water Treatment	\$200,000
Electrical Systems	\$83,652
HRSG / Steam	\$751,000
Balance of Plant	\$81,000
Incidentals	\$205,500
Contingency	\$141,704
TOTAL	\$1,798,856

The budgetary funds to complete the 2018 Spring outage include \$830,000 of pre-collected funds in the Maintenance Reserve (Account # 265-009-005-610-044-002). The remainder of funds, \$968,856, were anticipated in the Routine O&M budget.

Environmental Analysis

These activities are categorically exempt under Class 1 and 2 from the provisions of the California Environmental Quality Act pursuant to Section 15301 (b) and 15302 (c) of the CEQA Guidelines. A Notice of Exemption was approved by the NCPA Commission on September 27, 2013 for this class of work and was filed in San Joaquin County.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

April 2018 Outage Costs

Gas Turbine	\$211,000
Steam Turbine	\$125,000
Water Treatment	\$200,000
Electrical Systems	\$83,652
HRSB / Steam	\$751,000
Balance of Plant	\$81,000
Incidentals	\$205,500
Contingency	\$141,704
	\$1,798,856

FY18 Budget

Fixed Maintenance	\$715,000
Projects	\$63,652
Maintenance Reserve	\$1,020,204
	\$1,798,856

Recommendation: Staff recommends PPC to approve the April 2018 outage project for a not to exceed cost of \$1,798,856 to be funded from budget routine O&M and Maintenance Reserve.