



12745 N. Thornton Road  
Lodi, CA 95242

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

## LEC PPC Agenda

---

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

**Location: via Teleconference**

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

---

.....

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

.....

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

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

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

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

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

*The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or [www.ncpa.com](http://www.ncpa.com)*

**1. Review Safety Procedures**

**2. Call Meeting to Order and Roll Call**

**PUBLIC FORUM**

Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item considered by the Lodi Energy Center Project Participant Committee at this meeting, before or during the Committee's consideration of that item, shall so advise the Chair and shall thereupon be given an opportunity to do so. Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item within the jurisdiction of the Lodi Energy Center Project Participant Committee and not listed on the Agenda may do so at this time.

**3. Meeting Minutes** – Approval of Minutes from the November 7, 2022 Regular Meeting and the November 15, 2022 Special Meeting.

**MONTHLY REPORTS**

**4. Operational Report for November 2022**

**5. Bidding Strategies Report**

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

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

**CONSENT CALENDAR**

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

**8. Treasurer's Report for October 2022** – Accept by all Participants

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

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

**11. Resolution of the Lodi Energy Center Project Participant Committee Proclaiming a Local Emergency, Re-Ratifying the Proclamation of a State of Emergency Issued by Governor**

*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.*

**Gavin Newsom, and Authorizing Remote Teleconference Meetings of the LEC PPC** – The Committee will discuss whether Governor Gavin Newsom’s Proclamation of a State of Emergency due to COVID-19 remains in force, whether as a result of the emergency and the conditions where Committee members are located (local conditions) are such that meeting in person would present imminent risks to the health or safety of attendees and thus, in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act, for a thirty-day period of December 12, 2022, through January 11, 2023, the LEC PPC should meet remotely.

- 12. Mead and Hunt, Inc. MTPSA** – Staff is seeking a recommendation for approval of a five-year Multi-Task Professional Services Agreement with Mead & Hunt, Inc. for engineering services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 13. Trinity Consultants, Inc. MTPSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task Professional Services Agreement with Trinity Consultants, Inc. for air quality compliance support services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 14. Sabah International MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Sabah International for fire system maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.
- 15. Nor-Cal Battery Company MTGSA** – Staff is seeking a recommendation for Commission approval of a five-year Multi-Task General Services Agreement with Nor-Cal Battery Company for battery related maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

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

### **BUSINESS ACTION ITEMS**

**None.**

### **INFORMATIONAL/ DISCUSSION ITEMS**

- 16. Reserve and Security Deposit Policies** – Staff will lead a discussion regarding the deposit and reserve requirements methodologies as related to LEC
- 17. End of Governor Gavin Newsom’s Emergency Declaration** – Discussion regarding the upcoming end to Governor Gavin Newsom’s Emergency Declaration and impacts on teleconference meetings for LEC PPC.
- 18. Additional Operational Updates** – Staff will provide an update on issues related to Operations.

### **ADJOURNMENT**

Next Regular Meeting: January 9, 2023 at 10:00 a.m. Pacific Standard Time.

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



651 Commerce Drive  
Roseville, CA 95678

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

# LEC PPC Meeting Minutes

**Date:** Tuesday, November 15, 2022  
**Time:** 3:00 p.m. Pacific Standard Time  
**Location:** via Teleconference  
**Subject:** Lodi Energy Center Project Participant Committee Meeting

## 1. Review Safety Procedures

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

## 2. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 3:01 p.m. by Chairman Burk. He asked that roll be called for the Project Participants as listed below.

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Absent	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Sorenson	Present	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Present	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Absent	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Absent	2.6679%
SVP - Wong	Present	25.7500%
Ukiah - Sauers	Absent	1.7857%
<b>Summary</b>		
Present	6	81.6965%
Absent	7	18.3035%
Quorum by #:	No	
Quorum by GES:	Yes	
Meeting Date:	November 15, 2022	

## **Public Forum**

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

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

**Date:** 11/15/2022

**Motion:** The LEC PPC approves Resolution 2022-16 to proclaim that a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi Energy Center Project Participant Committee for a period of November 15, 2022, through December 15, 2022, pursuant to the Ralph M. Brown Act (Brown Act).

**Moved by:**

**Gridley**

**Seconded by:**

**MID**

**Discussion:** No further discussion

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

Total Abstain	0	0.0000%
Total Absent	7	18.3035%
Result:	Motion Passes	

### **Adjournment**

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

The meeting was adjourned at 3:06 p.m.

Submitted by: Danielle King



651 Commerce Drive  
Roseville, CA 95678

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

# LEC PPC Meeting Minutes

---

**Date:** Monday, 07, November, 2022

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

**Location:** Lodi Energy Center –via teleconference

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

---

## 1. Review Safety Procedures

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

## 2. Call Meeting to Order and Roll Call

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

PPC Meeting Attendance Summary		
Participant	Attendance	Particulars / GES
Azusa - Torres	Present	2.7857%
BART - Lloyd	Absent	6.6000%
Biggs - Schmidt	Present	0.2679%
CDWR - Burk	Present	33.5000%
Gridley - Wagner	Absent	1.9643%
Healdsburg - Crowley	Absent	1.6428%
Lodi - Chiang	Present	9.5000%
Lompoc - McDonald	Present	2.0357%
MID - Costalupes	Present	10.7143%
Plumas-Sierra - Brozo	Absent	0.7857%
PWRPA - Bradley	Present	2.6679%
SVP - Wong	Present	25.7500%
Ukiah -	Absent	1.7857%
Summary		
Present	8	87.2215%
Absent	5	12.7785%
Quorum by #:	Yes	
Quorum by GES:	Yes	
Meeting Date:	November 7, 2022	

## **Public Forum**

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

### **3. Meeting Minutes**

The draft minutes from the October 10, 2022 Regular Meeting were considered. The LEC PPC considered the following motion:

**Date:** 11/07/2022

**Motion:** The PPC approves the minutes from the October 10, 2022 Regular Meeting.

**Moved by:** Lodi

**Seconded by:** SVP

Discussion: No further discussion

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result: Motion Passes		



## **MONTHLY REPORTS**

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

Ryan Johnson presented the Operational Report for October. There were no OSHA recordable accidents, no NERC/WECC or permit violations, and 1 forced outage. There are no changes to the 2023 outage schedule.

The operational report reflected monthly production of 100,920 MWH, 413 service hours, and equivalent operating availability of 100%. The report set for the Capacity Factor @ 302MW Pmax of 44.9%. There were 1 hot starts, 2 warm starts, and 3 cold starts during the month.

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

Jesse Shields presented the Bidding Strategies Report for October 2022. Jesse reviewed bidding and calculating net start-up costs. Jesse reviewed DA and RT net revenues over the month with the Committee.

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

Bob Caracristi presented the operating and financial settlement results for the month. LEC was committed to CAISO 19 out of 31 available days. Most startups were for mid to long-term runs, with 11 24-hour runs in the month of October.

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

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

## **Consent Calendar (Items 8 – 16)**

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

**Date:** 11/07/2022

**Motion:** The PPC approves the Consent Calendar items consisting of agenda items no.: The PPC approves the Consent Calendar items consisting of agenda items no.: **8.** Treasurer's Report for September 2022; **9.** Financial Report for September 2022; **10.** GHG Reports (excerpted from the Monthly ARB); **11.** Resolution 2022-15 to proclaim that a local emergency persists in the City of Santa Clara and in the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi

Energy Center Project Participant Committee for a period of November 7, 2022, through December 7, 2022, pursuant to the Ralph M. Brown Act (Brown Act); **12.** TNT Industrial Contractors, Inc. MTGSA for general T&M maintenance services, not to exceed \$2,000,000 over five years, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **13.** Performance Mechanical, Inc. MTGSA for general T&M maintenance services, not to exceed \$4,000,000 over five years, for use at all facilities owned and/or operated by NCPA, Members/SCPPA; **14.** NorCal Power Services, LLC First Amendment to MTGSA for electrical maintenance related services, increasing the not to exceed from \$500,000 to \$1,500,000 and amending Exhibit B - Compensation Schedule and Hourly Fees,, for continued use at all facilities owned and/or operated by NCPA, Members/SCPPA; **15.** Approval of updates to PMOA Schedule 1.00, Exhibit 5 CAISO Charges; **16.** Approval of the FY2022 Annual Billing Settlements for the period of July 1, 2021 through June 30, 2022.

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

**Gridley**  
**Lompoc**

Discussion: No further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passes	

## **BUSINESS ACTION ITEMS**

### **17. 2023 LEC Spring Outage**

Rafael Santana presented on the proposed 2023 spring outages. Planned outages to include January 1, 2023 through January 12, 2023 and April 01, 2023 through April 30, 2023. There was discussion on the necessity for the January outage but it was determined the extra time and opportunity to determine issues that may be addressed in April outage would be beneficial. The members moved to vote on the outage schedule.

**Date:** 11/07/2022

**Motion:** The PPC approves the LEC 2023 January Outage and Spring Outage and delegate authority to the General Manager or his designee to award bids, execute agreements, and to issue purchase orders for the outages in accordance with NCPA Purchasing Policies and Procedures without further approval by the Commission, for a total cost not to exceed \$3,740,362.

**Moved by:**

**MID**

**Seconded by:**

**Lodi**

Discussion: No further discussion.

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passes	

**18. Appointment of a New Chairperson for LEC PPC Committee**

Election of new Chairperson to conduct the business of the LEC Project Participant Committee.

**Date:** 11/7/2022

**Motion:** The PPC approves election of Brock Costalupes to serve as the new Chairperson of the LEC Project Participant Committee to conduct the business of the PPC pursuant to the Power Sales Agreement and the Project Management and Operations Agreement.

**Moved by:** CDWR

**Seconded by:** SVP

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passes	

**19. Appointment of a New Vice Chairperson for LEC PPC Committee**

Election of a new Vice Chairperson to conduct the business of the LEC Project Participant Committee.

**Date:** 11/7/2022

**Motion:** The PPC approves the election of Basil Wong to serve as the new Vice Chairperson of the LEC Project Participant Committee to conduct the business of the PPC pursuant to the Power Sales Agreement and the Project Management and Operations Agreement.

**Moved by:** CDWR  
**Seconded by:** PWRPA

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passes	

**20. PG&E Negotiated Gas Transmission Rate Agreement**

Jeremy Lawson on the PG&E Negotiated Gas Transmission Rate Agreement Extension to get member feedback. Jeremy shared that the current negotiated rates expire on December 31, 2022 and PG&E's delays have caused a push back of new rates until the end of 2023. Unless there is an agreement for a negotiated rate then, beginning January 1, 2022 until there is an implementation of the new rate, LEC will resume an uncompetitive default rate structure. The staff recommended that the Lodi Energy Center Project Participant Committee delegate authority to the General Manager or his designee to negotiate and execute an extension of some form of the Negotiated Gas Transmission Rate Agreement executed in 2019 between NCPA and PG&E. The extension would fill the gap between the currently scheduled termination date and the implementation of the new rate case filed by PG&E. The Project Participant Committee discussed this option and motioned to vote with the adjustment of language to "...negotiate and execute an extension of the Negotiated Gas Transmission Rate Agreement executed in 2019 between NCPA and PG&E, not to exceed the proposed 2023 volumetric rate." This language provides an upper limit to the rate, not previously noted and provides more concise verbiage for agreement.

**Date:** 11/7/2022

**Motion:** The PPC approves the recommendation delegating authority to the General Manager or his designee to negotiate and execute an extension of the Negotiated Gas Transmission Rate Agreement executed in 2019 between NCPA and PG&E, not to exceed the proposed 2023 volumetric rate.

**Moved by:** SVP  
**Seconded by:** CDWR

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

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Absent	6.6000%
Biggs	Yes	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Yes	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	9	89.1858%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	4	10.8142%
Result:	Motion Passes	

## **INFORMATIONAL ITEMS**

### **21. Reserve and Security Deposit Policies Study**

Sondra Ainsworth provided an updated draft recommendation of the deposit and reserve study. Sondra requested feedback from the committee to determine the best way to move forward. Committee requested information on decommission contingency which will be addressed in a future PPC meeting. The committee decided to provide direction in continuing forward with the current methodology and potentially adding on to that with the decommissioning contingency.

### **22. Additional Operational Updates**



Mike DeBortoli reported on the federal and state funding for the Hydrogen projects. California will be applying for funding as a single applicant. Concept paper draft was reviewed last week and the applications are due today. Current planning shows LEC having a prominent role the electrical hub for hydrogen.

Mike DeBortoli also reported on the well reservoir acquisition. The well that is in consideration to be studied for hydrogen is on land that is for sale. The land is listed for \$4.2 million. NCPA is in contact with potential buyers to propose a lease agreement allowing the agency to conduct the well reservoir study.

### **Adjournment**

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

The meeting was adjourned at 11:46 a.m.

Submitted by: Danielle King

# **Lodi Energy Center Project Participant Committee**

## **Operational Report**

**Agenda Item No.: 4**

---

**Date:** 12/12/2022

**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:**

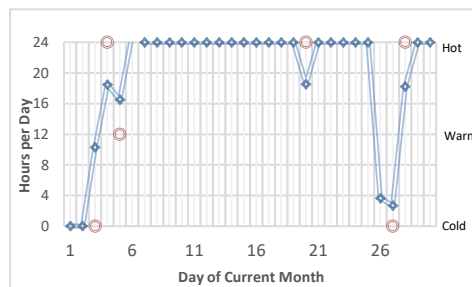
- 11/19 @ 19:11 - 11/22 @ 23:59; Regulation up/down not offered due to plant emissions concerns. Root cause of improper calibration on fuel flow transmitter fixed and returned to service.

### **Planned Outage Summaries:**

- January 1-12, 2023; ST HP Gearbox Replacement
- April 1-30, 2023; Annual Maintenance Outage

**Generating Unit Statistics:****Date:** 11/1/2022

1. Monthly Production 163,581 MWh
2. Productivity Factor
- a. Service Hours 593 Hours
- b. Service Factor 82.3 %
- c. Capacity Factor @ 302MW Pmax 75.1 %
- d. Hours/days load > 240 MW 472/27 h/d
3. Equivalent Operating Availability (EOA) 100.0 %
4. Forced Outage Rate (FOR) 0.0 %



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

MW Range	PMOA HR BTU/kW-Hr	Average HR BTU/kW-Hr	Deviation %	Production MWh	Cost \$
Seg. 1 296 +	6850	0	0.00%	0	\$0
Seg. 2 284 - 296	6870	6,981	1.62%	125,885	\$55,963
Seg. 3 275 - 284	6971	7,045	1.07%	6,229	\$1,851
Seg. 4 250 - 275	7081	7,058	-0.32%	14,322	-\$1,301
Seg. 5 225 - 250	7130	7,117	-0.19%	12,127	-\$650
Seg. 6 200 - 225	7200	7,189	-0.15%	2,405	-\$102
Seg. 7 175 - 225	7450	7,460	0.14%	776	\$32
Seg. 8 165 - 175	7760	7,950	2.45%	86	\$65
	7,164	7,257	0.50%	161,831	\$55,859

**6. AGC Control Deviation**

MW Range	High Dev MWh	Low Dev MWh	Total Dev MWh	Cost \$
Seg. 1 296 +	0	0	0	\$0
Seg. 2 284 - 296	0	0	0	\$0
Seg. 3 275 - 284	0	0	0	\$0
Seg. 4 250 - 275	0	0	0	\$7
Seg. 5 225 - 250	0	0	0	\$5
Seg. 6 200 - 225	0	0	0	\$0
Seg. 7 175 - 225	0	0	0	\$0
Seg. 8 165 - 175	0	0	0	\$0
	0	0	0	\$12

**7. Starting Reliability**

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	3	1	2
Start Time Benchmark (Minutes)	20		
Start Time Actual (Average Minute)	18	17	23
Start Time Deviation (%)	-12%	-15%	13%
Start Fuel Benchmark (mmBTU)	250		
Start Fuel Actual (Average mmBTU)	188	172	270
Fuel Deviation (%)	-28%	-31%	8%
Costs of Fuel Deviations (\$)	-\$834	-\$313	\$157



# **LEC PPC Meeting**

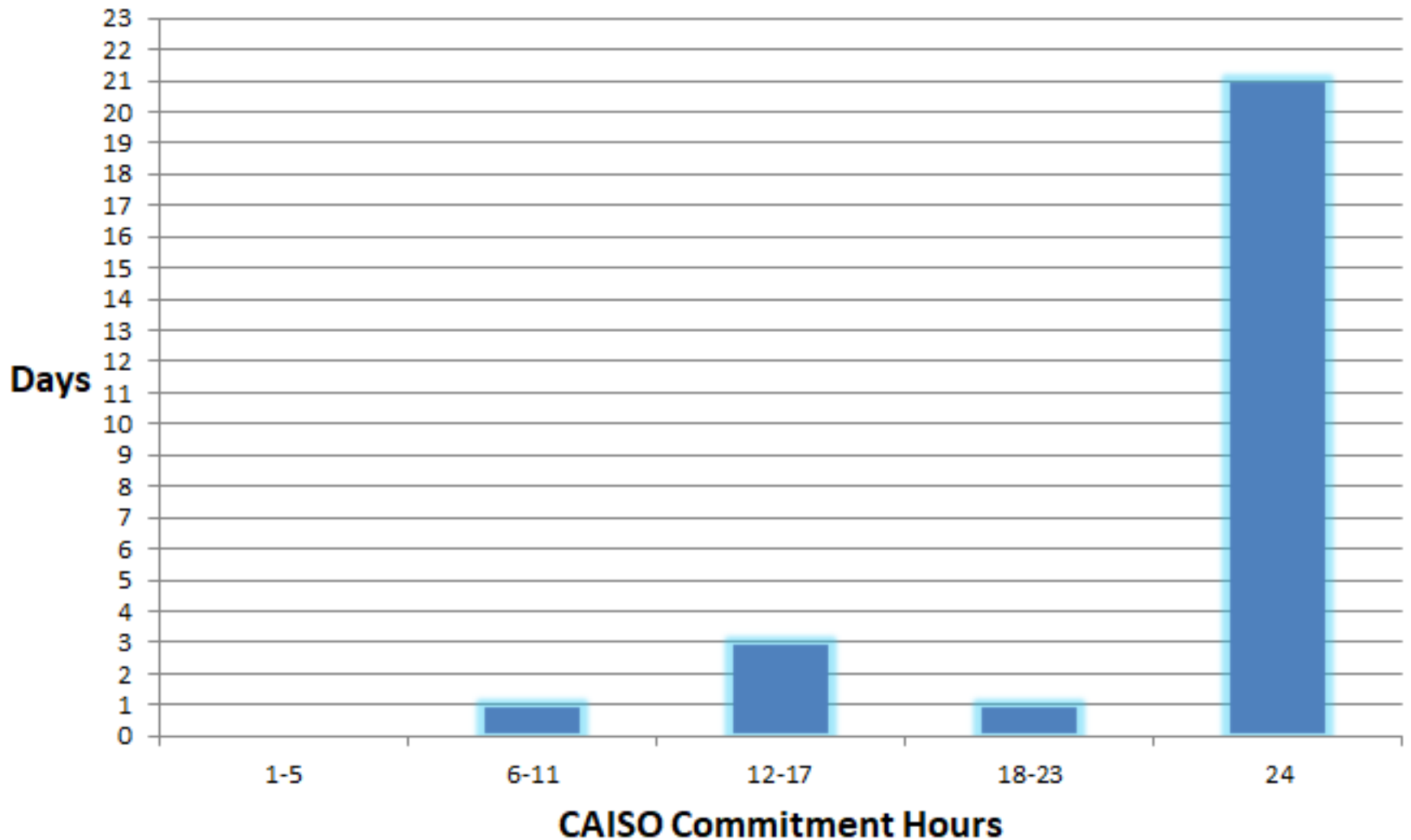
**December 12, 2022**

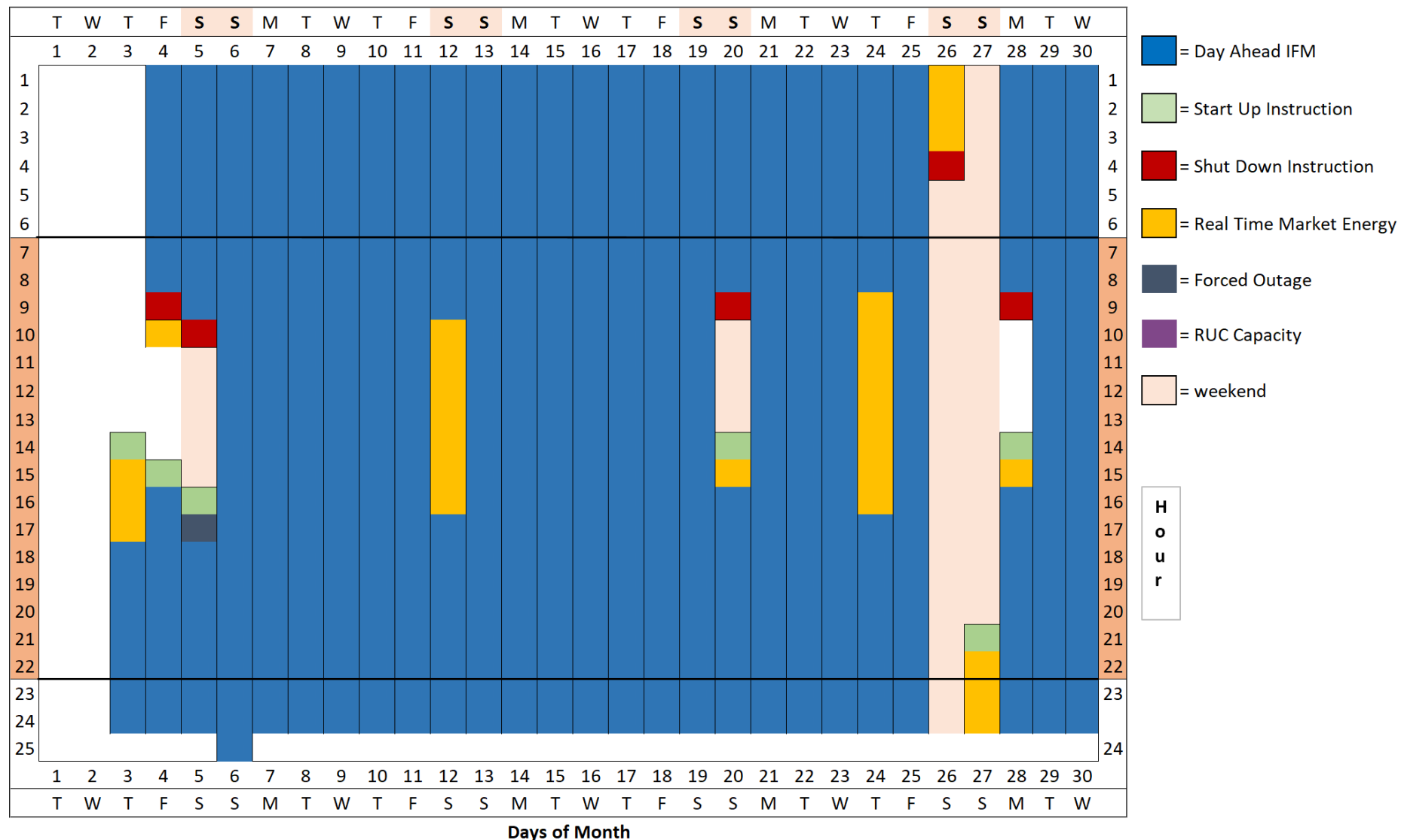
**November 2022 Market Financial Results**

## LEC Operational Results for November 2022

- Resource Adequacy Availability Metrics:
  - 100% - Monthly Assessment Generic Performance
  - 100% - Monthly Assessment Flexible Performance   Vs
  - 96.5% Availability Standard
- Estimated RAAIM Availability Incentive Payment depending on CAISO RAAIM incentive payment rate:
  - \$6.6k - \$20k for Generic RA based on claimed 115.92 MW
  - \$ 1.4k - \$4k for Flexible RA based on claimed 24.38 MW
- LEC was committed by CAISO for Market energy 26 days of 30 available days
  - Four (4) days not committed due to economics;
  - Twenty-one (21) total days of uninterrupted operations
  - There were six (6) starts during the month

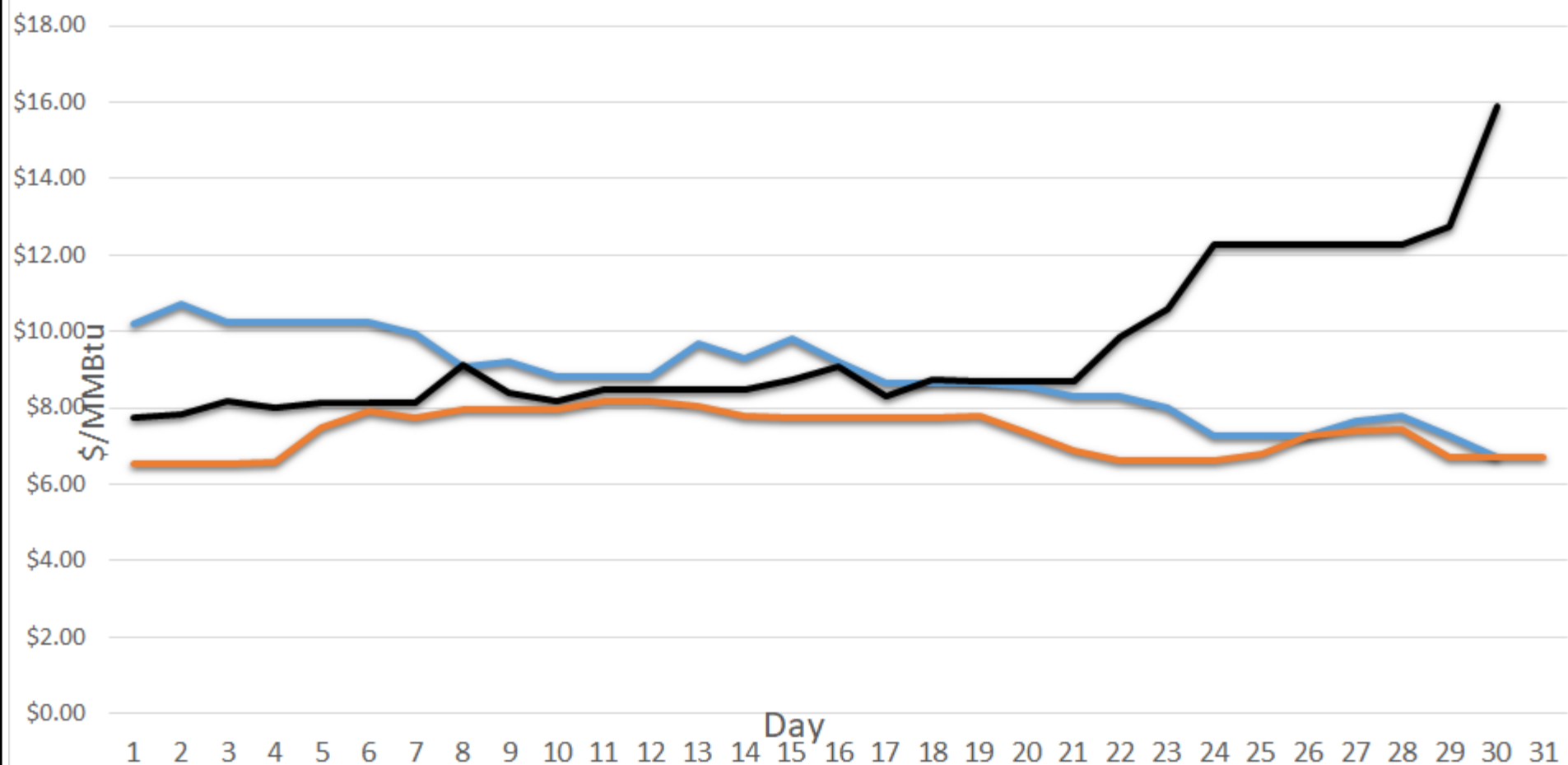
## Frequency Tabulation of Daily CAISO commitment hours for November 2022





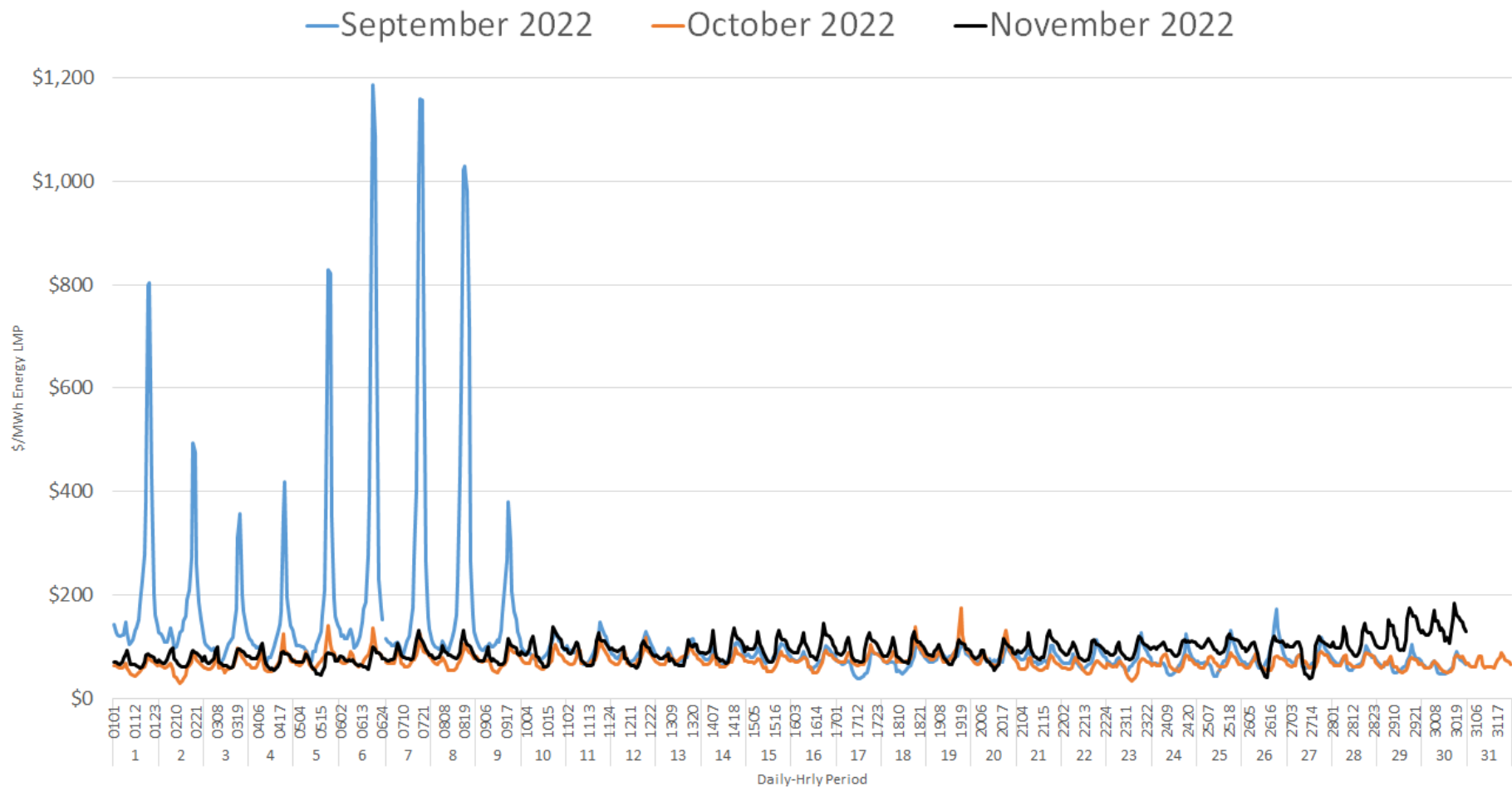
# November 2022 Daily PG&E City Gate Gas Index

September 2022    October 2022    November 2022

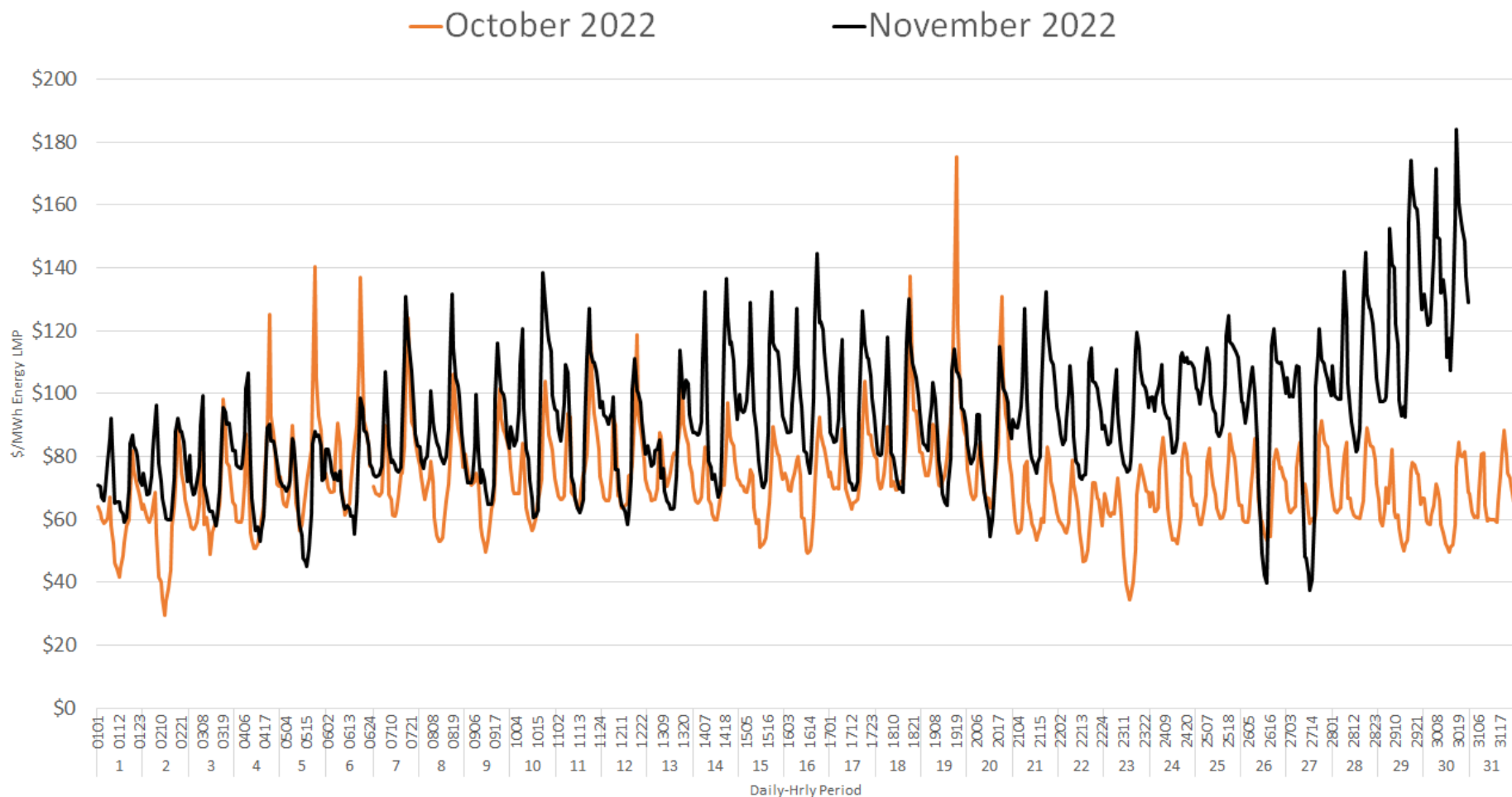




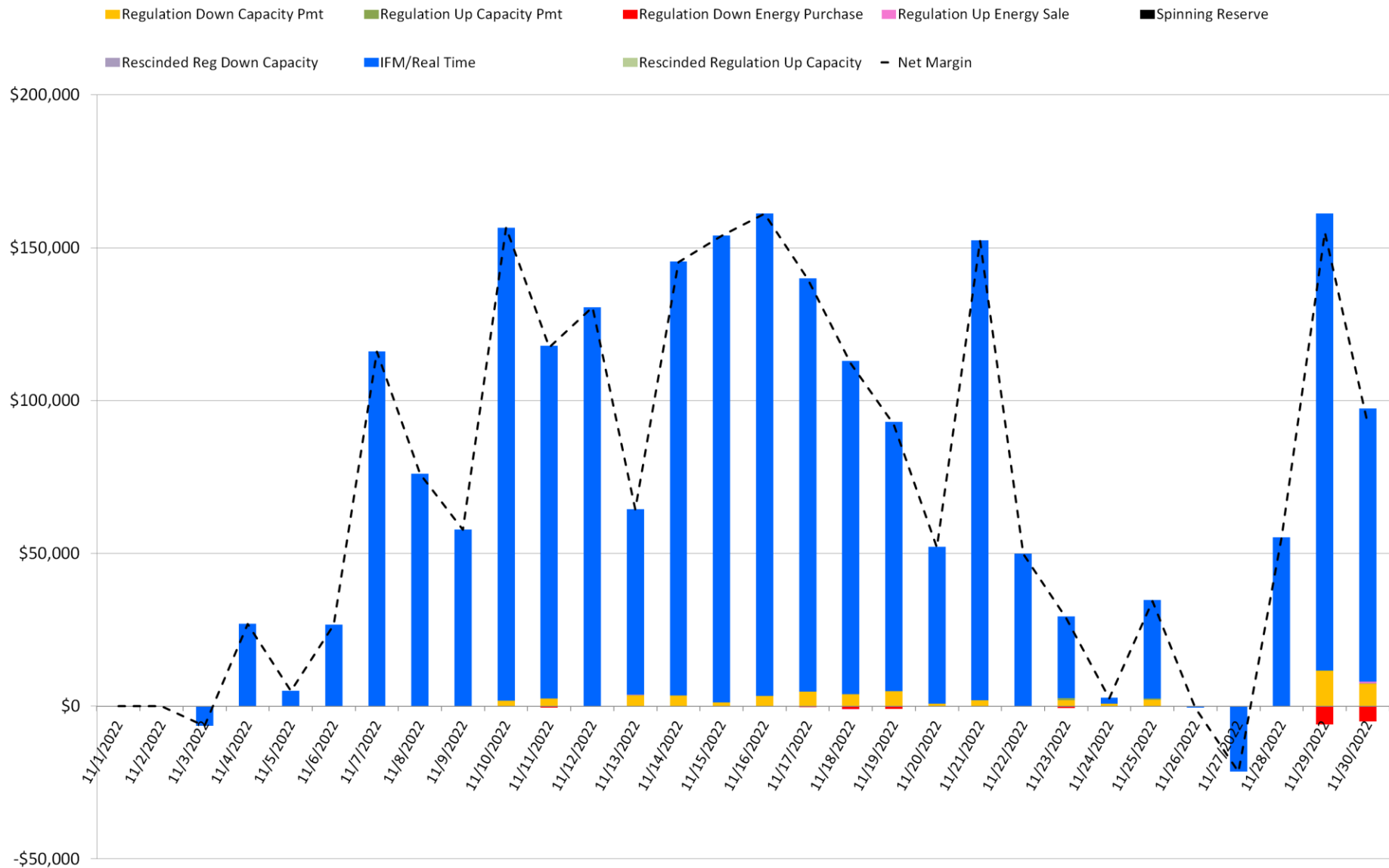
# DA Energy LMP values by Month



# DA Energy LMP values by Month



# November 2022 LEC Daily November Profile by Product



# November 2022 LEC Project Cumulative Monthly Margin

IFM/RTM Gross Revenues	\$	16,354,000	
Regulation Up Capacity	\$	1,800	
Regulation Down Capacity	\$	55,300	
Spinning Reserve	\$	-	
<b>Total Gross LEC Revenue</b>			<b>\$ 16,411,100</b>
LEC CAISO GMC Costs	\$	(49,700)	
CAISO Energy & Capacity Buyback Costs	\$	(513,100)	
Total Monthly LEC Fuel Cost	\$	(11,720,500)	
Total Monthly GHG Obligation	\$	(1,735,500)	
Variable Operations & Maintenance Cost	\$	(239,500)	
<b>Total Gross Costs</b>			<b>\$ (14,258,300)</b>
<b>Cumulative Monthly Margin</b>			<b>\$ 2,152,800</b>
<b>21 Days of Accrued LT Maintenance Costs</b>	\$	(318,795)	
<b>Net Cumulative Monthly Margin</b>			<b>\$ 1,834,005</b>
Average Net Margin \$/MWh			\$ 11.2

# Comparison of Day Ahead Congestion LEC vs NP15 Trade Hub

Net\_Amount by Day

● Increase ● Decrease ● Total

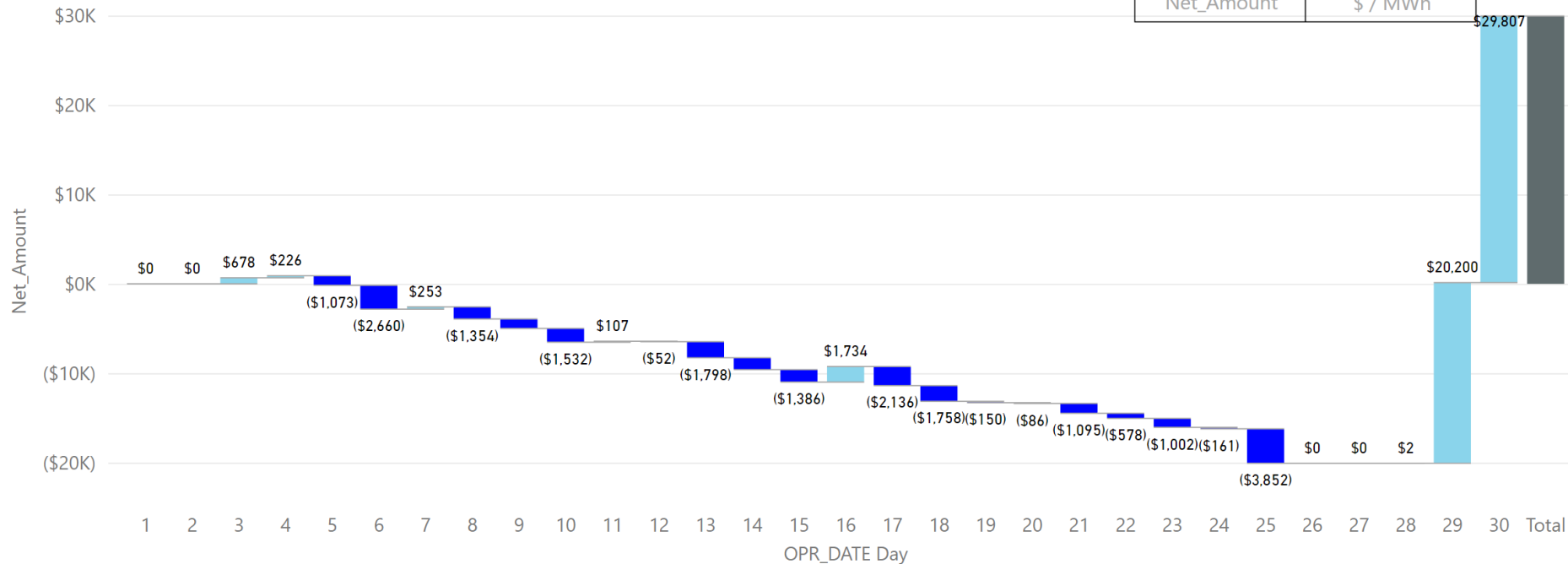
November 2022 Cost of Congestion Component

**\$29,945**

Net\_Amount

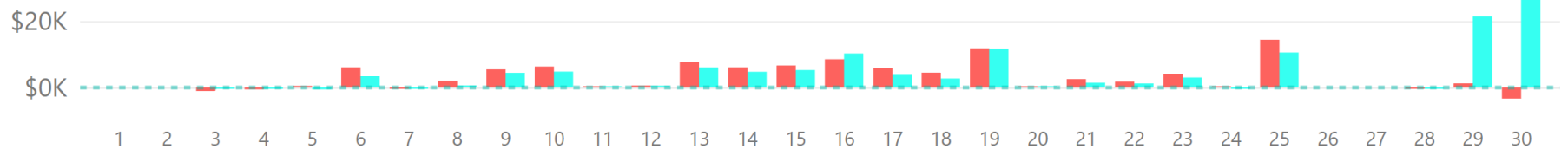
**\$0.18**

\$ / MWh



NP15\_Cost and LEC\_Cost by Day

● NP15\_Cost ● LEC\_Cost

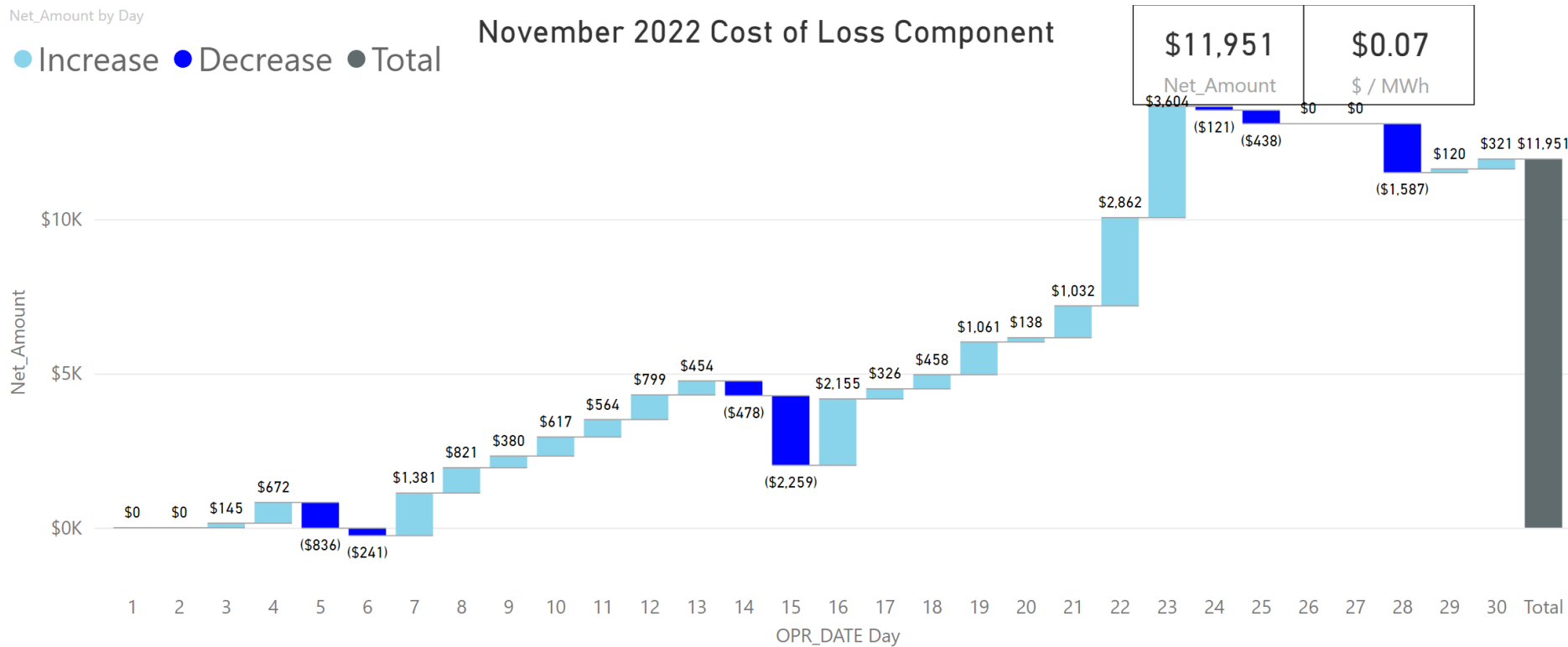


# Comparison of Day Ahead Loss Component LEC vs NP15 Trade Hub

Net\_Amount by Day

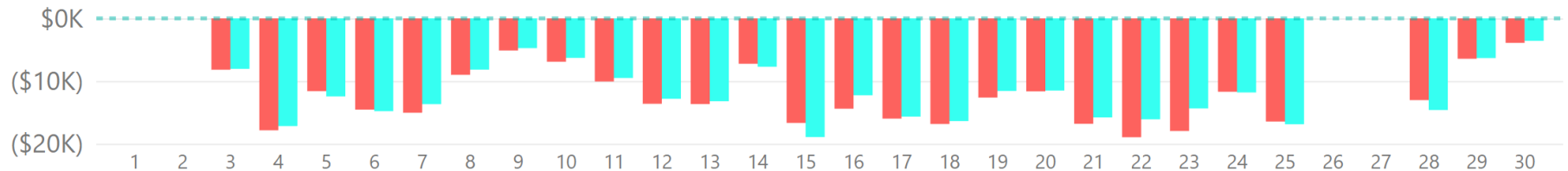
● Increase ● Decrease ● Total

November 2022 Cost of Loss Component



NP15\_Cost and LEC\_Cost by Day

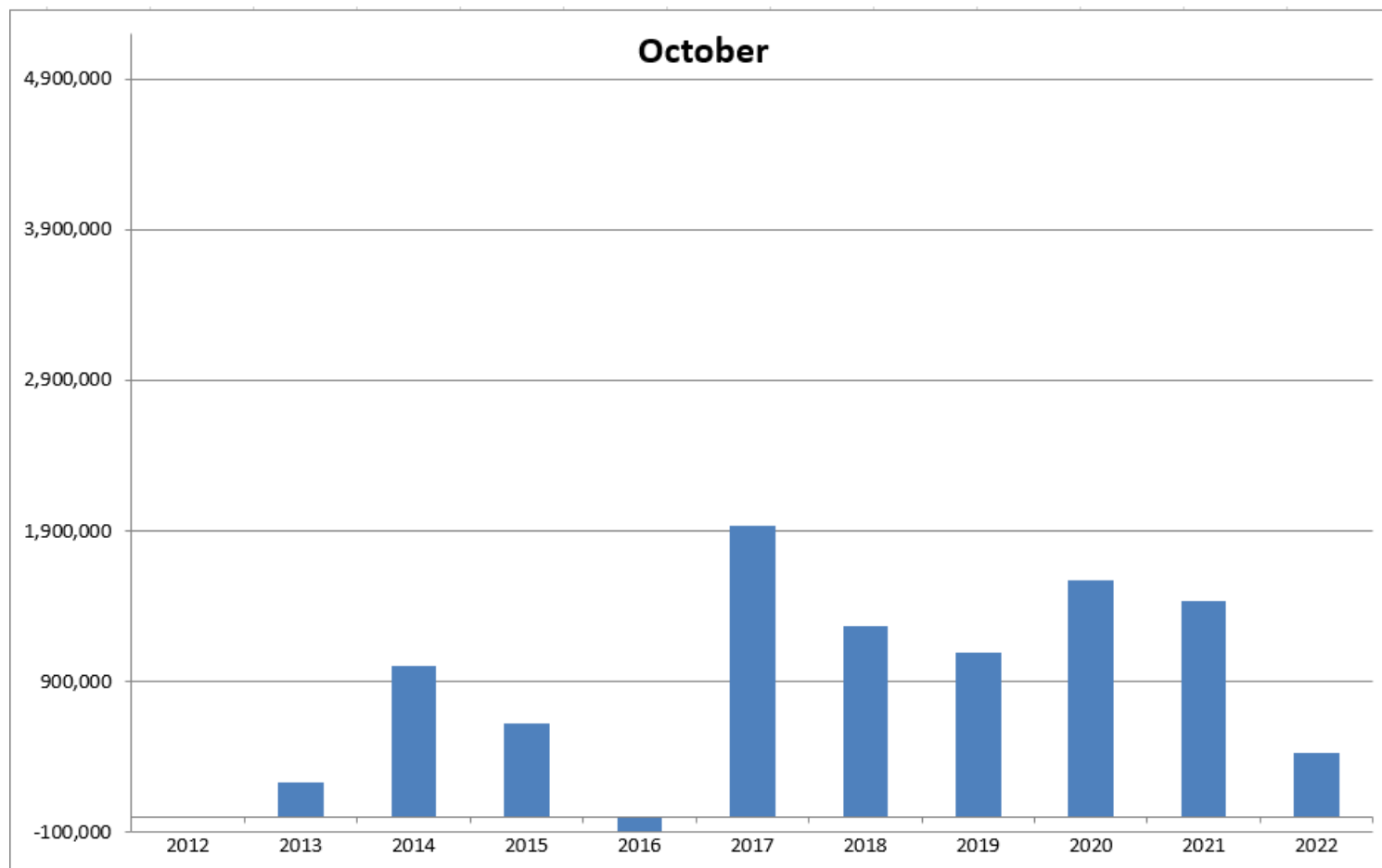
● NP15\_Cost ● LEC\_Cost



# October Asset Report

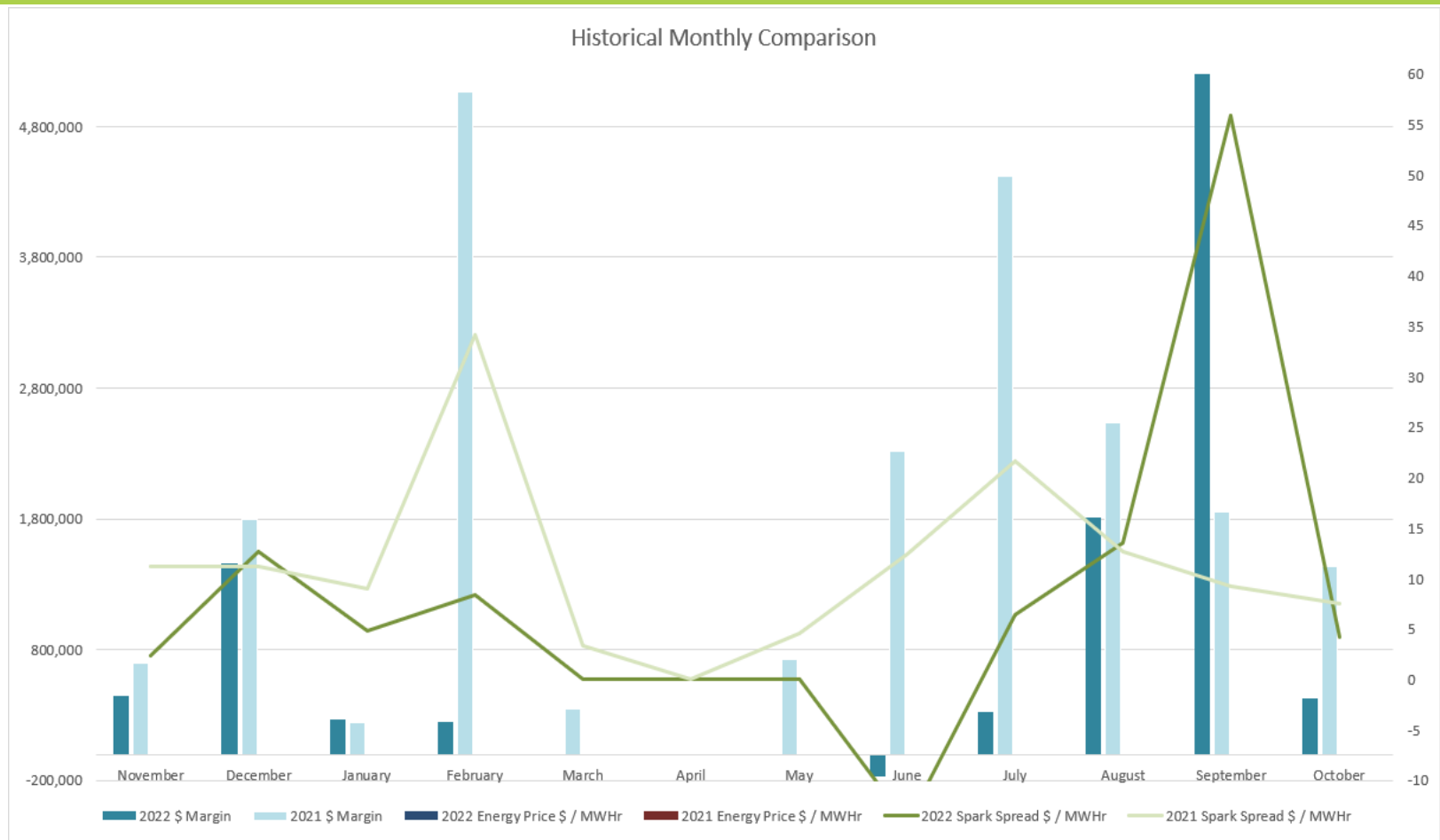
		Most Recent		Above / (below)	Percent Difference	
	Actual	Forecast	Budget	Forecast	Above / (below)	
Revenue	8,105,410	7,324,722	15,315,494	780,688	11%	Power prices ^160% and revenue ^47%
VOM	8,160,201	9,475,079	12,295,403	(1,314,878)	-14%	Higher fuel prices ^78%
Fixed	1,473,470	1,158,364	1,158,364	315,106	27%	ST final outage invoices and RAC outage
Projects	638,342	279,280	279,280	359,062	129%	Voith torque converter invoice (encumbered)
A&G	224,210	224,217	224,217	(7)	0%	
Debt	2,166,350	2,166,350	2,166,350	(0)	0.00%	
Net Cost	(4,557,163)	(5,978,569)	(808,121)	1,421,406	-24%	
Net Annual Cost		(17,065,312)	4,709,224	(\$21,774,535)		
				Above budget by 462.38%		

# Historical Margins



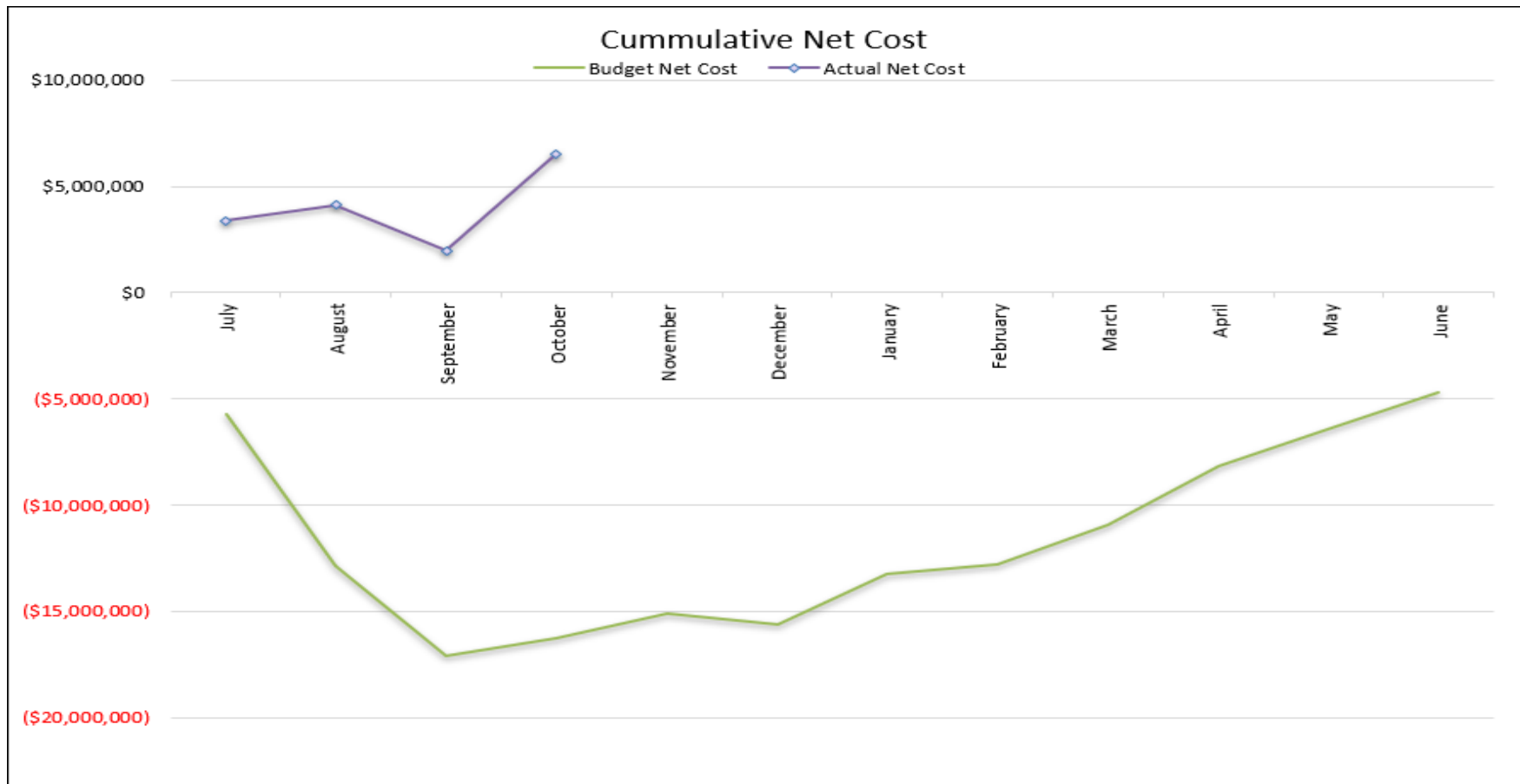
\* Historical Margins for October 2021 (1.4m) vs October 2022 (427k)





\* Spark Spread rose to \$56 (Sept) and declined to \$4.23 (Oct)= -\$51.77 \$/MWhr

\* Margin comparison from Oct 2021 (1.4m) vs Oct 2022 (427k)



\*\* On the cumulative chart, (historical asset reports) October was a soft month when compared to historical results. The actual trend will follow a historical pattern.

Lodi Energy Center  
Monthly Budget Analysis  
Expenditures  
Report Date: 11/16/2022

	July	August	September	October	November	December	January	February	March	April	May	June	Year	FY2023 Budget	Percent Used	Comments
VOM	4,095,484	12,532,232	10,546,727	8,160,201	9,508,129	14,824,446	15,845,392	10,744,997	8,096,750	0	6,272,706	7,851,822	108,478,888	94,127,609	115.2%	
Capacity Factor	23%	60%	46%	45%	48%	73%	71%	54%	40%	0%	35%	43%	45%	45%	100.0%	Capacity Factor lower by 44% vs forecast
Fuel Consumed (mmBTU, estimated)	383,556	967,914	736,096	727,663	778,603	1,183,154	1,154,489	848,153	702,628	0	622,241	698,440	8,802,937	11,557,251	76.2%	
Avg Fuel Cost (\$/mmBTU)	8.02	10.24	9.82	8.09	10.09	10.40	10.77	10.51	9.37	0.00	7.93	8.08	9.63	5.61	171.7%	Fuel cost was 78% higher vs. forecast
Power Produced (MWHr, estimated)	50,612	133,579	100,059	100,923	103,306	163,758	159,110	113,437	90,932	0	79,083	93,467	1,188,266	1,627,093	73.0%	Plant MWHr production down 43% vs forecast
Avg Power Price (\$/MWHr)	94.27	108.38	163.05	79.50	79.17	106.96	105.93	114.12	76.07	0.00	74.21	124.16	103.91	74.75	139.0%	Power Prices rose by 160% vs. forecast
Operations / Variable / LTSA	61,202	505,263	199,312	966,327	107,404	158,083	1,062,740	113,598	95,175	0	86,572	792,138	4,147,814	6,088,236	68.1%	
Fuel (estimated)	3,077,263	9,916,156	7,228,629	5,884,049	7,857,865	12,309,490	12,433,558	8,911,925	6,582,678	0	4,932,209	5,643,630	84,777,453	64,819,215	130.8%	
AB32 GHG Offset (estimated)	608,065	1,590,908	1,085,290	1,093,708	1,354,327	2,058,016	2,058,718	1,512,451	1,252,946	0	1,109,597	1,245,478	14,969,504	20,249,959	73.9%	
CA ISO Charges (estimated)	348,954	519,905	2,033,496	216,117	188,533	298,858	290,376	207,023	165,951	0	144,327	170,577	4,584,117	2,970,199	154.3%	
Routine O&M (Fixed)	1,488,545	341,261	1,087,702	1,473,470	994,526	947,526	1,294,501	936,026	991,663	1,193,663	1,029,532	1,254,406	13,032,821	12,741,784	102.3%	
Maintenance / Fixed	511,311	-394,386	390,161	784,407	240,863	240,863	350,000	240,863	275,000	325,000	275,000	240,863	3,479,944	3,151,902	110.4%	Siemens final outage invoices and RAC pipe leak
Administration	8,661	7,798	6,346	5,837	35,000	10,000	35,000	10,000	10,000	10,000	35,869	10,000	184,511	195,869	94.2%	
Mandatory Costs	57,504	32,740	17,496	12,537	17,000	20,000	16,000	8,500	30,000	32,000	42,000	26,880	312,657	365,380	85.6%	
Inventory Stock	0	0	0	0	0	0	0	0	0	0	0	0	0	-	0.0%	
Labor	680,683	430,671	430,326	418,394	458,677	433,677	650,515	433,677	433,677	583,677	433,677	733,677	6,121,325	6,112,796	100.1%	
Insurance	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	109,492	1,313,902	1,313,901	100.0%	
Power Management & Settlements	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	120,894	1,450,728	1,450,728	100.0%	
Other Costs	0	34,052	12,987	21,909	12,601	12,601	12,601	12,601	12,601	12,601	12,601	12,601	169,753	151,208	112.3%	
Projects	192,549	-14,837	214,028	638,342	529,280	279,280	279,280	309,280	279,280	279,280	279,280	279,280	3,544,323	3,631,362	97.6%	
Maintenance Reserve	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	167,366	2,008,392	2,008,392	100.0%	
Operations & Maintenance Projects	25,183	-182,203	46,662	14,745	111,914	111,914	111,914	111,914	111,914	111,914	111,914	111,914	799,700	1,342,970	59.5%	
Capital Projects	0	0	0	456,231	250,000	0	0	30,000	0	0	0	0	736,231	280,000	262.9%	CT Torque converter invoice (encumbered)
A&G	224,210	224,210	224,210	224,210	224,217	224,217	224,217	224,217	224,217	224,217	224,217	224,217	2,690,579	2,690,608	100.0%	
Administrative & General (Allocated)	189,197	189,197	189,197	189,197	189,198	189,198	189,198	189,198	189,198	189,198	189,198	189,198	2,270,371	2,270,375	100.0%	
Generation Services Shared	35,013	35,013	35,013	35,013	35,019	35,019	35,019	35,019	35,019	35,019	35,019	35,019	420,207	420,233	100.0%	
Total O&M Cost	6,000,788	13,082,866	12,072,667	10,496,223	11,256,152	16,275,470	17,643,391	12,214,521	9,591,911	1,697,161	7,805,736	9,609,726	127,746,611	113,191,363	112.9%	
Debt Service	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	2,166,350	25,996,202	25,996,203	100.0%	
Revenues	4,796,596	14,514,876	16,379,659	8,105,410	10,035,538	19,371,989	18,710,923	14,802,086	8,774,021	0	7,724,856	13,461,547	136,677,501	143,896,790	95.0%	
ISO Energy Sales (estimated)	4,771,209	14,476,684	16,314,404	8,023,396	8,179,098	17,515,550	16,854,484	12,945,647	6,917,581	0	5,868,417	11,605,107	123,471,576	121,619,515	101.5%	Higher revenue by 47% vs forecast
Other Income	25,387	38,192	65,255	82,014	1,856,440	1,856,440	1,856,440	1,856,440	1,856,440	0	1,856,440	1,856,440	13,205,925	22,277,275		
Net	(\$3,370,542)	(\$734,340)	\$2,140,642	(\$4,557,163)	(\$3,386,965)	\$930,169	(\$1,098,819)	\$421,215	(\$2,984,240)	(\$3,863,511)	(\$2,247,230)	\$1,685,471	(\$17,065,312)	\$4,709,224	Above budget by 462.38%	



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.: 8

---

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

---

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 \$729.

Investments - The carrying value of the LEC's investment portfolio totaled \$35,885,453 at month end. The current market value of the portfolio totaled \$34,171,903.

The overall portfolio had a combined weighted average interest rate of 1.778% with a bond equivalent yield (yield to maturity) of 1.935%. Investments with a maturity greater than one year totaled \$14,194,000. During the month \$2,190,859 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 77 basis points from 3.37% to 4.14% and rates on one year T-Bills increased 49 basis points from 4.07% to 4.56%.

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

## Environmental Analysis

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

Respectfully submitted,

*Monty Hanks*

MONTY HANKS  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

*Sandra Ainsworth*

SONDRA AINSWORTH  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**OCTOBER 31, 2022**

### **TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
<b>CASH &amp; INVESTMENT BALANCE</b>	<b>1</b>
<b>CASH ACTIVITY SUMMARY</b>	<b>2</b>
<b>INVESTMENT ACTIVITY SUMMARY</b>	<b>3</b>
<b>INTEREST RATE/YIELD ANALYSIS</b>	<b>4</b>
<b>INVESTMENT MATURITIES ANALYSIS</b>	<b>5</b>
<b>DETAIL REPORT OF INVESTMENTS</b>	<b>APPENDIX</b>

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

	<b>CASH</b>	<b>INVESTMENTS</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>INVESTMENTS at MARKET</b>
<b>MANDATORY FUNDS</b>					
Debt Service Account	\$ 729	\$ 11,067,872	\$ 11,068,601	30.84%	\$ 11,059,721
Debt Service Reserve	-	12,586,305	12,586,305	35.07%	12,035,432
O & M Reserve	-	11,766,233	11,766,233	32.79%	10,611,707
	<b>729</b>	<b>35,420,410</b>	<b>35,421,139</b>	<b>98.70%</b>	<b>33,706,860</b>
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	465,043	465,043	1.30%	465,043
Participant Deposit Account	-	-	-	-	-
	<b>\$ 729</b>	<b>\$ 35,885,453</b>	<b>\$ 35,886,182</b>	<b>100.00%</b>	<b>\$ 34,171,903</b>

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

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash Activity Summary**  
**October 31, 2022**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Debt Service Account	\$ -	\$ 1	\$ -	\$ -	\$ (2,166,978)	\$ 2,166,379	\$ (598)
Debt Service Reserve	-	-	-	-	-	-	-
O & M Reserve	-	21,422	-	-	(21,422)	-	-
	-	21,423	-	-	(2,188,400)	2,166,379	(598)
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	2,459	-	-	(2,459)	-	-
Participant Deposit Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 23,882</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (2,190,859)</b>	<b>\$ 2,166,379</b>	<b>\$ (598)</b>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**October 31, 2022**

			(NON-CASH)	(NON-CASH)	INVESTMENTS	
	PURCHASED	SOLD OR	DISC/(PREM)	GAIN/(LOSS)	TRANSFERS	INCREASE /
		MATURED	AMORT	ON SALE		(DECREASE)
<b>MANDATORY FUNDS</b>						
Debt Service Account	\$ 2,166,978	\$ -	\$ 21,438	\$ -	\$ -	\$ 2,188,416
Debt Service Reserve	-	-	13,923	-	-	13,923
O & M Reserve	21,422	-	(448)	-	-	20,974
	<u>2,188,400</u>	<u>-</u>	<u>34,913</u>	<u>-</u>	<u>-</u>	<u>2,223,313</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	2,459	-	-	-	-	2,459
Participant Deposit Acct.	-	-	-	-	-	-
<b>TOTAL</b>	<u>\$ 2,190,859</u>	<u>\$ -</u>	<u>\$ 34,913</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,225,772</u>

**Less Non- Cash Activity**

Disc/(Prem) Amortization & Gain/(Loss) on Sale	(34,913)
<b>Net Change in Investment –Before Non-Cash Activity</b>	<u><u>\$ 2,190,859</u></u>

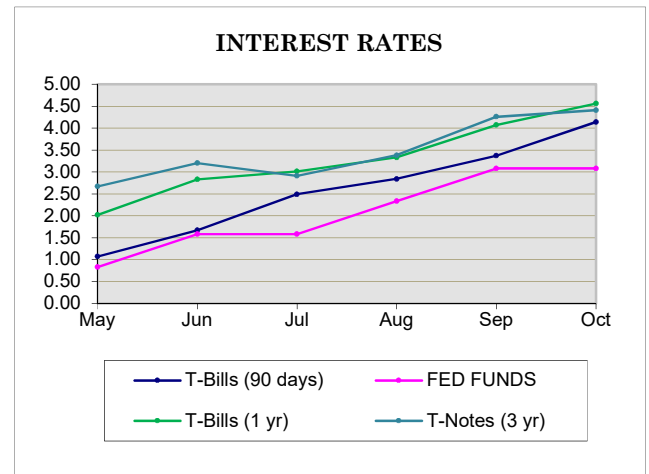
**NOTE A -Investment amounts shown at book carrying value.**



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

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b>1.778%</b>	<b>1.935%</b>
Debt Service Account	<b>2.367%</b>	<b>2.900%</b>
Debt Service Reserve	<b>1.589%</b>	<b>1.618%</b>
O & M Reserve	<b>1.392%</b>	<b>1.341%</b>
GHG Cash Account	<b>2.610%</b>	<b>2.610%</b>

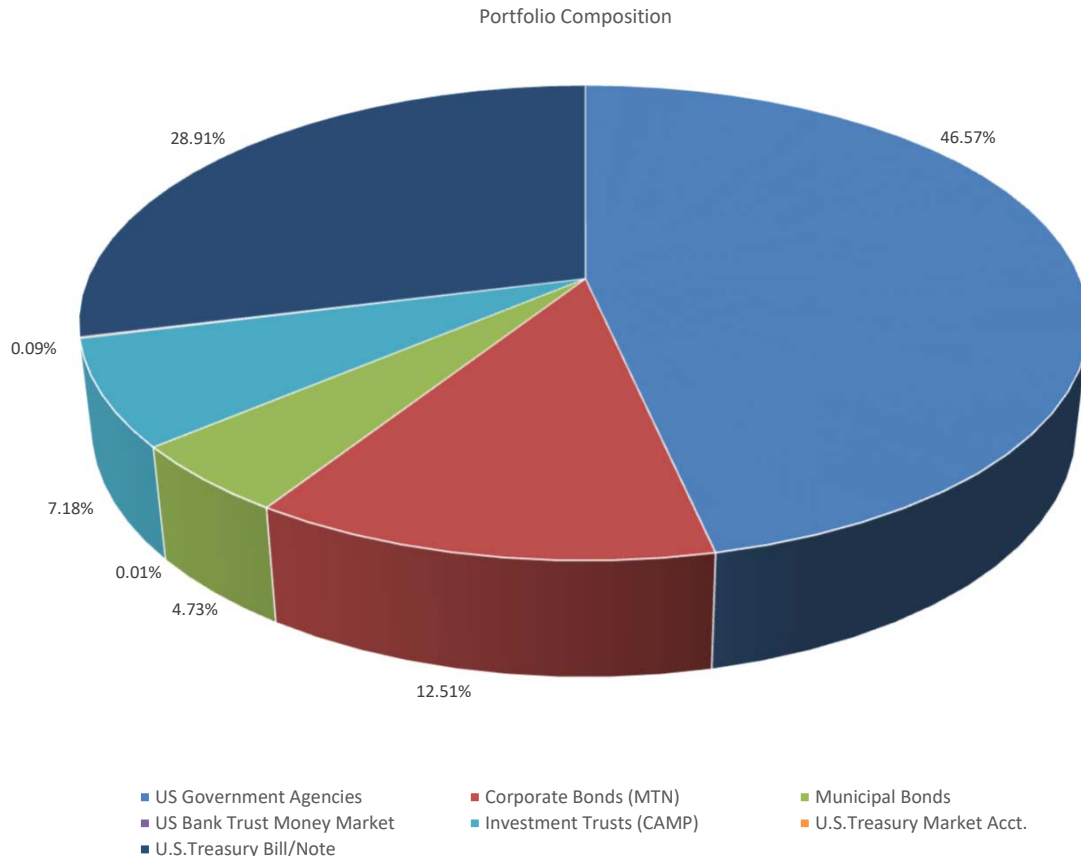
<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Funds (Overnight)	<b>3.08%</b>	<b>0.08%</b>
T-Bills (90da.)	<b>4.14%</b>	<b>0.06%</b>
Agency Disc (90da.)	<b>4.07%</b>	<b>0.11%</b>
T-Bills (1yr.)	<b>4.56%</b>	<b>0.14%</b>
Agency Disc (1yr.)	<b>4.55%</b>	<b>0.11%</b>
T-Notes (3yr.)	<b>4.41%</b>	<b>0.76%</b>



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

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ 8,727	\$ -	\$ -	\$ -	\$ 8,000	\$ -	\$ 16,727	46.57%
Corporate Bonds (MTN)	-	-	-	-	-	4,494	-	4,494	12.51%
Municipal Bonds	-	-	-	-	-	1,700	-	1,700	4.73%
US Bank Trust Money Market	3	-	-	-	-	-	-	3	0.01%
Investment Trusts (CAMP)	2,578	-	-	-	-	-	-	2,578	7.18%
U.S.Treasury Market Acct.	33	-	-	-	-	-	-	33	0.09%
U.S.Treasury Bill/Note	-	10,383	-	-	-	-	-	10,383	28.91%
<b>Total Dollars</b>	<b>\$ 2,614</b>	<b>\$19,110</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$14,194</b>	<b>\$ -</b>	<b>\$ 35,918</b>	<b>100.00%</b>
<b>Total Percents</b>	<b>7.28%</b>	<b>53.20%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>39.52%</b>	<b>0.00%</b>	<b>100.00%</b>	

Investments are shown at Face Value, in thousands.



# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

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



## Northern California Power Agency

## Treasurer's Report

10/31/2022

## LEC Issue #1 2010B DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	658	0.005		658		1	0.005	658	SYS79004	79004	658
Federal Home Loan Ba	USBT	723,000	0.000	10/28/2022	720,751	11/29/2022	28	3.559	720,918	313385R32	27477	721,032
Federal Home Loan Ba	USBT	725,000	3.190	09/27/2022	720,888	11/30/2022	29	3.252	722,796	313385R40	27466	723,137
Federal Home Loan Ba	USBT	728,000	2.200	06/29/2022	721,104	12/01/2022	30	2.251	725,649	313385R57	27426	726,665
Federal Home Loan Ba	USBT	728,000	2.660	07/27/2022	721,169	12/01/2022	30	2.722	725,649	313385R57	27434	726,386
U.S. Treasury	USBT	113,000	1.550	06/03/2022	112,119	12/01/2022	30	1.583	112,676	912796P94	27413	112,854
U.S. Treasury	USBT	726,000	2.756	08/29/2022	720,776	12/01/2022	30	2.814	723,916	912796P94	27450	724,333
<b>Fund Total and Average</b>		<b>\$ 3,743,658</b>	2.144		<b>\$ 3,717,465</b>		<b>29</b>	<b>2.878</b>	<b>\$ 3,732,262</b>			<b>\$ 3,735,065</b>

## LEC Issue #2 2010B DS Fund

US Bank Trust	USB	864	0.005		864		1	0.005	864	SYS79012	79012	864
Federal Home Loan Ba	USBT	781,000	0.000	10/28/2022	778,570	11/29/2022	28	3.559	778,751	313385R32	27478	778,874
Federal Home Loan Ba	USBT	784,000	3.189	09/27/2022	779,554	11/30/2022	29	3.252	781,617	313385R40	27467	781,985
Federal Home Loan Ba	USBT	787,000	2.200	06/29/2022	779,545	12/01/2022	30	2.251	784,458	313385R57	27427	785,557
Federal Home Loan Ba	USBT	786,000	2.660	07/27/2022	778,624	12/01/2022	30	2.722	783,461	313385R57	27435	784,258
U.S. Treasury	USBT	60,000	2.149	06/15/2022	59,394	12/01/2022	30	2.202	59,828	912796P94	27417	59,893
U.S. Treasury	USBT	785,000	2.755	08/29/2022	779,351	12/01/2022	30	2.814	782,747	912796P94	27451	783,197
<b>Fund Total and Average</b>		<b>\$ 3,983,864</b>	2.163		<b>\$ 3,955,902</b>		<b>29</b>	<b>2.908</b>	<b>\$ 3,971,726</b>			<b>\$ 3,974,628</b>

## LEC Issue#1 2017A DS Fund

Federal Home Loan Ba	USBT	669,000	3.499	10/28/2022	666,919	11/29/2022	28	3.559	667,073	313385R32	27479	667,179
Federal Home Loan Ba	USBT	670,000	3.189	09/27/2022	666,200	11/30/2022	29	3.252	667,963	313385R40	27468	668,278
Federal Home Loan Ba	USBT	673,000	2.200	06/29/2022	666,625	12/01/2022	30	2.251	670,826	313385R57	27428	671,766
Federal Home Loan Ba	USBT	673,000	2.660	07/27/2022	666,685	12/01/2022	30	2.722	670,826	313385R57	27436	671,508
U.S. Treasury	USBT	11,000	1.549	06/03/2022	10,914	12/01/2022	30	1.583	10,968	912796P94	27414	10,986
U.S. Treasury	USBT	670,000	2.756	08/29/2022	665,179	12/01/2022	30	2.814	668,077	912796P94	27452	668,461
<b>Fund Total and Average</b>		<b>\$ 3,366,000</b>	2.856		<b>\$ 3,342,522</b>		<b>29</b>	<b>2.915</b>	<b>\$ 3,355,733</b>			<b>\$ 3,358,178</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,093,522</b>	2.367		<b>\$ 11,015,889</b>		<b>29</b>	<b>2.900</b>	<b>\$ 11,059,721.</b>			<b>\$ 11,067,871</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 10/31/2022



## Northern California Power Agency

## Treasurer's Report

10/31/2022

## LEC Issue #1 2010 DSR Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	160	0.005		160		1	0.005	160	SYS79005	79005	160
U.S. Treasury	USBT	4,250,000	2.150	06/15/2022	4,207,105	12/01/2022	30	2.202	4,237,803	912796P94	27418	4,242,385
U.S. Treasury	USBT	514,000	1.952	06/21/2022	509,455	12/01/2022	30	1.997	512,525	912796P94	27422	513,163
U.S. Treasury	USBT	37,000	2.809	09/27/2022	36,812	12/01/2022	30	2.863	36,894	912796P94	27469	36,913
Federal Farm Credit	USBT	4,430,000	0.840	03/02/2021	4,430,000	03/02/2026	1,217	0.840	3,906,728	3133EMSK9	27199	4,430,000
Federal Home Loan Ba	USBT	150,000	0.875	08/27/2021	150,528	06/12/2026	1,319	0.799	132,326	3130AN4T4	27270	150,398
Fund Total and Average		\$ 9,381,160	1.502		\$ 9,334,060		612	1.527	\$ 8,826,436			\$ 9,373,019

## LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	531	0.005		531		1	0.005	531	SYS79006	79006	531
U.S. Treasury	USBT	2,277,000	1.550	06/03/2022	2,259,255	12/01/2022	30	1.583	2,270,465	912796P94	27415	2,274,059
Fund Total and Average		\$ 2,277,531	1.550		\$ 2,259,786		30	1.584	\$ 2,270,996			\$ 2,274,590

## LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	698	0.005		698		1	0.005	698	SYS79013	79013	698
U.S. Treasury	USBT	154,000	1.549	06/03/2022	152,800	12/01/2022	30	1.583	153,558	912796P94	27416	153,801
U.S. Treasury	USBT	786,000	2.756	08/29/2022	780,344	12/01/2022	30	2.814	783,744	912796P94	27454	784,195
Fund Total and Average		\$ 940,698	2.556		\$ 933,842		30	2.611	\$ 938,000			\$ 938,694
GRAND TOTALS:		\$ 12,599,389	1.589		\$ 12,527,688		463	1.618	\$ 12,035,432.			\$ 12,586,303

\*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 10/31/2022

## Callable Dates:

Inv #

27199 FFCB Anytime



**Northern California Power Agency**  
**Treasurer's Report**  
**10/31/2022**

**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		0	1.329		0		1	1.329	0	SYS70047	70047	0
First American Govt.	USBGC	33,077	2.730		33,077		1	2.730	33,077	SYS70041	70041	33,077
California Asset Mgm	CMP	2,113,272	2.610	09/09/2022	2,113,272		1	2.610	2,113,272	SYS70075	70075	2,113,272
Caterpillar Financia	USBGC	465,000	3.250	02/03/2020	496,569	12/01/2024	761	1.776	449,822	14912L6G1	26952	478,623
Nashville Met Gov	USBGC	500,000	0.610	02/18/2021	500,000	07/01/2025	973	0.610	446,605	592112UB0	27176	500,000
Federal National Mtg	USBGC	1,000,000	0.600	07/30/2020	1,001,000	07/29/2025	1,001	0.579	894,100	3136G4D75	27047	1,000,549
Federal National Mtg	USBGC	1,000,000	0.600	08/18/2020	1,000,000	08/18/2025	1,021	0.600	892,270	3136G4G72	27057	1,000,000
Federal Farm Credit	USBGC	750,000	0.530	09/29/2020	750,000	09/29/2025	1,063	0.530	665,295	3133EMBH4	27083	750,000
Federal Farm Credit	USBGC	670,000	0.530	09/29/2020	670,000	09/29/2025	1,063	0.530	590,250	3133EMBJ0	27084	670,000
Apple Inc.	USBGC	500,000	0.700	02/17/2021	500,000	02/08/2026	1,195	0.699	437,815	037833EB2	27170	500,000
JP Morgan	USBGC	500,000	1.200	04/30/2021	500,000	04/30/2026	1,276	1.200	421,795	48128G3G3	27222	500,000
MassMutual Global Fu	USBGC	1,000,000	1.200	08/02/2021	1,007,220	07/16/2026	1,353	1.050	871,430	57629WDE7	27250	1,005,403
Bank of America Corp	USBGC	100,000	1.250	08/26/2021	100,000	08/26/2026	1,394	1.250	84,404	06048WN22	27259	100,000
Caterpillar Financia	USBGC	500,000	1.150	10/13/2021	498,165	09/14/2026	1,413	1.227	432,760	14913R2Q9	27290	498,557
TSMC Arizona Corp.	USBGC	850,000	1.750	12/08/2021	857,242	10/25/2026	1,454	1.567	733,499	872898AA9	27335	855,911
Public Storage	USBGC	515,000	1.500	11/15/2021	515,242	11/09/2026	1,469	1.490	447,983	74460DAG4	27310	515,195
Public Storage	USBGC	1,064,000	1.500	12/08/2021	1,065,234	11/09/2026	1,469	1.475	925,542	74460DAG4	27341	1,065,009
City of Beverly Hill	USBGC	200,000	1.327	06/28/2022	179,194	06/01/2027	1,673	3.654	171,788	088006KB6	27424	180,637
<b>Fund Total and Average</b>		<b>\$ 11,760,349</b>	1.392		<b>\$ 11,786,215</b>		<b>994</b>	<b>1.341</b>	<b>\$ 10,611,707</b>			<b>\$ 11,766,233</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,760,349</b>	1.392		<b>\$ 11,786,215</b>		<b>994</b>	<b>1.341</b>	<b>\$ 10,611,707.</b>			<b>\$ 11,766,233</b>

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

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 10/31/2022

**Callable Dates:**

Inv #

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



Northern California Power Agency  
Treasurer's Report  
10/31/2022

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		0	1.329		0		1	1.329	0	SYS70046	70046	0
California Asset Mgm	CMP	465,043	2.610	09/13/2022	465,043		1	2.610	465,043	SYS70077	70077	465,043
Fund Total and Average		\$ 465,043	2.610		\$ 465,043		1	2.610	\$ 465,043			\$ 465,043
GRAND TOTALS:		\$ 465,043	2.610		\$ 465,043		1	2.610	\$ 465,043.			\$ 465,043

\*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 10/31/2022



**Lodi Energy Center Project Participant Committee**

**LEC Financial Reports**

AGENDA ITEM NO.: 9

---

**Date:** December 12, 2022

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

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

---



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

	October	
	2022	2021
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 465,043	\$ 85,209
Interest receivable	25,903	43,596
Inventory and supplies - at average cost	2,708,603	2,722,066
Prepaid insurance	161,818	123,889
Due from (to) Agency, net	43,263,306	44,684,019
<b>TOTAL CURRENT ASSETS</b>	<b>46,624,673</b>	<b>47,658,779</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	6,527,388	10,886,100
Investments	28,893,749	29,287,451
Interest receivable	6,606	40,686
<b>TOTAL RESTRICTED ASSETS</b>	<b>35,427,743</b>	<b>40,214,237</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	447,458,697	410,208,080
Less: accumulated depreciation	(128,951,651)	(113,734,864)
<b>TOTAL ELECTRIC PLANT</b>	<b>318,507,046</b>	<b>296,473,216</b>
<b>OTHER ASSETS</b>		
Regulatory assets	29,530,647	25,195,414
<b>TOTAL OTHER ASSETS</b>	<b>29,530,647</b>	<b>25,195,414</b>
<b>TOTAL ASSETS</b>	<b>430,090,109</b>	<b>409,541,646</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Unamortized excess cost on advance refunding of debt, net	743,450	1,075,405
Asset retirement obligations	193,985	189,104
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>937,435</b>	<b>1,264,509</b>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<b>\$ 431,027,544</b>	<b>\$ 410,806,155</b>

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

	October	
	2022	2021
<b>LIABILITIES &amp; NET POSITION</b>		
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 5,905,093	\$ 9,617,674
Operating reserves	13,151,734	16,619,175
Current portion of long-term debt	13,842,676	12,880,000
Accrued interest payable	5,316,242	5,467,085
<b>TOTAL CURRENT LIABILITIES</b>	<b>38,215,745</b>	<b>44,583,934</b>
<b>NON-CURRENT LIABILITIES</b>		
Operating reserves and other deposits	461,985	227,953
Asset retirement obligations	193,985	189,104
Long-term debt, net	315,948,765	293,655,000
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>316,604,735</b>	<b>294,072,057</b>
<b>TOTAL LIABILITIES</b>	<b>354,820,480</b>	<b>338,655,991</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Regulatory credits	38,413,012	40,144,957
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	2,045,360	3,743,266
Restricted	5,758,964	10,350,887
Unrestricted	29,989,728	17,911,054
<b>TOTAL NET POSITION</b>	<b>37,794,052</b>	<b>32,005,207</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION</b>	<b>\$ 431,027,544</b>	<b>\$ 410,806,155</b>

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

		<b>Four Months Ended October</b>	
		<b>2022</b>	<b>2021</b>
<b>SALES FOR RESALE</b>			
Participants	\$	30,713,464	\$ 19,733,324
Other		43,644,579	57,001,872
<b>TOTAL SALES FOR RESALE</b>		<b>74,358,043</b>	<b>76,735,196</b>
<b>OPERATING EXPENSES</b>			
Operations		32,485,168	45,021,509
Depreciation		4,717,376	4,716,681
Purchased power		2,951,705	1,829,252
Maintenance		1,355,702	1,481,158
Administrative and general		1,897,149	1,952,120
Transmission		354,048	336,887
Intercompany (sales) purchases		140,052	121,587
<b>TOTAL OPERATING EXPENSES</b>		<b>43,901,200</b>	<b>55,459,194</b>
<b>NET OPERATING REVENUES</b>		<b>30,456,843</b>	<b>21,276,002</b>
<b>OTHER REVENUES (EXPENSES)</b>			
Interest expense		(4,352,020)	(4,475,771)
Interest income		1,452,746	108,088
Amortization		-	-
Insurance reimbursements		-	-
Other		3,483,956	3,247,346
<b>TOTAL OTHER REVENUES (EXPENSES)</b>		<b>584,682</b>	<b>(1,120,337)</b>
<b>FUTURE RECOVERABLE AMOUNTS</b>		<b>(190,093)</b>	<b>(4,611,484)</b>
<b>INCREASE IN NET POSITION</b>		<b>30,851,432</b>	<b>15,544,181</b>
<b>NET POSITION</b>			
Beginning of year		6,942,620	16,461,026
End of period	\$	37,794,052	\$ 32,005,207







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

### **LEC GHG Reports**

AGENDA ITEM NO.: 10

---

**Date:** December 12, 2022

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

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

---

[illegible]

	CY 2022 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for Lodi Energy Center													
	Actual										Estimated		CY 2022	Cumulative
IDENTIFIER	January	February	March	April	May	June	July	August	September	October	November	December	Total	Total
Energy (MWh)	55,697	29,584	0	0	0	15,031	50,618	133,586	100,052	100,923	159,352	170,404	815,247	11,198,517
Gas Schedule (MMBtu)	403,195	220,591	0	0	0	123,728	388,460	972,424	731,580	731,368	1,236,569	1,322,339	6,130,254	80,764,461
Emissions Factor (MT/MMBtu)	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054		
HVAC/Water Heater (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	6,315
Monthly MT Obligation (MTO)	21,758	11,904	0	0	0	6,677	20,963	52,477	39,480	39,468	66,731	71,360	330,818	4,366,504
Annual Cal e-GGRT/MT Obligation True Up (MTO)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cumulative MT Obligation (MTO)	633,125	645,029	645,029	645,029	645,029	651,706	672,669	725,146	764,626	804,094	870,825	942,185	942,185	942,185
Compliance Instrument Participant Transfers														
Carryover Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	69,263
Auction Allowances	55,655	0	223,522	0	0	100,000	19,000	0	80,537	(3,786)	46,899	0	521,827	4,574,502
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	55,655	0	223,522	0	0	100,000	19,000	0	80,537	(3,786)	46,899	0	521,827	4,643,765
NCPA Compliance Instrument Purchases														
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument NCPA Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Internal Transfers (LEC from/to STIG)	0	0	0	0	0	0	0	0	0	0	0	0	0	(678)
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	3,418,853
Total Monthly Activity (MT)	55,655	0	223,522	0	0	100,000	19,000	0	80,537	(3,786)	46,899	0	521,827	4,690,087
Cumulative MT Account Balance (MTA)	805,740	805,740	1,029,262	1,029,262	1,029,262	1,129,262	1,148,262	1,148,262	1,228,799	1,225,013	1,271,912	1,271,912	1,271,912	1,271,912
MTA Shortfall (MT)	(172,615)	(160,711)	(384,233)	(384,233)	(384,233)	(477,556)	(475,593)	(423,116)	(464,173)	(420,919)	(401,087)	(329,727)	(329,727)	(329,727)
Current Month CCA Balance (\$)	0	0	0	0	0	0	0	0	0	0	0	461,028	461,028	461,028
Monthly GHG Price	29.96	30.16	35.09	30.55	30.75	35.69	31.14	31.34	36.28	31.74	31.93	36.87		





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

AGENDA ITEM NO.: 11

---

**Meeting Date:** December 12, 2022

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

**Subject:** Proclaiming a Local Emergency Persists in the City of Santa Clara and the Modesto Irrigation District, Re-Ratifying the Proclamation of a State of Emergency Issued by Governor Gavin Newsom, and Authorizing the Continuation of Remote Teleconference Meetings of the Lodi Energy Center Project Participant Committee for the Period of December 12, 2022, through January 11, 2023, Pursuant to the Brown Act

---

### Proposal

Proclaim that a local emergency persists in the City of Santa Clara and the Modesto Irrigation District, re-ratify the Proclamation of a State of Emergency issued by Governor Gavin Newsom on March 4, 2020, and authorize the continuation of remote teleconference meetings of the Lodi Energy Center Project Participant Committee for the period of December 12, 2022, through January 11, 2023, pursuant to the Ralph M. Brown Act (Brown Act).

### Background

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

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

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

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

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

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

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

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

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

The LEC PPC now considers adoption of a subsequent resolution to continue to meet by teleconference and make the meetings available telephonically to any members of the public for the period from December 12, 2022, through January 11, 2023.

#### Fiscal Impact

There is no fiscal impact as a result of authorizing teleconference meetings of the LEC PPC for the period December 12, 2022, through January 11, 2023.

Environmental Analysis

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

Submitted by:



JANE E. LUCKHARDT  
NCPA General Counsel

Attachments: 1

- Proposed Resolution 2022-17

**RESOLUTION NO. 2022-17**

**A RESOLUTION OF THE LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE PROCLAIMING A LOCAL EMERGENCY PERSISTS IN THE CITY OF SANTA CLARA AND IN THE MODESTO IRRIGATION DISTRICT, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY ISSUED BY GOVERNOR GAVIN NEWSOM, AND AUTHORIZING THE CONTINUATION OF REMOTE TELECONFERENCE MEETINGS OF THE LODI ENERGY CENTER PROJECT PARTICIPANT COMMITTEE FOR THE PERIOD DECEMBER 12, 2022, THROUGH JANUARY 11, 2023, PURSUANT TO THE BROWN ACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 11, 2023, or (ii) such time the LEC PPC adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the LEC PPC may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

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

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

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

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



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

AGENDA ITEM NO.: 12

---

**Meeting Date:** December 12, 2022

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

**Subject:** Mead & Hunt, Inc. – Five Year Multi-Task Professional Services Agreement;  
Applicable to the following projects: All Northern California Power Agency (NCPA)  
Facilities, NCPA Members, Southern California Public Power Authority (SCPPA),  
and SCPPA Members

---

### Proposal

Approve the Multi-Task Professional Services Agreement with Mead & Hunt, Inc. for engineering, environmental and regulatory services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years for use at all facilities owned and/or operated by NCPA, NCPA members, by SCPPA, and SCPPA members.

### Background

Engineering, environmental and regulatory services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members. Mead & Hunt, Inc. is currently not a vendor for NCPA. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future projects. Additionally, adding this vendor will increase the pool of qualified vendors for these types of services. NCPA has agreements in place for similar services with AECOM Technical Services, Black & Veatch, Condor Earth Technologies, GEI Consultants, Provost & Pritchard Consulting Group and HDR Engineering.

### Selection Process

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

### Fiscal Impact

Upon execution, the total cost of the agreement is not to exceed \$1,500,000 over five years. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Professional Services Agreement with Mead & Hunt, Inc.





## MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND MEAD & HUNT, INC.

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Mead & Hunt, Inc., a corporation with its office located at 2440 Deming Way, Middleton, Wisconsin, 53562 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("Effective Date") in Roseville, California.

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

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

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

**Section 2.** **COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND** dollars (\$1,500,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly by Consultant or by any subcontractors of Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and

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

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

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

**4.4 All Policies Requirements.**

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

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

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

**4.4.5 Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the

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

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

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

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to damages or claims for damages whether or not such insurance policies shall have been determined to apply but only to the extent caused by Consultant's negligence. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 Scope.** Consultant shall indemnify, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against claims to the extent that the claims arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear losses, costs, damages, expense and liability of every kind, nature and description to the extent that they arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.
- 5.3** The Agency and Consultant are not liable, in contract or tort or otherwise, for any special, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, or similar damages ("damages").

## **Section 6. STATUS OF CONSULTANT.**

- 6.1 Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the

means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

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

subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

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

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

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

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

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

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

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

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

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

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



## **9.4 Confidential Information and Disclosure.**

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

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

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

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

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

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

**9.4.4 Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the

Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

## **Section 10. MISCELLANEOUS PROVISIONS.**

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

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

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

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

Mead & Hunt, Inc.  
Attn: Nathan Rockwood  
180 Promenade Circle, Suite 240  
Sacramento, CA 95834

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

MEAD & HUNT, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**NATHAN ROCKWOOD,**  
Vice President

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Mead & Hunt, Inc. ("Consultant") shall provide engineering, environmental and regulatory services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

Services to include but not be limited to the following:

- Feasibility Studies
- Business Model Development
- Conceptual Design
- Cost Estimating
- Contract Planning
- Engineering Services (preliminary and detailed)
- Engineering Studies
- Environmental Studies\*
- Regulatory Support\*
- Execution Planning
- Operations and Maintenance Evaluation and Support (consulting and engineering only)
- Vendor Quality Assurance
- Construction Management (see note on Public Works projects below)
- Start-up and Commissioning Services (engineering support only)

\*These services do not include hydroelectric relicensing services as they will be subject to a stand-alone request for proposals and single task agreement.

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

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

Effective January 1, 2022

#### Standard Billing Rates

Clerical .....	\$84.00 / hour
Technical Editor .....	\$120.00 / hour
Senior Editor .....	\$196.00 / hour
Registered Land Surveyor .....	\$153.00 / hour
Accounting, Administrative Assistant .....	\$108.00 / hour
Technician I, Technical Writer .....	\$108.00 / hour
Technician II, Surveyor - Instrument Person .....	\$124.00 / hour
Technician III .....	\$143.00 / hour
Technician IV .....	\$159.00 / hour
Senior Technician .....	\$170.00 / hour
Engineer I, Scientist I, Architect I, Interior Designer I, Planner I .....	\$138.00 / hour
Engineer II, Scientist II, Architect II, Interior Designer II, Planner II .....	\$156.00 / hour
Engineer III, Scientist III, Architect III, Interior Designer III, Planner III .....	\$176.00 / hour
Senior Engineer, Senior Scientist, Senior Architect, Senior Interior Designer, Senior Planner, Senior Economist .....	\$196.00 / hour
Project Engineer, Project Scientist, Project Architect, Project Interior Designer, Project Planner .....	\$216.00 / hour
Senior Project Engineer, Senior Project Scientist, Senior Project Architect, Senior Project Interior Designer, Senior Project Planner .....	\$249.00 / hour
Senior Associate .....	\$278.00 / hour
Principal .....	\$303.00 / hour
Senior Client/Project Manager .....	\$303.00 / hour

#### Expenses

Geographic Information or GPS Systems .....	\$100.00 / day
Total Station Survey Equipment .....	\$110.00 / day
Charges for other equipment may appear in a proposal	
Out-Of-Pocket Direct Job Expenses .....	cost plus 15%
Such as reproductions, sub-consultants / contractors, etc.	

#### Travel Expense

Company or Personal Car Mileage .....	IRS rate / mile
Air and Surface Transportation .....	cost plus 15%
Lodging and Sustenance .....	cost plus 15%

#### Billing & Payment

Travel time is charged for work required to be performed out-of-office. A minimum of two hours will be billed for any work out-of-office.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

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

(Name of person signing affidavit) (Title)

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

Mead & Hunt, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

Dated this \_\_\_\_\_ 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.





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

AGENDA ITEM NO.: 13

---

**Meeting Date:** December 12, 2022

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

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

---

### Proposal

Approve the Multi-Task Professional Services Agreement with Trinity Consultants, Inc. for air quality compliance support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various air quality compliance support services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Montrose Air Quality Services LLC and Yorke Engineering LLC.

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task Professional Services Agreement with Trinity Consultants, Inc.



## **MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND TRINITY CONSULTANTS, INC.**

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Trinity Consultants, Inc., a Delaware corporation with its office located at 12700 Park Central Drive, Suite 2100, Dallas, TX 75251 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2022 ("Effective Date") in Roseville, California.

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

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

Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

## **Section 2.**

**COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED FIVE HUNDRED THOUSAND** dollars (\$500,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's initial fee schedule, attached hereto and incorporated herein as Exhibit B. Exhibit B rates may be updated on an annual basis provided Consultant provides Agency with updated rates sixty (60) days in advance. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

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

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

Invoices shall be sent to:

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

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

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

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

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

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

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$2,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

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

**4.4 All Policies Requirements.**

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

**4.4.2 Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of cancellation of the policies referenced in Section 4.

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

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

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

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

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

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

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

## **Section 6. STATUS OF CONSULTANT.**

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

contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

Consultant disclaims all warranties, expressed or implied, including, but not limited to, the warranties of merchantability and fitness for a particular purchase. Consultant shall have no liability for damages if the damage is covered by its comprehensive general liability or auto insurance, beyond the limits of the applicable insurance coverage. Consultant will not be responsible or liable for any special, indirect, consequential, incidental, punitive, or exemplary damages arising out of such services of this Agreement, whether such damages are suffered by Agency, any client of Agency, or any other third party, even if Consultant has been advised of the possibility of such damages.

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the



performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

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

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

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

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

- 8.1 Termination.** Either party may cancel this Agreement at any time and without cause upon thirty (30) days prior written notice to the other party, provided Consultant may not so terminate this Agreement at any time that it is then obligated to perform Services under an active Work Order.

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

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

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

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

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

Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

#### **9.4 Confidential Information and Disclosure.**

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

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

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

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

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

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

**9.4.4 Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested

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

## **Section 10. MISCELLANEOUS PROVISIONS.**

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

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

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

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

Trinity Consultants, Inc.  
Attention: Jeffrey D. Adkins, Principal Consultant  
7919 Folsom Blvd, Suite 320  
Sacramento, CA 95826

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

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

// SIGNATURES ON NEXT PAGE //

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

NORTHERN CALIFORNIA POWER AGENCY

TRINITY CONSULTANTS, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**DAVID LARSEN,**  
CFO

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Trinity Consultants, Inc. ("Consultant") shall provide air quality compliance support services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, NCPA Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Preparing periodic compliance reports to the air district and other agencies
- Preparing deviation reports for equipment breakdowns and other violations of permit conditions Tracking new applicable requirements
- Performing feasibility studies related to new and existing regulatory requirements
- Interpreting permit conditions and requirements
- Preparing written submittals, such as permit modifications, permit renewal applications, and variance applications and reports
- Preparing responses to notices of violation and negotiating settlements
- Other air quality compliance-related services can be provided upon request.



## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### NCPA Price Schedule

(Price schedule subject to annual revision)

January 1, 2022

PERSONNEL SERVICE COSTS		
Service Scale	Job Titles	Rate (\$/hr)
1	Clerical Assistant I	80.00
2	Clerical Assistant II	100.00
3	Technical Assistant I	120.00
4	Technical Assistant II	140.00
T	Travel outside normal business hours	140.00
11	Technician	160.00
12	Consultant I	190.00
13	Consultant II	215.00
14	Consultant III	240.00
15	Consultant IV	260.00
16	Senior Consultant I	285.00
17	Senior Consultant II	305.00
18	Senior Consultant III	325.00
19	Manager I	340.00
20	Manager II	360.00
21	Senior Manager I	380.00
22	Senior Manager II	400.00
23	Litigation Support/Expert Witness	430.00

#### EFFECTIVE DATE

All charges are based on the price schedule in effect when the charges are incurred. Price schedules are subject to revision annually.

#### COST INFORMATION FOR AUDIT

Trinity maintains records of all charges for at least one year. A research fee will apply when a client desires documentation of charges.

Consultant may revise the hourly rates each year upon the giving of 60 days' advance written notice to NCPA.

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

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

#### POLICY ON TRAVEL

Travel time for employees is billed as follows:

1. At the rate of \$140.00 per hour if traveling outside normal working hours.
2. At the full rate if traveling during normal business hours.

#### REIMBURSED COSTS

All reimbursed costs such as travel, overnight delivery charges, and other services purchased from outside vendors, are billed at cost plus a 15 percent accounting fee.

#### COSTS OF ITEMS SUPPLIED BY TRINITY

Certain reimbursed cost items are supplied by Trinity Consultants as shown below.

#### INFORMATION MANAGEMENT

Information and knowledge management costs are billed at 5 percent of total project labor cost. Costs for projects involving extensive scientific computer resources shall be billed up to 30 percent of project labor costs. All projects are subject to a minimum computer charge of \$500.

**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

Trinity Consultants, Inc.

(Company name)

for contract work at:

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

(Project name and location)

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

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

Dated this \_\_\_\_\_ 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.



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

AGENDA ITEM NO.: 14

---

**Meeting Date:** December 12, 2022

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

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

---

### Proposal

Approve the Multi-Task General Services Agreement with Sabah International Incorporated for fire system maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

Various fire system maintenance related services are required from time to time for the operation and maintenance of facilities owned and/or operated by NCPA, NCPA Members, by SCPPA and SCPPA Members. NCPA has utilized this vendor in the past, and has a good working relationship with this vendor. NCPA desires to enter into this agreement so established terms and conditions are in place should this vendor be the successful bidder on future purchases. NCPA has an agreement in place for similar services with Bay Cities Fire Protection, Bay Cities Pyrotector and ORR Protection Systems, Inc.

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Sabah International Incorporated



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
SABAH INTERNATIONAL INCORPORATED**

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 Sabah International Incorporated, a corporation with its office located at 5925 Stoneridge Drive, Pleasanton, CA 94588-2705 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2022 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.4 Pollution Insurance.** Not Applicable.

**4.5 All Policies Requirements.**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

Contractor shall provide a certified copy of its payroll, on forms to be determined by the Agency and consistent with the Labor Code, within ten (10) days of the

Contractor's receipt of Agency's written request therefor. Contractor's failure to timely comply with this provision may subject the Contractor to penalties pursuant to state law.

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

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

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

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

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

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

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

- 8.4.1** Immediately terminate the Agreement;
- 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or

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

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

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

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

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

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

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

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

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

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

**10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed,

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

**10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

## **Section 11. WARRANTY.**

**11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

**11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any

Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

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

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

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.



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

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

- 13.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

**13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

**13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

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

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

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

Sabah International Incorporated  
Attention: Matt Ramsey  
5925 Stoneridge Drive  
Pleasanton, CA 94588

With a copy to:

Sabah International Incorporated  
Attention: Contracts Department  
5925 Stoneridge Drive  
Pleasanton, CA 94588

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

NORTHERN CALIFORNIA POWER AGENCY

SABAH INTERNATIONAL  
INCORPORATED

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**MATT RAMSEY,**  
President

Attest:

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

Approved as to Form:

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

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

Sabah International Incorporated ("Contractor") shall provide fire system maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

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

- Fire Alarm System Testing, Inspection & Maintenance
- Security System Testing & Maintenance
- Special Hazard Suppression System I Hood Inspections
- Detection – PA
- Fire Extinguisher Inspection & Maintenance
- Emergency Services
- Leak Detection Inspection Services
- UL Central Station Monitoring
- Sprinkler System Testing & Inspection I Fire Pump I Foam-Water
- 5-Year Sprinkler Testing & Inspection
- 5-Year Fire Tank Inspection
- System Modifications
- Critical Inventory Maintenance

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

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

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

#### Hourly Rates – Effective 06/20/2022 (subject to change)

<b>Sabah Technician Labor</b>	<b>Sabah International</b>	
<b>Service (minimum 4 hours)</b>	<b>*Contract</b>	<b>Non-Contract</b>
M-F; 8am-5pm	\$205	\$256
M-F; 5pm-8am	\$308	\$385
Saturday	\$308	\$385
Sunday and Holidays	\$410	\$513
Trip Charge	\$80	\$100
Temporary Fuel Surcharge	\$24	\$24

<b>Sprinkler Labor</b>	<b>Pleasanton Office</b>	
<b>Service (minimum 4 hours)</b>	<b>*Contract</b>	<b>Non-Contract</b>
M-F; 8am-5pm	\$216	\$268
M-F; 5pm-8am	\$338	\$418
Saturday	\$338	\$418
Sunday and Holidays	\$450	\$560
Trip Charge	\$80	\$100
Temporary Fuel Surcharge	\$24	\$24

These rates are portal-to-portal with a four (4) hour minimum.

Contractor may revise the hourly rates upon 30 days' advance written notice to NCPA. If the Parties cannot agree on revised rates, NCPA may terminate the Agreement.

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

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

**EXHIBIT C**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

\_\_\_\_\_  
(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

Sabah International Incorporated

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

\_\_\_\_\_

(Signature of officer or agent)

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

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



**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



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

AGENDA ITEM NO.: 15

---

**Meeting Date:** December 12, 2022

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

**Subject:** Nor-Cal Battery Company – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All Northern California Power Agency (NCPA) Facilities, NCPA Members, Southern California Public Power Authority (SCPPA), and SCPPA Members

---

### Proposal

Approve the Multi-Task General Services Agreement with Nor-Cal Battery Company for battery related maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at any facilities owned and/or operated by NCPA, NCPA Members, by SCPPA, and SCPPA Members.

### Background

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

### Selection Process

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

### Fiscal Impact

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

Environmental Analysis

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

Submitted by:

Michael DeBortoli  
Assistant General Manager  
Generation Services

Attachments: (1)

- Multi-Task General Services Agreement with Nor-Cal Battery Company



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
NOR-CAL BATTERY COMPANY**

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 Nor-Cal Battery Company, a C-corporation with its office located at 3432 Cherokee Road, Suite D, Stockton, CA 95205 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2023 ("Effective Date") in Roseville, California.

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

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

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

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

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

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

Invoices shall be sent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.4 Pollution Insurance.** Not Applicable.

**4.5 All Policies Requirements.**

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

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

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

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

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

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

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

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

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



indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency.

**5.4 Transfer of Title.** Not Applicable.

**Section 6. STATUS OF CONTRACTOR.**

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

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

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

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

**6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any

capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

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

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

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

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

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

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

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

paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

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

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

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

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

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

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

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

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

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that,

unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

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

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

**9.4 Confidential Information and Disclosure.**

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

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

**9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation,

a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

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

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

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

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

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

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

**10.2** **Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost,

stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

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

## **Section 11. WARRANTY.**

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

**Section 12. HEALTH AND SAFETY PROGRAMS.** The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program

intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

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



spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

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

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

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

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

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

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

Nor-Cal Battery Company  
Attention: Phil Estrada  
3432 Cherokee Road, Suite D  
Stockton, CA 95205

Any written notice to Agency shall be sent to:

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

With a copy to:

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

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

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

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

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

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

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

///

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

NORTHERN CALIFORNIA POWER AGENCY

NOR-CAL BATTERY COMPANY

Date\_\_\_\_\_

Date\_\_\_\_\_

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

\_\_\_\_\_  
**JUSTIN BOYCE,**  
President

Attest:

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

Approved as to Form:

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

## **EXHIBIT A**

### **SCOPE OF WORK**

Nor-Cal Battery Company ("Contractor") shall provide battery maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

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

- Battery Testing - IEEE Capacity, Internal Resistance Capacity
- Battery Maintenance - Preventive, Basic, Extended, Customized
- Battery Monitoring - Central Office, Cell Sites, UPS, Remote, VRLA, Flooded
- Temporary Battery Systems - Hot Cuts, Rentals, Emergencies
- Engineering - Designs, Layouts, Material, Logistics
- Project Management including Multi-Site Scheduling
- Maintenance of Telecom, UPS, System Upgrades, Central Office, Cell Site, Substation, Remote Sites, Power Plants, Distribution, Batteries, Grounding, Cabling, Iron Work, Buss Work
- Site Audits - Power, Grounding, Infrastructure
- Spill Containment - Telecom, UPS, Utility, VRLA, Flooded
- Logistical Support - Labor, Material Procurement, Site Delivery, Warehousing
- Certified Battery Disposal - Removal and Recycling I Disposal of Lead Acid Batteries
- Training - System Design, Batteries, Power, Applications, Sizing, Safety, Maintenance

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

## **EXHIBIT B**

### **COMPENSATION SCHEDULE AND HOURLY FEES**

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

Normal Hours: \$125.00/Hour

Off Hours Weeknights and Saturday: \$187.50/Hour

Sunday / Holidays / Holiday Weekends: \$250.00/Hour

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

Nor-Cal Battery Company

(Company name)

for contract work at:

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

(Project name and location)

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

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

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

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

**NOT APPLICABLE**

**EXHIBIT D**

**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_

(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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



**NOT APPLICABLE**

**EXHIBIT E**

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

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

The undersigned hereby certifies and agrees that:

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

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

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

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



# Cash Reserve Methodology Study

Sondra Ainsworth  
December 12, 2022

## ***Goals for Reserve Study***

- Minimize risks to members and NCPA
- Right size reserves
- Review methodologies for appropriateness
- Independent review and input
- Best practices

# ***Current Reserves Structure/Methodologies***

- O & M Maintenance Reserve
  - 60 days
- Maintenance Reserves
  - Large O&M/Capital projects
  - Normalize collections

# ***Generating Plant Structures Considered***

- Working capital
- Fuel expense/CAISO charges
- Contingency
- Five-year capital improvements

**NCPA believes current plant  
reserve methodologies provide  
sufficient liquidity.**

# Maintenance Reserves

Funding/(Expenditures)	Fiscal Year Activity										
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
LEC:											
Beginning Reserve Balance	\$ 4,310,120	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Projected Reserve Expenditures -											
Combustion Turbine (Overhaul)	(940,000)	-	-	-	(2,693,188)	-	-	(50,000)	(400,000)	-	-
Steam Turbine	(740,000)	-	-	(20,000)	-	-	-	-	(125,000)	(800,000)	-
Generators	-	-	(70,000)	-	(79,942)	-	-	-	-	-	-
Plant Projects	(3,650,000)	(1,385,000)	(1,775,000)	(790,000)	(500,000)	(910,000)	(1,440,927)	(620,000)	(1,440,031)	(846,803)	-
HRSG	(215,000)	(450,000)	(40,000)	-	(540,000)	(175,000)	(1,240,000)	(300,000)	(40,000)	(300,000)	-
Total Projected Expenditures	(5,545,000)	(1,835,000)	(1,885,000)	(810,000)	(3,813,130)	(1,085,000)	(2,680,927)	(970,000)	(2,005,031)	(1,946,803)	-
Projected Reserve Funding -											
Maintenance Contingency	-	-	-	-	-	-	-	-	-	-	-
Unit Overhaul	778,490	817,415	858,285	901,199	946,259	993,572	1,043,251	1,095,414	1,150,184	1,207,694	1,268,078
Combustion Turbine (overhaul)	340,182	357,191	375,051	393,803	413,493	434,168	455,876	478,670	502,604	527,734	554,121
Steam Turbine	135,889	142,683	149,818	157,309	165,174	173,433	182,104	191,209	200,770	210,808	221,349
Generators	12,092	12,897	13,331	13,998	14,698	15,433	16,204	17,015	17,865	18,759	19,697
HRSG	290,327	304,843	320,088	336,090	352,894	370,539	389,066	408,519	428,945	450,392	472,912
Plant Projects	1,096,611	1,190,978	1,250,528	1,313,053	1,378,705	1,447,641	1,520,023	1,596,024	1,675,825	1,759,616	1,847,597
Total Projected Funding	1,875,101	2,008,392	2,108,812	2,214,252	2,324,965	2,441,213	2,563,274	2,691,437	2,826,009	2,967,310	3,115,675
Cumulative Balance	\$ 640,221	\$ 813,613	\$ 1,037,425	\$ 2,441,677	\$ 953,512	\$ 2,309,725	\$ 2,192,072	\$ 3,913,509	\$ 4,734,487	\$ 5,754,994	\$ 8,870,669

# Questions?