



# **REQUEST FOR PROPOSALS**

## **For**

### **Mechanical and Heating, Ventilating, and Air Conditioning (HVAC) Preventative Maintenance and Repair**

**RFP Issue Date:                      Wednesday, May 3, 2023**

**RFP Submittal Deadline:    Monday, June 05, 2023**

#### **Introduction**

The Northern California Power Agency (NCPA or Agency) is soliciting proposals from qualified HVAC Companies to perform all manner of HVAC maintenance, repair, Automated Logic Corporation (ALC) WebCTRL building automation, cooling tower water treatment, indoor air quality evaluation, and design-build services as requested by the Agency. The Agency intends to award a contract no later than June 19, 2023.

#### **Agency Overview**

The Northern California Power Agency, a California Joint Action Agency, was established in 1968 by a consortium of locally owned electric utilities to make joint investments in energy resources that would ensure an affordable, reliable, and clean supply of electricity for customers in its member communities. NCPA members include municipalities, a rural electric cooperative, and other publicly owned entities for which the not-for-profit agency provides such services as the purchase, aggregation, scheduling, and management of electrical energy.



## Northern California Power Agency

651 Commerce Dr, Roseville, CA 95678

(916) 781-3636

<https://www.ncpa.com>

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# Request for Proposals for Mechanical and Heating, Ventilating, and Air Conditioning Preventative Maintenance and Repair

Dear Interested Party:

The Northern California Power Agency (NCPA or Agency) is soliciting requests for proposals (RFP) for qualified mechanical, and heating, ventilation and air conditioning, (HVAC) Companies to perform all manner of HVAC maintenance and repair. To be performed at the Roseville and Citrus Heights locations.

Responses to the request are due **NO LATER THAN 5:00 pm June 5, 2023**, via **mailed response** to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678  
Attn: RFP 2023-03 Response, Jonathan Ashcraft  
(916) 781-4208  
[jonathan.ashcraft@ncpa.com](mailto:jonathan.ashcraft@ncpa.com)

Each proposer shall submit an electronic version (Adobe Acrobat PDF) of the proposal. This RFP and related documents are available on NCPA's website at RESOURCES | NCPA [www.ncpa.com/bidding-opportunities-and-public-notifications/](http://www.ncpa.com/bidding-opportunities-and-public-notifications/) .

**IT IS THE RESPONSIBILITY OF PROSPECTIVE QUALIFIERS TO CHECK NCPA WEBSITE FOR ANY FUTURE ADDENDUMS TO THIS RFP.**

All questions regarding this RFP should be directed to Jonathan Ashcraft, Facilities Manager, reference\_RFP# 2023-03 Response in the subject line and submit via electronic mail at [jonathan.ashcraft@ncpa.com](mailto:jonathan.ashcraft@ncpa.com),

## **Proposal Requirements**

Responsive proposals shall include:

### **1. Qualifications & Experience of Company**

- a. List current California Business/Contractor licenses and class
- b. Describe trade union affiliation (if any)
- c. Give a brief company description including:
  - i. Identify years in business
  - ii. Number of employees in the office location which is intended to provide services
  - iii. Relevant experience
- d. List key personnel and any 3<sup>rd</sup> party vendors to be assigned to the account (Project Team) and describe their roles and experience
- e. Identify the Proposers' experience performing services of similar size, scope, and complexity as the services required by this RFP.

2. **Contract Exceptions** – The Company selected will be expected to execute NCPA's standard Agreement, a sample of which is attached for reference in APPENDIX C. The proposal shall state all exceptions taken to the terms and conditions of the Agreement, if any.

Note: Make sure to review the insurance requirements in detail. You will be asked to provide proof of insurance and copies of all waivers and endorsements if selected.

3. **Safety Compliance** – Include the Company's Worker's Compensation Experience Modification Rate (EMR) or copies of the past three years' OSHA 300 Forms with the submittal. Company shall provide proper PPE for all employees.

Note: Company shall provide annual and ongoing safety training(s) that meets or exceeds Cal OSHA's standards 29 CFR 1910 to include; Medical and First Aid, Hand and Portable Tools, PPE, and proper safe chemical handling procedures.

4. **DIR Registration**– Proposer shall provide proof of registration and compliance monitoring provisions of California Labor Code with the Department of Industrial Relations, Division of Labor Standards Enforcement, Licensing & Registration Unit stating conformity with the provisions of Chapter 1, Part 7, Article 2 Sections 1770, 1773, 1773.1 and 1773.9 Craft: Electrician; General Building; Plumber; Sheet Metal Worker

5. **Security** – The Company selected will be required to complete Personnel Risk Assessment(s) for employees, contractors, or 3<sup>rd</sup> party vendors, including periodic training, as identified in APPENDIX C, 1.3 & APPENDIX C, Exhibit C in accordance with NERC-CIP requirements.

6. **Schedule** – The minimum required schedule for maintenance appears below

Property #1 - 651 Commerce Dr., Roseville

HQ quarterly preventative maintenance and filter change

January	All units
April	All units
July	All units
October	All units

(Coil cleaning as required)

Property #2 - 7664 Old Auburn Rd., Citrus Heights

DRC quarterly preventative maintenance and filter change

January	Units #4, #5 & Economizer only
April	All units + coil cleaning
July	Units #4, #5 & Economizer only
October	All units

7. **Compensation** – Provide compensation for all labor (total monthly or annual cost) for the work as proposed, and include escalation schedule (if any) or increases due to changing minimum wage for the next 5 years. Show the cost for Property #1 and Property#2 separately.
- a. Provide an hourly rate in each applicable wage category for additional services such as service calls and work not covered by the maintenance agreement or that may be requested by the Agency (such as emergency calls, after-hours, holidays etc.), and include a comparison to the current prevailing wage scale for the same categories in the City of Roseville, CA, Placer County.
  - b. Overhead and Profit - Provide Parts and Materials Cost Plus
8. **Requests For Information** - Should the Proposer find discrepancies in or omissions from this document, or should the intent or meaning appear to the Proposer to be obscure or ambiguous, the Proposer may request clarification or correction thereof before submitting a proposal. RFI's should be directed to Jonathan Ashcraft, Facilities Manager (who's contact information is below) with the subject line "HVAC Services RFP# 2023-03 Response". Questions or comments must be received by Agency no later than 1:00 p.m. Pacific Daylight Time, Tuesday, May 30, 2023. Referencing "HVAC Services RFP# 2023-03" in the communication. Responses from the Agency will be answered verbally or via email. Should the RFI be of interest to all proposers, the question and response will be distributed via email to all recipients of the RFP.
9. **Addendum** – Should it become necessary to revise or supplement any part of this Request for Proposal, a written addendum will be issued via email to all recipients of the RFP and posted at [www.ncpa.com/rfp](http://www.ncpa.com/rfp)

## **Property Locations**

Property #1:

NCPA Headquarters Building (HQ)  
651 Commerce Dr.  
Roseville, CA 95678

Property #2:

NCPA Disaster Recovery Center (DRC)  
7664 Old Auburn Rd.  
Citrus Heights, CA 95610

## **Pre-Bid Site Visit**

A non-mandatory pre-bid site visit will be held on Thursday, May 25, at 10:00 am at 651 Commerce Dr, Roseville CA. The visit will consist of a site walk, including access to view rooftop equipment. NCPA makes no claim as to the accuracy of the equipment models and/or ratings and capacities listed in this RFP, therefore the Contractor is responsible for field verification.

## **Scope of Services**

The proposing HVAC Company, for and in consideration of the payment to be made to it, hereby agrees to: 1) furnish all labor, material, and equipment necessary or required for the work described below, 2) be willing to enter into an Agreement with the Agency, a sample of which is included in APPENDIX C, 3) agree that the Proposal submitted by the HVAC Company, the terms, conditions, and scope of services included in the Request For Proposal, being incorporated as a part of that Agreement by reference, to the same extent as if they were fully set forth therein.

The Company selected will provide an ongoing comprehensive maintenance program for the building environmental mechanical systems at each property based on the equipment manufacturer's recommendations, equipment location, application, type, run times, and experience. These activities are intended to extend equipment life and assure proper operating conditions and efficiency. The program's services apply to the equipment listed in APPENDICES A&B, Equipment & Filter Schedules, for each property and shall include at a minimum:

**Test and Inspect:** Job labor, travel labor, and travel and living expenses required to visually inspect and test equipment to determine its operating condition and efficiency.

**Preventative Maintenance:** Job labor, travel labor, and travel and living expenses required to clean, align, calibrate, tighten, adjust, lubricate and paint equipment.

**Repair and Replace:** Job labor, travel labor, parts procurement labor (locating, ordering, expediting and transporting), and travel and living expenses required to repair or remove and replace broken, worn and/or doubtful components and/or parts.

**Trouble Calls:** Job labor and travel labor, including overtime, plus travel and living expenses required for unscheduled work resulting from an abnormal condition.

**Components, Parts and Supplies:** The cost of components, parts and supplies required to keep the equipment operating properly and efficiently.

**Building Automation & Technical Support:** Maintenance and technical support of NCPA's Automated Logic Corporation (ALC) WebCTRL building automation system. Remote schedules, set points, time of day and holiday schedule changes, as directed by NCPA, are included. A service technician will be dispatched for any ALC issue that cannot be resolved remotely.

**Water Treatment Service:** Condenser water treatment for cooling tower on Energy Lab unit (AHU 1- West) at Property #1, the Roseville HQ building only. A preventative maintenance program for control of scale, corrosion and biological fouling to preserve the equipment, maximize its efficiency, minimize maintenance requirements and minimize systems and/or equipment malfunctions. The program shall include monthly examination, testing, water analysis, and adjustment of all water chemical feeding equipment.

**Indoor Air Quality Evaluation:** All labor, materials and equipment required to perform an annual Indoor Air Quality (IAQ) evaluation at Property #1, the Roseville HQ building only. The work shall be performed by a certified industrial hygienist for the purpose of identifying potential problems in the HVAC systems that could affect occupant health.

**NOTE:**

- 1) A certified third-party vendor for Building Automation, Water Treatment and IAQ evaluations may be used if approved by NCPA. (To be identified and included in the proposal (Proposal Requirements 1,d)
- 2) Property #1 has a Shelter In Place System (SIP) that works in conjunction with the ALC WebCTRL system. All WebCTRL programming and maintenance of the mechanical components of the system, including the SIP low-leak supply and return air dampers in the equipment are included in the annual maintenance. Labor to replace and calibrate the system's sensors is included, sensors are an additional charge.

**Submittal**

This is a formal request for proposal (RFP), but is not an offer by the Agency to contract with any firm responding to this RFP. The Agency expects to select one or more firms that best meet the Agency's need to supply the HVAC Maintenance.

**Proposals are to be submitted to NCPA Roseville Headquarters no later than 5:00 p.m. Pacific Daylight Time on Monday, June 5, 2023.** NCPA will accept proposals via email. Please reference "HVAC Services RFP# 2023-03" in the subject line and send via email at:

Email: Jonathan.Ashcraft@ncpa.com  
Phone: (916) 781-4208

or address hard copy proposals to:

Jonathan Ashcraft, Facilities Manager  
651 Commerce Dr.  
Roseville, CA 95678  
ATTN: HVAC Services RFP# 2023-03

Include Proposer information:

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_ E-mail: \_\_\_\_\_

### **Proposal Evaluation and Selection Process**

NCPA will evaluate the proposals and select the Company in consideration of their 1) qualifications and experience, 2) the Company's safety record, 4) the quality, completeness and timely submission of the proposal, 5) willingness to sign NCPA's standard Agreement, 6) recommended schedule, 7) annual cost, escalation clauses, hourly compensation, overhead and profit, and any additional fees. The Agency reserves the right, as the interest of the Agency may require, to reject any proposal or to waive any irregularity in the proposals received. NCPA also reserves the right to reject all submittals and to re-advertise or extend the deadline, if necessary. Once submitted, no proposal may be changed, although it may be withdrawn prior to the final selection.

A proposed Agreement will be forwarded to the Contractor selected. Within ten (10) calendar days thereafter, the Contractor is required to deliver to the Agency the required insurance certificates and signed copies of the Agreement. The Contractor's work may not begin until the Agency has received all the required documents, the Agreement has been countersigned and fully executed by the Agency and a purchase order has been let to the Contractor for the work.

# **Appendix A**

## **EQUIPMENT & FILTER SCHEDULE ROSEVILLE HQ**



**PROPERTY #1 - ROSEVILLE HQ EQUIPMENT**

<b>PACKAGE UNITS</b>	<b>MFR</b>	<b>MODEL</b>	<b>RATING</b>	
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**1-Water Cooled**

<b>1 AHU-1 WEST</b>	<b>Energy Lab</b>	<b>C72102-FR-L</b>	<b>70.00</b>	<b>tons</b>
#1 Compressor		ZRU 280K3E-TWD-271	17.50	tons
#2 Compressor	(Tandem)	ZR16M3E-TWD-551	17.50	tons
#3 Compressor		ZRU 280K3E-TWD-271	17.50	tons
#4 Compressor	(Tandem)	ZR16M3E-TWD-551	17.50	tons
1 Supply Fan			20.00	Hp
1 Return Fan			7.50	Hp
1 Economizer				
1 Supply Damper				
1 Return Damper				
1 SIP Supply Damper				
1 SIP Return Damper				
1 Bi-Polar Ionization				

**1-Air Cooled**

<b>1 AHU-2 EAST</b>	<b>Trane</b>	<b>SFHFC304L258CSC</b>	<b>30.00</b>	<b>tons</b>
#1 Compressor		CSHA140K0B00	15.00	tons
#2 Compressor		CSHA140K0B00	15.00	tons
1 Supply Fan			15.00	Hp
1 Return Fan			7.50	Hp
#1 Condenser Fan			1.00	Hp
#2 Condenser Fan			1.00	Hp
#3 Condenser Fan			1.00	Hp
1 Heat				
1 Economizer				
1 Supply Damper				
1 Return Damper				
1 SIP Supply Damper				
1 SIP Return Damper				
1 Bi-Polar Ionization				

PACKAGE UNITS	MFR	MODEL	RATING	
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### 5-Split Systems

<b>4 CU Units</b>	<b>CU-1</b>	<b>Carrier</b>	<b>38YCC60</b>	<b>5.00</b>	<b>tons</b>
	<b>CU-2</b>	<b>Carrier</b>	<b>38YCC60</b>	<b>5.00</b>	<b>tons</b>
	<b>CU-3</b>	<b>Carrier</b>	<b>38YCC60</b>	<b>5.00</b>	<b>tons</b>
	<b>CU-4</b>	<b>Carrier</b>	<b>38YCC60</b>	<b>5.00</b>	<b>tons</b>
4 Compressors				5.00	tons
4 Condenser Fans				.25	Hp
<b>3 AH Units</b>	<b>FC-1</b>	<b>Carrier</b>	<b>FB40NAF060</b>	<b>2000</b>	<b>CFM</b>
	<b>FC-2</b>	<b>Carrier</b>	<b>FB40NAF060</b>	<b>2000</b>	<b>CFM</b>
	<b>FC-3</b>	<b>Carrier</b>	<b>FB40NAF060</b>	<b>2000</b>	<b>CFM</b>
3 Supply Fans				0.75	Hp
<b>1 AH Unit</b>	<b>FC-4</b>	<b>Carrier</b>	<b>FB40NAF060</b>	<b>2000</b>	<b>CFM</b>
1 Supply Fan				0.75	Hp
1 Heat					N/A
<b>1 CU Unit</b>	<b>DMS-Elec Rm</b>	<b>Fujitsu</b>	<b>MM018</b>	<b>1.50</b>	<b>tons</b>
1 Compressor				1.5	tons
<b>1 AH Unit</b>	<b>FC-Elec Rm</b>	<b>Fujitsu</b>	<b>MM018</b>	<b>600</b>	<b>CFM</b>

3-AIR SIDE SYSTEMS	MFR	MODEL	RATING	
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<b>1 Gas Furnace</b>		<b>Sterling</b>	<b>C-35</b>	<b>6,000</b>	<b>CFM</b>
1 Supply Fan				5.00	Hp
<b>1 Economizer Server Rm</b>					
1 Supply Fan w/ Supply Damper		Greenheck	DC variable speed	0.50	Hp
<b>1 Economizer Elec Rm</b>					
1 Supply Fan w/ Supply Damper		Fantech	In-line booster	0.25	Hp
1 Return Fan w/ Return Damper		Fantech	In-line booster	0.25	Hp

<b>6-EXHAUST FANS</b>	<b>MFR</b>	<b>MODEL</b>	<b>RATING</b>
#1 Men's & Women's RR w/ Return Damper	Greenheck	Roof-top	0.25 Hp
#2 Women's RR Auxiliary w/ Return Damper	Greenheck	In-line	0.25 Hp
#3 Dispatch RR	Greenheck	In-line	0.25 Hp
#4 Copy Room w/ Supply Damper w/ Return Damper	Greenheck	Rooftop	0.30 Hp
#5 Large Conf Rm	Fantech	In-line	Hp
#6 UPS Rm w/ Return Damper	Dayton	In-line 5AE77	Hp

**PROPERTY #1 - ROSEVILLE HQ AIR FILTER SERVICE**

<b>QTY</b>	<b>CHANGES/YR.</b>	<b>FILTER</b>
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**Package Units**

<b>1 Water Cooled Unit</b>	<b>Energy Lab</b>		
	6	4	2x24x24 High Cap Pleated MERV 8
	3	4	2x12x24 High Cap Pleated MERV 8
	6	***	12x24x24 High Cap Pleated – “Box”
	3	***	12x24x12 High Cap Pleated – “Box”

\*\*\* Special box filters are replaced on an as needed basis, labor included, filters additional charge

<b>1 Air Cooled Unit</b>	<b>Trane</b>		
	16	4	2x20x20 High Cap Pleated MERV 8

**Split Systems**

<b>4 AH Units</b>	<b>Carrier</b>		
FC-1	1	4	2x20x25 High Cap Pleated MERV 8
FC-2	1	4	2x20x25 High Cap Pleated MERV 8
FC-3	1	4	2x20x25 High Cap Pleated MERV 8
FC-4	1	4	2x20x25 High Cap Pleated MERV 8

<b>1 AH Unit</b>	<b>Fujitsu</b>		
DMS-Elec Rm	1	4	2x20x25 High Cap Pleated MERV 8

**Air Side Systems**

<b>2 Economizers</b>	<b>Greenheck</b>		
Server Rm	2	4	4x20x20 High Cap Pleated MERV 13
Elec Rm	1	4	2x20x20 High Cap Pleated MERV 8

# **Appendix B**

## **EQUIPMENT & FILTER SCHEDULE CITRUS HEIGHTS DRC**

**PROPERTY #2 – CITRUS HEIGHTS DRC EQUIPMENT**

<b>PACKAGE UNITS</b>	<b>MFR</b>	<b>MODEL</b>	<b>RATING</b>
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**5-Split Systems**

<b>3 CU Units</b>	<b>CU-1</b>	<b>Carrier</b>	<b>4.00</b>	<b>tons</b>	
1 Compressor			4.00	tons	
1 Condenser Fan			.30	Hp	
	<b>CU-2</b>	<b>Carrier</b>	<b>3.00</b>	<b>tons</b>	
1 Compressor			3.00	tons	
1 Condenser Fan			.25	Hp	
	<b>CU-3</b>	<b>Carrier</b>	<b>5.00</b>	<b>tons</b>	
1 Compressor			5.00	tons	
1 Condenser Fan			.30	Hp	
<b>3 AH Units</b>	<b>FC-1</b>	<b>Carrier</b>	<b>38QN048-500</b>	<b>1600</b>	<b>CFM</b>
	<b>FC-2</b>	<b>Carrier</b>	<b>38YCC036-55</b>	<b>1200</b>	<b>CFM</b>
	<b>FC-3</b>	<b>Carrier</b>	<b>38YCC60-500</b>	<b>2000</b>	<b>CFM</b>
3 Supply Fans			0.50	Hp	
3 Heat				N/A	

<b>1 CU Unit</b>	<b>CU-4</b>	<b>Carrier</b>	<b>3.00</b>	<b>tons</b>
1 Compressor			3.00	tons
1 Condenser Fan			.25	Hp

<b>1 AH Unit</b>	<b>FC-4</b>	<b>Carrier</b>	<b>38TH036-500DL</b>	<b>1200</b>	<b>CFM</b>
1 Supply Fan				0.50	Hp

<b>1 CU Unit</b>	<b>CU-5</b>	<b>Carrier</b>	<b>3.00</b>	<b>tons</b>
1 Compressor			3.00	tons
1 Condenser Fan			.50	Hp

<b>1 AH Unit</b>	<b>FC-5</b>	<b>Carrier</b>	<b>FX4DNF037</b>	<b>1200</b>	<b>CFM</b>
1 Supply Fan					Hp

<b>1-AIR SIDE SYSTEMS</b>	<b>MFR</b>	<b>MODEL</b>	<b>RATING</b>
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<b>1 Economizer Server Rm</b>				
1 Return Fan	Greenheck	DC variable spd. SQ120V6-5-X	0.50	Hp

**PROPERTY #2 – CITRUS HEIGHTS DRC AIR FILTER SERVICE**

<b>QTY</b>	<b>CHANGES/YR.</b>	<b>FILTER</b>
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**Split Systems**

<b>5 AH Units</b>	<b>Carrier</b>		
FC-1	1	2	1x20x25 High Cap Pleated MERV 8
FC-2	1	2	1x20x25 High Cap Pleated MERV 8
FC-3	1	2	1x20x25 High Cap Pleated MERV 8
FC-4	1	4	2x16x25 High Cap Pleated MERV 8
FC-5	1	4	1x19 7/8x19 7/8 High Cap Pleated MERV 8

**Air Side Systems**

<b>1 Economizer</b>	<b>Greenheck</b>		
Server Rm	2	4	4x24x24 High Cap Pleated MERV 13

Abbreviations Key:

- AH - Air Handling
- AHU – Air Handling Unit
- CU - Condensing/Compressor Unit
- DMS - Ductless Mini Split
- FC - Fan Coil
- MERV - Minimum Efficiency Reporting Value

# Appendix C

## SAMPLE AGREEMENT



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

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 [REDACTED], a [REDACTED] [sole proprietorship, partnership, corporation] with its office located at [REDACTED] ("Contractor") (together sometimes referred to as the "Parties") as of [REDACTED], 20 [REDACTED] ("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. Contractor shall ensure all personnel assigned to perform the Work meet and follow the requirements specified below for unescorted physical or electronic access:
- Complete a Personnel Risk Assessment, provided by the Contractor, comprised of the following: 1) verification of identification, (2) criminal history reference check for the previous seven (7) years, and 3) written confirmation that the results of the criminal history reference check are within the acceptance criteria defined by Agency and included in Exhibit C, and
  - Complete an initial security training and annual training thereafter, both of which will be provided by Agency.

Contractor shall notify Agency within 24 hours of voluntary separation or termination of one of its personnel who has been granted unescorted physical or electronic access to Agency facilities or systems. And, Contractor shall notify the Agency within 24 hours of any lost or stolen Agency issued badges or electronic access authenticators. Failure to timely notify Agency of voluntary termination or separation, or loss of access badge or authenticator may be considered by Agency as Contractor breach of this Agreement allowing Agency to immediately terminate this Agreement without liability to Agency.

- 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.

- 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** [REDACTED] dollars (\$ [REDACTED]) 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 \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

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

[Use the following Section 5.3 if Contractor will be providing chemicals, fuel, or other substances which may be toxic, hazardous, or of a similar nature.]

- 5.3 **Transfer of Title.** If Contractor's Work involves its transporting hazardous materials, Contractor shall be deemed to be in exclusive possession and control of such materials and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of such materials, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Contractor or its agents complete transfer of such materials into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency, Contractor shall be responsible for all such notifications. Should Contractor be required to remedy or remove such materials as a result of a leak, spill, release or discharge of such materials into the environment at Agency's Site or elsewhere, Contractor agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

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

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



System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

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

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

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

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

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

**Section 7. LEGAL REQUIREMENTS.**

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

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

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

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

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

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

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

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

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

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



have paid Contractor pursuant hereto if Contractor had completed the Work.

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

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

unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

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

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

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

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

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

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

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

**10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work,

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

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

## **Section 11. WARRANTY.**

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

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

and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

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

**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 [REDACTED], Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:  
  
[CONTRACTOR'S NAME, ADDRESS]

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.

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

NORTHERN CALIFORNIA POWER AGENCY

**CONTRACTOR**

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
[NAME, TITLE]

\_\_\_\_\_  
[NAME, TITLE]

Attest:

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

Approved as to Form:

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

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

**[ATTACH OR INSERT SCOPE OF WORK HERE]**

Insert as needed: 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:

[Insert breakdown here]

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

### CRIMINAL HISTORY ACCEPTANCE CRITERIA

#### CIP PERSONNEL RISK ASSESSMENT (PRA) EVALUATION CHECKLIST

Vendors Name: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Investigator's Name: \_\_\_\_\_

Date: \_\_\_\_\_ Badge Number: \_\_\_\_\_

Contractor or Vendor

Self-Reported Arrest

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#### RISK ASSESSMENT DETAILS (Check Yes or No for each criteria)

YES

NO

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Identity verification completed and approved. Method Used: _____  |
| <input type="checkbox"/> | <input type="checkbox"/> | Name and social security number correspond.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Pre-employment Background Investigation for previous 7 years completed and approved by the Vendor. No criminal history, or disposition of not guilty, not prosecuted, waived or dismissed.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the Vendor able to verify the nature or status of criminal history. If no, comment below.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Unresolved or outstanding warrant.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <i>Potentially Disqualifying Misdemeanor</i> – Misdemeanor conviction or misdemeanor pending court adjudication or disposition for crime INVOLVING weapons, drugs, violence, theft, robbery, burglary, embezzlement, misappropriation, fraud, terrorist threats, or sabotage or sexual offenses, where the conviction date and any related term of imprisonment ended less than 7 years prior to background investigation application (describe in comments). |
| <input type="checkbox"/> | <input type="checkbox"/> | Felony conviction at any time or felony charge pending court adjudication or disposition.   |
-

**EXHIBIT C (Continued)**

**CRIMINAL HISTORY ACCEPTANCE CRITERIA**

*Comments/Notes (attach additional pages as needed):*

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**NCPA INTERNAL REVIEW**

Review Date: \_\_\_\_\_

Approver's Name: \_\_\_\_\_

- |   |   |
|---|---|
| <input type="checkbox"/> APPROVED FOR CIP UNESCORTED ACCESS   | <input type="checkbox"/> NOT APPROVED FOR CIP |
| <input type="checkbox"/> UNESCORTED ACCESS<br>APPROVED FOR CIP ELECTRONIC ACCESS<br>ELECTRONIC ACCESS | <input type="checkbox"/> NOT APPROVED FOR CIP |

**EXHIBIT D**

**CERTIFICATION**

**Affidavit of Compliance for Contractors**

I,

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(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

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(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.

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(Signature of officer or agent)

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

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

**EXHIBIT E**  
**CERTIFICATION**

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

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

(Name of person signing affidavit)(Title)

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

\_\_\_\_\_  
(Company name)

for hazardous materials delivery to:

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

(Project name and location)

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

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

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

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

**EXHIBIT F**

**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)  
\_\_\_\_\_