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Commission Staff Report

AGENDA ITEM NO.: ____

Date: February 19, 2014
To: NCPA Commission
Subject: Three Year Extension of Audit Contract with Moss Adams Through
Fiscal Year 2015-2016

Background

In 2008, the Agency performed a Request for Proposal process to select new independent auditors to perform the Agency's annual outside financial audit. At the conclusion of that process, the certified public accounting firm of Moss Adams, LLP, Certified Public Accountants was selected to perform the audit for fiscal year 2008, 2009 and 2010, with the possibility of two - three year extensions (up to nine (9) years total) at the sole discretion of the Agency. Moss Adams has successfully performed the annual audit under this contract for the last six years. Based on the successful audits over the last six years and the huge learning curve required for new auditors, staff recommends implementing the second proposed audit contract renewal in the series and providing notice to Moss Adams of such three year extension per the terms of the contract. The terms of the contract also provide for cancellation of the contract by either party at any time with proper notice, therefore the continuation of services are not locked in and are dependent on continued satisfaction of the Agency with such services.

The possible renewal of the audit contract has been reviewed with the Finance Committee at their meeting on February 19, 2014. After discussion of an alternative, which is to execute a new Request for Proposal process and possibly select a different firm to perform the audit, both the Finance Committee and staff believe Moss Adam's acquired knowledge of the Agency, its methods, and its systems are important assets that can help ensure an effective annual audit process. The Finance Committee, with [REDACTED] members present, unanimously recommended approval of the second, three year contract extension with Moss Adams.

Fiscal Impact

The audit fee for the last three years was \$70,000, \$71,000 and \$72,000 respectively, which included out-of-pocket costs as required per the contract. The audit fees for subsequent years are subject to annual escalation based on the Consumer Price Index for All Urban Consumers, U.S. City Average, with a cap of 6%. The proposed audit fee for the FY 2013/14 audit is \$73,000, slightly less than the calculated amount per the contract. The cost of this contract will be incorporated into the General Costs - Related to All Programs portion of the Annual Budget and Ten-Year Forecast. Such General Costs are proportionally allocated to all programs (equalized for debt service, property taxes, and other costs that would otherwise unfairly skew the results of the allocation).

Environmental Analysis

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

Recommendation

Recommend approval of the attached resolution and delegate authority to the General Manager or his designee to send required notice to retain Moss Adams, LLP, Certified Public Accountants, as independent auditors for a period of up to three (3) years as per the current contract.

Respectfully submitted,

Prepared by:

Concurs with:

JAMES H. POPE
General Manager

DONNA I. STEVENER
Assistant General Manager/CFO
Finance/Administrative Services

GARY PLASS
Chair, Finance Committee

Attachments (3)

- Resolution 14-xx
- Current Audit Services Agreement with Moss Adams, LLP
- Draft Notice Letter to Moss Adams

RESOLUTION 14-xx

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
Three Year Extension of Audit Contract**

(reference Staff Report #xxx:14)

WHEREAS, the Northern California Power Agency requires an independent annual audit by a certified public accounting firm of national renown;

WHEREAS, Moss Adams, LLP is such a qualified certified public accounting firm and was selected by staff and recommended by the NCPA Finance Committee in 2008 to perform the annual audit for a period of three years, with options of two three year extensions (up to nine (9) years total);

WHEREAS, Moss Adams has successfully performed the annual audit under this contract for the last six years and staff and the Finance Committee recommend approval of the second three year contract extension with Moss Adams;

WHEREAS, the environmental impact is addressed in Staff Report #xxx:14; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission of the Northern California Power Agency hereby authorizes and approves a three year extension of the audit services contract with the certified public accounting firm of Moss Adams LLP as independent auditors for the Agency beginning with the fiscal year 2013/2014 audit and the following two years and, further hereby directs the General Manager of the Agency or designee to send required notice to Moss Adams of such extension per the terms of the Audit Contract.

PASSED, ADOPTED and APPROVED this 27th day of February 2014, by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

PAT KOLSTAD
CHAIRMAN

ATTEST: CARY PADGETT
ASSISTANT SECRETARY



651 Commerce Drive
Roseville, CA 95678

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www.ncpa.com

February 19, 2014

Julie Desimone
Partner
Moss Adams, LLP
805 SW Broadway, Suite 1200
Portland, OR 97205

SUBJECT: Extension of Audit Services Contract between NCPA and Moss Adams

Dear Ms. Desimone:

Pursuant to the provisions of Exhibit A ("Scope of Services") of the agreement between NCPA and Moss Adams dated May 23, 2008, NCPA hereby exercises its option to extend the agreement for an additional term of three (3) years, through fiscal year 2015-2016. Based upon the CPI adjustment specified in Exhibit B ("Compensation Service") the fee for fiscal year 2013-2014 shall be \$73,000.

Sincerely,

DONNA STEVENER
Chief Financial Officer

(916) 781-4244 / 916.781-4255 FAX

cc: Kevin Wallace
File

**AUDIT SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND MOSS ADAMS LLP**

This agreement for audit services ("Agreement") is entered into on June 12, 2008 (the "Effective Date") between the NORTHERN CALIFORNIA POWER AGENCY, a public joint powers agency, with offices located at 180 Cirby Way, Roseville, CA, ("Agency") and Moss Adams LLP, ("Certified Public Accountants") (together sometimes referred to collectively as the "Parties").

Section 1. SERVICES. In accordance with the terms and conditions set forth in this Agreement, Certified Public Accountants agree to perform all services described in the Scope of Work attached as Exhibit A. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 **Term of Services.** This Agreement shall begin upon signature by all parties and shall end when Certified Public Accountants complete the work described in Exhibit A. This agreement is for a three year term (including audits for fiscal years 2008, 2009 and 2010), and subject to two renewals for a period of three years each (for a maximum of 9 fiscal years) at the sole option of the Agency, all as described in Exhibit A.
- 1.2 **Standard of Performance.** Certified Public Accountants shall diligently perform all services required in connection with this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Certified Public Accountants are engaged in the geographical area in which Certified Public Accountants practice their profession.
- 1.3 **Assignment of Personnel.** Certified Public Accountants shall assign only competent personnel to perform services in connection with this Agreement.
- 1.4 **Termination.** Either party may cancel this Agreement at any time and without cause upon written notification to the other party. In the event of termination, Certified Public Accountants shall be entitled to compensation for services satisfactorily completed as of the date of written notice of termination; Agency, however, may condition payment of such compensation upon Certified Public Accountants delivering to Agency appropriate documents and records identified in Section 8.1 of this Agreement.

Section 2. COMPENSATION. Agency hereby agrees to pay Certified Public Accountants an amount **NOT TO EXCEED** Sixty eight thousand dollars (\$68,000) for all work set forth in Exhibit A, including out of pocket expenses.

Changes in audit scope caused by events that are beyond Certified Public Accountants' control may result in additional fees. Certified Public Accountants will notify NCPA as soon as such circumstances are believed to exist before significant additional fees or costs are incurred. Payment of such fees beyond the not-to-exceed fees included in this Agreement, shall be at the sole discretion of Agency based on an evaluation of the circumstances and formal justification provided.

In the event of a conflict between this Agreement and Certified Public Accountants' proposal regarding the amount of compensation, this Agreement shall prevail. Subsequent annual renewals of this contract, if any, shall be adjusted annually in accordance with the U.S. Bureau of Labor Statistics, Consumer Price Index (CPI) – All Urban Consumers, U.S. City Average, All Items, 1982-1984 Base Period using the average adjustment for the preceding calendar year, except that, such annual CPI adjustment shall not exceed six percent (6%).

- 2.1 **Invoices.** Certified Public Accountants shall submit invoices 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.

- 2.2 **Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred.
- 2.3 **Reimbursable Expenses.** Reimbursable expenses are specified in **Exhibit B.**
- 2.4 **Payment of Taxes.** Certified Public Accountants are solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

Section 3. **INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Certified Public Accountants, at their own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the agreement.

- 3.1 **Workers' Compensation.** If Certified Public Accountants employ any person, Certified Public Accountants shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Certified Public Accountants with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident.
- 3.2 **Commercial General and Automobile Liability Insurance.** Certified Public Accountants shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1 million (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. *Such coverage* shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles. At the sole option of the Agency, the Agency shall be named as an additional insured and insurance shall provide primary coverage with respect to the Agency.
- 3.3 **Professional Liability Insurance.** Certified Public Accountants shall maintain professional liability insurance for licensed professionals performing work in connection with this Agreement in an amount not less than \$1 million DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions. For purposes of this Section, "insurance" shall include, without limitation, self-insurance and any other form of transferred or self-retained risk financing.

3.4 **All Policies Requirements.**

3.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Certified Public Accountants shall, at the sole option of the Agency, provide Agency with (1) certified Certification of insurance that demonstrates compliance with all applicable insurance provisions contained herein; (2) certified policy endorsements to the general liability policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement; or (3) upon request by the Agency, complete certified copies of all policies and/or complete certified copies of all endorsements that demonstrate compliance with this Section 4, excluding any confidential or proprietary information.

3.4.2 **Notice of Reduction in or Cancellation of Coverage.** A certified endorsement must be attached to all insurance obtained in accordance with this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency; provided that the professional liability insurance carrier shall endeavor to provide such notice.

Section 4. **INDEMNIFICATION AND CERTIFIED PUBLIC ACCOUNTANTS' RESPONSIBILITIES.**

- 4.1 Certified Public Accountants shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, indemnify, defend and hold harmless the Agency and

its officials, commissioners, officers, employees, agents and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Certified Public Accountants. Certified Public Accountants will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, active negligence, or willful misconduct of the Agency, or any individual, entity or governmental body acting on behalf of the Agency. In the event of a claim for which the Agency may seek indemnification hereunder, the Agency shall provide Certified Public Accountants with prompt written notice of such claim and cooperate with Certified Public Accountants in handling the claim. Certified Public Accountants shall be entitled to control the handling of such claim and to defend or settle any such claim, in their sole discretion, with counsel of their own choosing.

4.2 Notwithstanding anything in this contract to the contrary, Certified Public Accountants' obligations set forth in 4.1 above shall not apply to any liability, loss, expense or claims for damages arising in whole or in part out of acts or failure to act of the Agency, its officers, employees, or agents or the failure on the part of the Agency, its officers, employees, or agents to perform any such acts. Such acts include, by way of example and not by way of limitation, the following, all of which are acknowledged by the Agency to be the Agency's responsibility:

- a. Selection and application of appropriate accounting principles;
- b. Implementation of new accounting pronouncements;
- c. Maintenance of adequate books and records;
- d. Maintenance of accounting and administrative control over the Agency's revenues, obligations, expenditures, assets and liabilities;
- e. Execution of transactions in accordance with management's authorization and the proper recording thereof;
- f. Preparation of the Agency's financial statements in accordance with generally accepted principles or other appropriate basis of accounting;
- g. Establishment and maintenance of a system of internal controls over the Agency's activities;
- h. Compliance with applicable laws, rules, regulations, grants, contracts and federal award programs;
- i. Safeguarding of assets;
- j. Provision to Certified Public Accountants of access to, and/or copies of, accurate and complete records, documentation and other data and information required for the performance by Certified Public Accountants of its services hereunder;
- k. Provision of written representations and assertions about the Agency's financial statements and other matters at Certified Public Accountants' request.

4.3 From time to time, the Agency may provide Certified Public Accountants with representation letters for the purpose of acknowledging and confirming representations made by the Agency, and Certified Public Accountants will rely on these letters in the course of providing services to the Agency under this contract. The Agency agrees to release and indemnify Certified Public Accountants and their partners and employees from all claims, liabilities and expenses related to negligent or intentional misrepresentations by the Agency in its representation letters.

Section 5. STATUS OF CERTIFIED PUBLIC ACCOUNTANTS.

5.1 **Independent Contractor.** At all times during the term of this Agreement, Certified Public Accountants shall be an independent contractor and shall not be an employee of Agency. Certified Public Accountants shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent.

Section 6. LEGAL REQUIREMENTS.

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

6.2 **Compliance with Applicable Laws.** Certified Public Accountants and any subcontractors shall comply with all laws applicable to the performance of the work in connection with this Agreement.

- 6.3 **Licenses and Permits.** Certified Public Accountants represents and warrants to Agency that Certified Public Accountants and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.
- 6.4 **Nondiscrimination and Equal Opportunity.** In compliance with federal, state and local laws, Certified Public Accountants shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Certified Public Accountants under this Agreement.

Section 7. MODIFICATION.

- 7.1 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.2 **Assignment and Subcontracting.** Certified Public Accountants may not assign this Agreement or any interest therein without the prior written approval of the Agency. Certified Public Accountants shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Agency.
- 7.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Certified Public Accountants shall survive the termination of this Agreement.
- 7.4 **Options upon Breach by Certified Public Accountants.** If Certified Public Accountants materially breach any of the terms of this Agreement, Agency's remedies shall include, but not be limited to, the following:
- 7.4.1 Immediately terminate the Agreement;
 - 7.4.2 Retain the final reports prepared for the Agency by Certified Public Accountants in accordance with this Agreement;
 - 7.4.3 Retain different Certified Public Accountants to complete the work described in **Exhibit A** not finished by Certified Public Accountants; or
 - 7.4.4 Charge Certified Public Accountants the difference between the costs to complete the work described in **Exhibit A** that is unfinished at the time of breach and the amount that Agency would have paid Certified Public Accountants in accordance with Section 2 if Certified Public Accountants had completed the work.

Section 8. KEEPING AND STATUS OF RECORDS.

- 8.1 **Records Created as Part of Certified Public Accountants' Performance.** All final reports prepared for the Agency by Certified Public Accountants in accordance with this Agreement, in electronic or any other form, shall be the property of the Agency.
- 8.2 **Certified Public Accountants' Records.** Certified Public Accountants shall maintain any and all records or 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 Certified Public Accountants to this Agreement.
- 8.3 **Confidential Information and Disclosure.** During the term of this Agreement, either party (the "Disclosing Party") may disclose confidential, proprietary or trade secret information (the "Information"), to the other party (the "Receiving Party"). The Receiving Party shall hold the

Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Information. Certified Public Accountants understand that NCPA is a public agency and is subject to the laws that may compel it to disclose information about Certified Public Accountants' business. The Agency understands that Certified Public Accountants may be required to disclose information about its services in accordance with applicable professional standards.

Section 9. MISCELLANEOUS PROVISIONS.

- 9.1 **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, each party shall be responsible for its own attorneys' fees and expenses.
- 9.2 **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.
- 9.3 **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.
- 9.4 **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.
- 9.5 **Contract Administration.** This Agreement shall be administered by Donna Stevener, Assistant General Manager, or her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

9.6 Notices.

Any written notice to Certified Public Accountants shall be sent to: [

Trent Martin
Partner
Moss Adams, LLP
805 SW Broadway, Suite 1200
Portland, OR 97205

Any written notice to Agency shall be sent to:

Donna Stevener
Assistant General Manager
Northern California Power Agency
180 Cirby Way
Roseville, CA 95678

With a copy to:

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

- 9.7 **Professional Seal.** Where applicable, the first page of a technical report shall be signed by the licensed professional responsible for the report.

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

9.9 **Alternative Dispute Resolution.** If any dispute arises between the parties that cannot be settled after engaging in good faith negotiations, Agency and Certified Public Accountants agree to resolve the dispute in accordance with the following:

Each party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority. If dispute remains unresolved after 15 days of good faith negotiations, the parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both parties. Mediation will begin within 30 days of the selection of this disinterested third party, and will end 15 days after commencement. The parties shall equally bear the costs of any mediator in any alternative dispute resolution process. 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.

9.10 **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.

9.11 **Objective of the Audit.** The objective of Certified Public Accountants' audit is the expression of an opinion about whether the Agency's financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Certified Public Accountants' audit will be conducted in accordance with U.S. generally accepted auditing standards and will include tests of the Agency's accounting records and other procedures Certified Public Accountants considers necessary to enable Certified Public Accountants to express such an opinion. If Certified Public Accountants' opinion is other than unqualified, Certified Public Accountants will discuss the reasons with the Agency in advance. If, for any reason, Certified Public Accountants is unable to complete the audit or are unable to form or have not formed an opinion, Certified Public Accountants may decline to express an opinion or to issue a report.

9.12 **Procedures and Limitations.**

- a. Certified Public Accountants' procedures may include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of certain receivables and certain other assets and liabilities by correspondence with selected customers, creditors, and financial institutions. Certified Public Accountants may also request written representations from the Agency's attorneys as part of the engagement, and they may bill the Agency for responding to this inquiry. At the conclusion of Certified Public Accountants' audit, Certified Public Accountants will require certain written representations from management about the financial statements and related matters. Management's failure to provide representations to Certified Public Accountants' satisfaction will preclude Certified Public Accountants from issuing Certified Public Accountants' report.
- b. An audit includes examining evidence, on a test basis, supporting the amounts and disclosures in the financial statements. Therefore, Certified Public Accountants' audit will involve judgment about the number of transactions to be examined and the areas to be tested. Also, Certified Public Accountants will plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. Such material misstatements may include errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity that may have a direct financial statement impact. A risk exists that Certified Public Accountants may not detect material misstatements because (i) an audit is designed to provide reasonable, rather than absolute, assurance the financial statements are free of material misstatement,

(ii) Certified Public Accountants will not perform a detailed examination of all transactions as such is cost prohibitive, and (iii) an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, Certified Public Accountants will inform the Agency of any material errors, fraudulent financial reporting or misappropriation of assets, and violations of laws or governmental regulations that come to Certified Public Accountants' attention, unless clearly inconsequential. Certified Public Accountants' responsibility as auditors is limited to the period covered by Certified Public Accountants' audit and does not extend to any time period for which Certified Public Accountants is not engaged as auditors.

- c. Certified Public Accountants' audit will include obtaining an understanding of the Agency and its environment, including its internal control sufficient to assess the risks of material misstatements of the financial statements whether due to error of fraud and to design the nature, timing, and extent of further audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify deficiencies in the design or operation of internal control. However, if, during the audit, Certified Public Accountants becomes aware of any matters involving internal control or its operation that Certified Public Accountants considers to be significant deficiencies under standards established by the American Institute of Certified Public Accountants, Certified Public Accountants will communicate them in writing to the Agency and those charged with governance. Certified Public Accountants will also identify if Certified Public Accountants consider any significant deficiency, or combination of significant deficiencies, to be a material weakness.
- d. Certified Public Accountants may assist the Agency in the preparation of the Agency's financial statements. Regardless of any assistance Certified Public Accountants may render, all information included in the financial statements remains the representation of the Agency. Certified Public Accountants may issue a preliminary draft of the financial statements to the Agency for the Agency's review. Any preliminary draft financial statements should not be relied upon, reproduced or otherwise distributed without the written consent of Certified Public Accountants.

9.13 Responsibility for Financial Statements.

- a. The Agency is responsible for making all financial records and related information available to Certified Public Accountants and for the accuracy and completeness of that information. Certified Public Accountants may advise the Agency about appropriate accounting principles and their application and will assist in the preparation of the Agency's financial statements, but the Agency is responsible for the financial statements. This responsibility includes the establishment and maintenance of adequate records and effective internal controls over financial reporting, the selection and application of accounting principles, and the safeguarding of assets. The Agency is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing Certified Public Accountants about all known or suspected fraud affecting the Agency involving (i) management, (ii) employees who have significant roles in internal control, and (iii) others where the fraud could have a material effect on the financial statements. The Agency is responsible for informing Certified Public Accountants of the Agency's knowledge of any allegations of fraud or suspected fraud affecting the Agency received in communications from employees, former employees, regulators or others. The Agency is responsible for adjusting the financial statements to correct material misstatements and for confirming to Certified Public Accountants in the management representation letter that the effects of any uncorrected misstatements aggregated by Certified Public Accountants during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. The Agency is also responsible for identifying and ensuring that the Agency complies with applicable laws and regulations.
- b. The Agency agrees that as a condition of Certified Public Accountants' engagement the Agency will provide Certified Public Accountants, in a timely and orderly way, with information in the Agency's possession that Certified Public Accountants requests or that has a material impact on the nature or characterization of any material transaction to complete Certified Public Accountants' engagement and that information will be, to the best of the Agency's knowledge and belief, truthful and accurate.

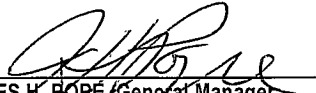
9.14 Dissemination of Financial Statements.

- a. Certified Public Accountants' report on the financial statements must be associated only with the financial statements that were the subject of Certified Public Accountants' engagement. The Agency may make copies of Certified Public Accountants' report, but only if the entire financial statements (including related footnotes and supplemental information, as appropriate) are reproduced and distributed with Certified Public Accountants' report. The Agency agrees not to reproduce or associate Certified Public Accountants' report with any other financial statements, or portions thereof, that are not the subject of this engagement.
 - b. The Agency may choose to publish the Agency's financial statements electronically on the Agency's Internet website. The Agency agrees Certified Public Accountants is not required under professional standards or this Agreement to read or monitor the information contained on the Agency's website or to consider the consistency of other information in the electronic site with the original document. However, Certified Public Accountants reserves the right to review the information as presented on the Agency's Internet website and to withdraw Certified Public Accountants' report should Certified Public Accountants disagree with the form, context or manner of presentation of the financial statements upon which Certified Public Accountants reported. The Agency agrees that upon written notification of Certified Public Accountants' objections the Agency will immediately remove Certified Public Accountants' report and any reference thereto or to Certified Public Accountants from the Agency's Internet website.
- 9.15 **Offering of Securities.** This Agreement does not contemplate Certified Public Accountants providing any services in connection with the offering of securities, whether registered or exempt from registration, and Certified Public Accountants will charge additional fees to provide any such services. The Agency agrees not to incorporate or reference Certified Public Accountants' report in a private placement or other offering of the Agency's equity or debt securities without Certified Public Accountants' express written permission. The Agency further agrees Certified Public Accountants is under no obligation to re-issue Certified Public Accountants' report or provide consent for the use of Certified Public Accountants' report at a later date in connection with an offering of securities, the issuance of debt instruments or for any other circumstance. Certified Public Accountants will determine, at Certified Public Accountants' sole discretion, whether Certified Public Accountants will re-issue Certified Public Accountants' report or provide consent for the use of Certified Public Accountants' report only after Certified Public Accountants have conducted any due diligence Certified Public Accountants deems necessary in the circumstances. The Agency agrees to provide Certified Public Accountants with adequate time to review documents where Certified Public Accountants' report is (i) requested to be reissued, (ii) referred to, or (iii) reference to Certified Public Accountants' firm as "Experts" is expected to be made. If Certified Public Accountants decides to re-issue Certified Public Accountants' report or consent to the use of Certified Public Accountants' report, the Agency agrees that Certified Public Accountants will be included on each distribution of draft offering materials and Certified Public Accountants will receive a complete set of final documents.
- 9.16 **Changes in Professional or Accounting Standards.** To the extent that future federal, state, or professional rule-making activities require modification of contractor's audit approach, procedures, scope of work, etc., Certified Public Accountants will advise the Agency of such changes and the impact on Certified Public Accountants' fee.
- 9.17 **Limitation on Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR OTHERWISE ARISING OUT OF THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- 9.18 **Use of Electronic Communication.** In the interest of facilitating Certified Public Accountants' services to the Agency, Certified Public Accountants may communicate by facsimile transmission or send electronic mail over the Internet. Such communications may include information that is confidential to the Agency. Certified Public Accountants employs measures in the use of facsimile machines and computer technology designed to provide reasonable assurance that data security is maintained. While Certified Public Accountants will use Certified Public Accountants' best efforts to keep such communications secure in accordance with Certified Public Accountants' obligations under applicable

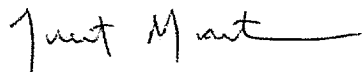
laws and professional standards, the Agency recognizes and accepts that Certified Public Accountants has no control over the unauthorized interception of these communications once they have been sent. Unless the Agency issues specific instructions to do otherwise, Certified Public Accountants will assume that the Agency consents to Certified Public Accountants' use of facsimile transmissions to the Agency's representatives and other use of these electronic devices during this engagement as Certified Public Accountants deems appropriate.

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

NORTHERN CALIFORNIA POWER AGENCY


JAMES H. POPE, General Manager

MOSS ADAMS, LLP, CERTIFIED PUBLIC ACCOUNTANTS


TRENT MARTIN, Partner

Attest:


Assistant Secretary of the Commission

Approved as to Form:



General Counsel

EXHIBIT A

SCOPE OF SERVICES

The term of this Agreement is for three years the Agency's fiscal years (July 1, 2007-June 30, 2008; July 1, 2008 – June 30, 2009; and July 1, 2009- June 30, 2010). . Each annual audit will be based on a fixed not-to-exceed fee based on the following methodology. As such, any cost overruns incurred by the Certified Public Accountants will be their sole responsibility.

For each fiscal year end, June 30, the Certified Public Accountants shall provide the Agency with the following formal documents:

- Report on the Combined Financial Statements
- Report on Additional Combining Information
- Report on Internal Control (Management Letter)
- Report on Compliance with Certain Bond Indenture of Trust Provisions (No Default)
- Report on Compliance with the Agency's Investment Policy
- Report and discussion on audit with Finance Committee
- Consent to use audited financial statements on the Agency's web-site and in bond offerings

The Certified Public Accountants shall provide all labor, material, and equipment required to issue all of the aforementioned reports to the Agency for a fixed price, not-to-exceed amount.

Both the Certified Public Accountants and the Agency will exercise their best efforts to complete the audit by October 28th of each year.

Each year following completion and delivery of all required reports hereunder, the Certified Public Accountants may elect to resign by providing written notice prior to January 31.

At the sole discretion of the Agency, it may extend the Agreement for additional terms of three years, subject to the same terms and conditions, including adjustment of the fixed price as indicated in Exhibit B. The total number of such Agreement extensions is limited to no more than (2) two such three-year extensions.

EXHIBIT B

COMPENSATION SCHEDULE

The annual audit fee for fiscal year ended June 30, 2007-2008 will not exceed the following fixed price:

- Audit fee for FY 2007-2008 services: \$ 68,000* (Subject to annual CPI adjustment)
- Out-of-pocket expenses (check one):
 - ☒ Included in fee above
 - ☐ \$ _____ * (Subject to annual CPI adjustment)
- Grand Total for FY 2007-2008 \$ 68,000

* The fixed fee shall be adjusted annually in accordance with the U. S. Bureau of Labor Statistics, Consumer Price Index—All Urban Consumers, U.S. City Average, All Items, 1982-1984 Base Period, using the average adjustment for the preceding calendar year; except that, any such annual CPI adjustment shall not exceed six percent (6 %). The same adjustment shall be made during the term of any extension of this agreement permitted by Exhibit A.