

SERVICES AGREEMENT
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SAN JOSE CLEAN ENERGY

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This SERVICES AGREEMENT (“Agreement”) is made by and between the Northern California Power Agency, a joint powers agency of the State of California (“NCPA”), and the City of San Jose, a municipal corporation, (“Customer”) for the purposes of providing certain wholesale energy services to San Jose Clean Energy. NCPA and Customer are together sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

This Agreement is made as of _____, 20__ (the “Effective Date”).

Section 1. RECITALS

This Agreement is entered into based on the following facts, among others:

1.1 NCPA has heretofore been duly established as a joint powers agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric capacity and energy for resale.

1.2 Customer has chosen to aggregate the electric load for San Jose residents and businesses through a community choice aggregation program, which has been named San Jose Clean Energy (“SJCE”).

1.3 NCPA is a certified Scheduling Coordinator in accordance with the CAISO Tariff.

1.4 NCPA has established facilities, staff and the capability for the provision of Services to Customer.

1.5 Customer desires NCPA to provide Services to Customer.

1.6 NCPA is willing to provide Customer with Services pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the amount and sufficiency of which are hereby acknowledged, NCPA and Customer agree as follows:

Section 2. DEFINITIONS

2.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms will have the following respective meanings, provided, capitalized terms used in this Agreement (including the Recitals hereto) that are not defined in Section 2 of this Agreement will have the meaning indicated in Appendix A Master Definition Supplement of the CAISO Tariff:

2.1.1 "Agreement" means this Services Agreement, including all Appendices, attached hereto.

2.1.2 "Balance of Month Transaction" means a purchase or sale of electric energy, capacity and/or other related attribute for a term not greater than one calendar month to be performed or delivered within the current or next succeeding calendar month.

2.1.3 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day opens at 8:00 a.m. and close at 5:00 p.m. local time.

2.1.4 "Calendar Day" means all days, including Saturdays, Sundays or Federal Reserve Bank holidays.

2.1.5 "California Independent System Operator Corporation" or "CAISO" means the non-profit public benefit corporation responsible for the provision of fair and open transmission access, and maintaining reliable and efficient operation of that portion of the electric grid contained within its defined balancing authority area, pursuant to the California Public Utilities Code, or its successor entity.

2.1.6 "CAISO Tariff" means the CAISO FERC Electric Tariff.

2.1.7 "Commission" means the NCPA Commission established by the Joint Powers Agreement.

2.1.8 "Customer" has the meaning set forth in the preamble hereto.

2.1.9 "Director" means the City of San Jose's Director of Community Energy or his/her designee, which designation may be withdrawn or amended from time to time.

2.1.10 "Effective Date" has the meaning set forth in the preamble hereto.

2.1.11 "Electric System" means all properties and assets, real and personal, tangible and intangible, of the Customer now or hereafter existing, used or pertaining to the generation for resale, transmission, transformation, distribution or sale of electric capacity and energy, or the utilization of such, including all additions, extensions, expansions, improvements and betterments thereto and equipment thereof; provided, however, that to the extent the Customer is not the sole owner of an asset or property or to the extent that an asset or property is used in part for generation for resale, transmission, transformation, distribution or sale of electric capacity and energy, only the Customer's ownership interest in such asset or property or only the part of the asset or property used for electric purposes will be considered to be part of its Electric System.

2.1.12 "Event of Default" has the meaning set forth in Section 10.1 of this Agreement.

2.1.13 "FERC" means the Federal Energy Regulatory Commission, or its regulatory successor.

2.1.14 "General Manager" means the General Manager of NCPA.

2.1.15 "Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry within the United States of America during the relevant time period, which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with NERC or WECC approved business practices, reliability and safety. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the electric utility industry within the United States of America.

2.1.16 "Joint Powers Agreement" means the Amended and Restated Northern California Power Agency Joint Exercise of Powers Agreement dated as of January 31, 2008.

2.1.17 "Material Adverse Effect" means an error, penalty, unexpected charge, event, circumstance or condition with a detrimental cost of One Hundred Thousand Dollars (\$100,000.00) or more to Customer that is not due to Uncontrolled Forces.

2.1.18 "Member" means any member of NCPA or associate member of NCPA who is a signatory to the Joint Powers Agreement.

2.1.19 "NCPA" has the meaning set forth in the preamble hereto.

2.1.20 "NERC" means the North American Electric Reliability Corporation, or its successor.

2.1.21 "Operating Entity" means an entity that determines the use of and coordinates scheduling of their load, resources, imports and exports, trades, ancillary services or other CAISO products, in accordance with established scheduling requirements, including those requirements determined by NCPA.

2.1.22 "Party" or "Parties" has the meaning set forth in the recitals hereto; provided that "Third Parties" are entities that are not party to this Agreement.

2.1.23 "Phase 1" means the period of time Customer will commence providing service to customers within its service area, where such customers will primarily consist of the City of San Jose municipal accounts, as further described in Customer's Community Choice Aggregation Implementation Plan and Statement of Intent dated August 17, 2017.

2.1.24 "Phase 2" means the period of time Customer will commence providing services to additional customers within its service area, where such customers will include Phase 1 customers and additional customers, including, but not limited to, residential and small commercial customers, as further described in Customer's Community Choice Aggregation Implementation Plan and Statement of Intent dated August 17, 2017.

2.1.25 "Records" shall have the meaning set forth in Section 8.6 of this Agreement.

2.1.26 “Reliability Standards” means requirements approved by FERC under Section 215 of the Federal Power Act to provide for reliable operation of the bulk power system.

2.1.27 “Scheduling Agent” means an entity authorized to act as agent on behalf of a Scheduling Coordinator, and that performs certain Scheduling Coordinator duties and requirements on behalf of a Scheduling Coordinator.

2.1.28 “Scheduling Coordinator” means an entity certified by the CAISO for the purposes of undertaking the functions of a Scheduling Coordinator specified in the CAISO Tariff, including, but not limited to, submitting and settling bids, self-schedules, and trades in the CAISO markets.

2.1.29 “Security Account” means an account established at NCPA pursuant to this Agreement. The Security Account is established to: (1) make timely payments to the CAISO under the CAISO Tariff, (2) provide working capital for NCPA’s provision of Services and to bridge timing differences between the receipt of payments from Customer and the date payments are due to the CAISO, (3) satisfy CAISO security deposit requirements, if any, and (4) protect NCPA from potential Customer default by providing funds and time to cure.

2.1.30 “Services” have the meaning as set forth in Section 4.1 of this Agreement.

2.1.31 “Significant Operational Change” has the meaning as set forth in Section 15.18 of this Agreement.

2.1.32 “Significant Regulatory Change” has the meaning as set forth in Section 15.18 of this Agreement.

2.1.33 “Services Fee” means the amount Customer shall pay NCPA, as set forth in Section 7.1 of this Agreement, in consideration for NCPA’s provision of all Services, other than Supplemental Services, to Customer, in accordance with the terms and conditions of this Agreement.

2.1.34 “Supplemental Services” shall have the meaning as set forth in Appendix A of this Agreement.

2.1.35 "Third Party" means an entity that is not a Party to this Agreement.

2.1.36 "Uncontrollable Forces" means storm, flood, lightning, earthquake, tsunami, fire, explosion, failure of facilities not due to lack of proper care or maintenance, civil disturbance, industry wide labor dispute, sabotage, war, national emergency, restraint by court or public authority, any curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or other causes beyond the control of the affected Party which such Party could not reasonably have been expected to avoid by exercise of Good Utility Practice, due diligence and foresight.

2.1.37 "WECC" means the Western Electricity Coordinating Council, or its successor(s).

2.2 Rules of Interpretation. As used in this Agreement (including the Recitals hereto), unless in any such case the context requires otherwise: The terms "herein," "hereto," "herewith" and "hereof" are references to this Agreement taken as a whole and not to any particular provision; the term "include," "includes" or "including" shall mean "including, for example and without limitation;" and references to a "Section," "subsection," "clause," "Appendix", "Schedule", or "Exhibit" means a Section, subsection, clause, Appendix, Schedule or Exhibit of this Agreement, as the case may be. All references to a given agreement, instrument, tariff or other document, or law, regulation or ordinance are references to that agreement, instrument, tariff or other document, or law, regulation or ordinance as such now exists and as may be amended from time to time, or its successor. A reference to a "person" includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having a separate legal personality and includes its successors and permitted assigns. A reference to a "day" means a Calendar Day unless otherwise specified. The singular includes the plural and the masculine includes the feminine, and vice versa.

Section 3. PURPOSE OF AGREEMENT

The purpose of this Agreement is to set forth the terms and conditions under which NCPA will supply Customer with Services.

Section 4. SERVICES TO BE PROVIDED AND STANDARDS OF PERFORMANCE

4.1 NCPA Duties. The duties of NCPA under this Agreement are to provide services to Customer as fully described in Appendix A hereto (“Services”).

4.2 Customer Duties. The duties of the Customer under this Agreement are to:

4.2.1 Timely provide certain information to NCPA that is required for NCPA to perform Services, as fully described in Appendix A hereto.

4.2.2 Make timely payments to NCPA for all CAISO charges and credits for services invoiced by NCPA to Customer in accordance with Section 8 of this Agreement.

4.2.3 Provide staff and other assistance as may be required from time to time to the extent necessary for NCPA to fulfill its duties as described in Section 4.1 of this Agreement.

4.2.4 Comply with all requirements of the CAISO Tariff, as applicable, with respect to the operation and maintenance of its Electric System and other facilities covered under this Agreement.

4.2.5 Provide security or other deposits required by the CAISO, if any, to NCPA in accordance with Section 11 of this Agreement.

4.2.6 Initially fund and maintain sufficient deposits in its Security Account in accordance with Section 12 of this Agreement.

4.2.7 Make timely payment of all costs associated with NCPA’s provision of Services, as set forth in this Agreement.

4.2.8 Defend and indemnify NCPA in regard to Services provided to Customer by NCPA.

4.2.9 Customer shall register as a Scheduling Coordinator and establish a Scheduling Coordinator account (commonly referred to as “SCID”) to which the content of Customer’s portfolio (including, but not limited to, loads, generation, trades, and/or other scheduled CAISO products) shall be transferred and/or migrated on or prior to March 31,

2019, whereby upon completing such transfer and/or migration Customer shall act as its own Scheduling Coordinator, and shall assign certain scheduling and settlement duties and responsibilities to NCPA, acting as Customer's Scheduling Agent.

4.3 Standard of Performance. NCPA will perform Services using the level of skill and attention reasonably required to complete the Services in a competent and timely manner, in accordance with Good Utility Practices. NCPA shall perform all Services in accordance with the CAISO Tariff, and in accordance with the rules and requirements as may be adopted, approved and enforced by the California Energy Commission and the California Public Utilities Commission, as such rules and requirements may be applicable to the Services provided hereunder.

4.4 Assignment of Personnel. NCPA shall assign only competent personnel to perform Services pursuant to this Agreement.

4.5 Time. NCPA shall devote such time to the performance of Services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 4.3, and to satisfy NCPA's obligations hereunder.

Section 5. TERM AND TERMINATION

5.1 Term. The initial term of this Agreement will begin on the Effective Date and will continue uninterrupted through August 31, 2020 (the "Initial Term"). At the end of the initial term of this Agreement, or any subsequent term of this Agreement, the term of this Agreement may be extended by Customer for an additional two (2) year period, or an alternative period of time as agreed to by the Parties, unless a Party provides written Notice of Termination pursuant to Section 5.2, of its election not to extend the term of the Agreement.

5.2 Termination. This Agreement may be terminated by Customer on or subsequent to the first anniversary of service by providing written notice to NCPA at least ninety (90) Calendar Days prior to the date on which service under this Agreement shall be terminated. For the purpose of clarity, the first anniversary of service provided under this agreement shall be August 31, 2019. This Agreement may be terminated by NCPA at the end of the Initial Term, or at the end of any subsequent term, by providing written notice to Customer at least one

hundred and eighty (180) Calendar Days prior to the end of the current term of the Agreement. A written notice of termination (“Notice of Termination”) provided by either Party shall be provided to the other Party in accordance with Section 15.10 of this Agreement. Upon termination of this Agreement, NCPA shall return all Records to Customer within a reasonable period of time, and without any additional costs.

5.3 No Effect on Prior Liabilities. Termination of this Agreement will not terminate any ongoing or un-discharged liabilities, credits or obligations of the Parties, including any contingent liabilities, credits or obligations, resulting from this Agreement until they are satisfied in full, or for which the Parties have provided a mechanism acceptable to the other Party, for the satisfaction in full thereof.

Section 6. INDEMNITY

6.1 Limitation of Liability. Neither NCPA nor Customer shall at any time be liable for any injury or damage occurring to the other, or any third person or property, from any cause whatsoever arising out of this Agreement. Each Party agrees to indemnify, defend and hold harmless the other Party, including their respective governing boards, officials, agents and employees, from and against any and all claims, suits, losses, costs, damages, expenses and liability of any kind or nature, including reasonable attorneys’ fees and the costs of litigation, including experts, to the extent caused by any acts, omissions, breach of contract, negligence (active or passive), gross negligence, recklessness, or willful misconduct of that Party, its governing officials, officers, employees, subcontractors or agents, to the maximum extent permitted by law.

6.2 Notice. The Parties agree to give each other prompt notice of the making of any claim or the commencement of any action, suit or proceeding covered by the provisions of this Section 6.

6.3 Notice of Tender. Each Party will provide the other Party prompt notice of any claim or liability that would trigger the obligation to indemnify and defend the other Party under Section 6.1. Any such notice must be in writing and delivered consistent with the notice provisions in Section 15.10.

Section 7. COMPENSATION

7.1 Compensation for Services. Customer shall pay NCPA the amounts set forth in Appendix B for NCPA's provision of Services to Customer in accordance with the terms and conditions of this Agreement. Such amount shall be billed to Customer in accordance with Section 8 of this Agreement.

7.2 CAISO Charges and Credits. All charges and credits invoiced by the CAISO to NCPA associated with Services provided under this Agreement will be charged or credited to Customer, without markup or deduction, and shall be paid to NCPA by Customer in addition to the compensation stated in Section 7.1. Such CAISO charges and credits will be billed to Customer in accordance with Section 8 of this Agreement.

Section 8. BILLING AND PAYMENT

8.1 Invoices. NCPA will issue a monthly invoice to Customer for estimated and actual CAISO charges and credits, costs associated with NCPA's provision of Services, and all other costs for Services (e.g., power supply costs) with no markup provided in accordance with this Agreement. Such invoices will be made pursuant to the requirements and procedures provided for in this Agreement. At NCPA's discretion, invoices may be issued to Customer using electronic media or physical distribution.

8.2 Payment of Invoices. All non-emergency invoices delivered by NCPA to Customer are due and payable forty-five (45) Calendar Days after the date thereof; provided, however, that any amount due on a day other than a Business Day may be paid on the next following Business Day. NCPA may apply Customer's Security Account to the payment of all or any portion of an invoice to Customer, provided that application of such funds from the Security Account will not relieve Customer from any late payment charges pursuant to Section 8.3. To the extent that NCPA applies funds from the Security Account to pay an amount due under an invoice, following receipt of payment of such invoice by Customer, NCPA shall deposit

the relevant portion of the payment into the Security Account and credit such deposit to Customer. Emergency invoices delivered by NCPA shall be due and payable on the date indicated on such invoice, or as indicated in Section 12.5.

8.3 Late Payments. Any amount due and not paid by Customer in accordance with Sections 8.2, Section 11 and Section 12 will be considered late and will bear interest computed on a daily basis until paid at the lesser of (i) the per annum prime rate (or reference rate) of the Bank of America N.A. then in effect, plus two percent (2%) or (ii) the maximum rate permitted by law.

8.4 Billing Disputes. Customer may dispute the accuracy of any invoice issued by NCPA under this Agreement by submitting a written dispute to NCPA, within thirty (30) Calendar Days of the date of such invoice; nonetheless Customer agrees to pay the full amount billed when due for all costs other than amounts invoiced for the Services Fee, and Customer agrees to pay the full undisputed amount billed when due for the Services Fee. If Customer does not timely question or dispute the accuracy of any invoice in writing, or if NCPA does not identify a discrepancy in the invoice that requires a correction, the invoice will be deemed to be correct. Upon review of a submitted dispute, if an invoice is determined by NCPA to be incorrect, NCPA will issue a corrected invoice and refund any amounts that may be due to Customer. If NCPA and Customer fail to agree on the accuracy of an invoice within thirty (30) Calendar Days after Customer has disputed it, the General Manager will promptly submit the dispute to the Commission for resolution. If the Commission and Customer fail to agree on the accuracy of a disputed invoice within sixty (60) Calendar Days of its submission to the Commission, the dispute may then be resolved under the dispute resolution procedures set forth in Section 13 of this Agreement. Provided, however, that prior to resorting to alternative dispute resolution procedures, the full amount of the disputed invoice for all costs other than amounts invoiced for the Services Fee must have been paid.

8.5 Billing/Settlement Data. NCPA must make billing and settlement data available to Customer as part of all invoices delivered by NCPA, or upon request. NCPA may also, at its sole discretion, make billing and settlement support information available to Customer using electronic media (e.g. electronic data portal). Procedures and formats for the provision of such

electronic data submission may be as established by the NCPA Commission from time to time. Without limiting the generality of the foregoing, NCPA may, in its reasonable discretion, require Customer to execute a reasonable non-disclosure agreement prior to providing access to the NCPA electronic data portal for the purpose of protecting confidential information, consistent with the provisions contained in Section 15.1 of this Agreement.

8.6 Examination of Books and Records.

All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files or other documents or material, in electronic or any other form (collectively "Records"), that NCPA prepares or obtains pursuant to this Agreement and that relate to the Services provided hereunder, shall be stored and maintained by NCPA in accordance with NCPA's records retention policies and procedures, as such may be modified from time to time; provided that NCPA shall retain the records relating to this Agreement for a minimum of three (3) years from the date of Customer's final payment to NCPA under this Agreement, or for any longer period required by law.

At any time during the term of this Agreement, or during the period of time that NCPA is required to retain Records under this Agreement, as set forth in Section 8.6, Customer may request, in writing, production of all or a portion of the Records. NCPA shall produce the Records within a reasonable amount of time at no additional cost to Customer.

Section 9. COOPERATION AND FURTHER ASSURANCES

Each of the Parties agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are consistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. The Parties agree to cooperate and act in good faith in connection with obtaining any credit support required in order to satisfy the requirements of this Agreement.

Section 10. DEFAULTS

10.1 Events of Default. An Event of Default under this Agreement exists upon the occurrence of any one or more of the following by a Party (the “Defaulting Party”):

(i) the failure of Customer to make any payment (other than an emergency addition to the Security Account pursuant to Section 12.5) in full to NCPA when due, where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from NCPA demanding cure;

(ii) the failure of Customer to make any payment of an emergency addition to the Security Account when due pursuant to Section 12.5;

(iii) the failure of a Party to perform any covenant or obligation of this Agreement, including the requirements of each Party set forth in Section 4, where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from the other Party demanding cure. Provided, that this subsection shall not apply to any failure to make payments specified by subsection 10.1 (i) or (ii);

(iv) if any representation or warranty of a Party material to the Services provided hereunder shall prove to have been incorrect in any material respect when made and the Party does not cure the facts underlying such incorrect representation or warranty so that the representation or warranty becomes true and correct within thirty (30) Calendar Days of the date of receipt of notice from a Party demanding cure; or

(v) the occurrence of at least two (2) events that constitute a Material Adverse Effect.

10.2 Uncontrollable Forces. A Party shall not be considered to be in default in respect of any obligation hereunder if prevented from fulfilling such obligation by reason of Uncontrollable Forces. Provided, that in order to be relieved of an Event of Default due to Uncontrollable Forces, a Party affected by an Uncontrollable Force shall:

(i) first provide oral notice to the General Manager, or in the case of Customer, to the representative selected by Customer, using telephone communication within one (1)

Business Day of the onset of the Uncontrollable Force, and subsequently provide written notice to the Party's representative within ten (10) Business Days of the onset of the Uncontrollable Force, describing its nature and extent, the obligations which the Party is unable to fulfill, the anticipated duration of the Uncontrollable Force, and the actions which the Party will undertake so as to remove such disability and be able to fulfill its obligations hereunder; and

(ii) use due diligence to place itself in a position to fulfill its obligations hereunder and if unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such disability with reasonable dispatch. Provided, that nothing in this subsection shall require a Party to settle or compromise a labor dispute.

10.3 Cure of an Event of Default. An Event of Default shall be deemed cured only if such default shall be remedied or cured within the time periods specified in Section 10.1 above, as may be applicable.

10.4 Remedies in the Event of Uncured Default. Upon the occurrence of an Event of Default which is not cured within the time limits specified in Section 10.1, without limiting other rights or remedies available under this Agreement, at law or in equity, and without constituting or resulting in a waiver, release or estoppel of any right, action or cause of action a non-defaulting Party may have against the defaulting Party, a non-defaulting Party may take any or all of the following actions:

(i) NCPA may suspend the provision of Services under this Agreement to Customer;

(ii) NCPA may demand that Customer provide further assurances to guarantee the correction of the default;

(iii) The non-defaulting Party may terminate this Agreement as to the defaulting Party, on ten (10) Calendar Days prior written notice to the Defaulting Party; or

(iv) NCPA may utilize the funds available in Customer's Security Account to cure and default under Section 10.1(i) and thereafter demand replenishment of the Security Account.

10.5 Special Covenants Regarding Security Account. In the event that Customer's Security Account is insufficient to cover all invoices for costs incurred under this Agreement delivered to Customer, then, without limiting NCPA's other rights or remedies available under this Agreement, at law or in equity, Customer agrees to cooperate in good faith with NCPA and will work to cure the default as rapidly as possible, on an emergency basis, taking all such action as is necessary to replenish its Security Account as provided herein, drawing on its cash-on-hand and lines of credit, obtaining further assurances by way of credit support and letters of credit, and taking all such other action as will cure the default with all due haste.

10.6 Effect of Termination or Suspension.

10.6.1 Generally. The termination or suspension of this Agreement will not terminate, waive, or otherwise discharge any ongoing or undischarged liabilities, credits or obligations arising from this Agreement until such liabilities, credits or obligations are satisfied in full.

10.6.2 Suspension. If performance of all or any portion of this Agreement is suspended by NCPA in accordance with Section 10.4 (i), Customer shall pay all reasonable and necessary costs incurred by NCPA as a result of such suspension.

10.6.3 Termination. If this Agreement is terminated by a Party in accordance with Section 10.4 (iii), the Defaulting Party shall pay all reasonable and necessary costs incurred by the other Party as a result of such termination.

Section 11. CAISO SECURITY DEPOSIT AND CREDIT REQUIREMENTS

Any credit requirements, including, but not limited to, security, collateral, unsecured credit, or other deposits required by the CAISO, shall be provided by Customer prior to NCPA providing Services under this Agreement, and shall be maintained as may be required thereafter pursuant to the CAISO Tariff. Failure to maintain sufficient credit, security, collateral, unsecured credit, or other deposits may impact NCPA's ability to perform certain Services under this agreement. NCPA shall maintain a detailed accounting of Customer's credit, security, collateral, unsecured credit or other deposits. Any changes in credit, security, unsecured credit or other deposits required by the CAISO Tariff may be provided by NCPA from

Customer's Security Account, and NCPA shall invoice Customer within two (2) Business Days for such required amounts, and will use the funds collected from Customer to fund the Security Account.

Section 12. SECURITY ACCOUNT

Any Customer deposits into the Security Account pursuant to this Agreement must be separate from and in addition to any security accounts maintained pursuant to any other agreements between NCPA and the Customer, NCPA and any Third Person, or any other such security account required of Customer.

12.1 Applicability. The requirement for Customer to initially deposit and maintain a Security Account pursuant to Section 12.2 and Section 12.3 is only applicable if NCPA, acting for or on behalf of Customer, is directly responsible for making payments to the CAISO and processing charges and credits invoiced by the CAISO to NCPA, associated with Services provided under this Agreement, including all charges and credits associated with security deposits as may be required pursuant to the CAISO Tariff. For the purpose of clarity, when NCPA provides Services as Customer's Scheduling Coordinator, Section 12.2 and Section 12.3 shall apply; provided, however, when NCPA provides Services as Customer's Scheduling Agent, Customer shall not be required to initially deposit and maintain a Security Account pursuant to Section 12.2 and Section 12.3 if Customer retains the direct responsibility for making payments to the CAISO and processing charges and credits invoiced by the CAISO to Customer, associated with Services provided under this Agreement, including all charges and credits associated with security deposits as may be required pursuant to the CAISO Tariff.

12.2 Initial Amounts. Prior to NCPA providing Services, Customer must deposit into a Security Account held by NCPA an amount equal to the highest three (3) months of estimated CAISO invoices (including, but not limited to, costs such as energy costs, Grid Management Charge fees, operating reserves costs, and regulation capacity costs) for the succeeding twelve (12) months; provided, however, that such deposit may be satisfied in whole or in part either in cash or through a clean, irrevocable letter of credit satisfactory to the General Manager. NCPA must maintain a detailed accounting of Customer's deposit in the Security Account. For the

purpose of clarity, the estimated CAISO invoice amount, as referred to herein, must be equal to Customer's Estimated Aggregate Liability (EAL).

12.3 Subsequent Deposits. Periodically, and at least quarterly, NCPA will review and revise its estimate of all costs Customer will be obligated to pay under this Agreement. Following such review, NCPA shall determine whether Customer has a sufficient balance in the Security Account. To the extent that Customer's balance in the Security Account is greater than one hundred and ten percent (110%) of the amount required by Section 12.2, NCPA will credit such amount as soon as practicable to Customer's next monthly invoice. To the extent that Customer's balance in the Security Account is less than ninety percent (90%) of the amount required by Section 12.2, NCPA shall add such amount as soon as practicable to Customer's next monthly invoice, or as necessary, to a special invoice to Customer. Credits or additions shall not be made if Customer satisfies these Security Account requirements in whole through the use of a letter of credit, provided that the amount of the letter of credit is adjusted by Customer as necessary in a like manner to assure an amount equal to the highest three (3) months of CAISO invoices is available to NCPA.

12.4 Use of Security Account Funds.

12.4.1 NCPA may use any and all funds deposited into the Security Account (or utilize a letter of credit provided in lieu thereof) to pay any costs it incurs hereunder, irrespective of whether NCPA has issued an invoice for such costs to Customer or whether Customer has made timely payments of invoices. Should Customer satisfy its Security Account requirements in whole or part through a letter of credit, NCPA may draw on such letter of credit to satisfy obligations hereunder.

12.4.2 If funds deposited into the Security Account, or provided through a letter of credit, are used by NCPA to pay any costs it incurs hereunder, NCPA, pursuant to Section 8.5, will maintain a detailed accounting of Customer's shares of funds withdrawn from the Security Account or letter of credit.

12.5 Emergency Additions. In the event that the funds are withdrawn pursuant to Section 12.4 of this Agreement, or if the Security Account is insufficient to allow payment of a

CAISO invoice, NCPA shall notify Customer and then prepare and send a special or emergency assessment to Customer. Customer shall pay to NCPA such assessment when and if assessed by NCPA within two (2) Business Days of the invoice date of the assessment or consent to and direct NCPA to draw on any existing letter of credit Customer has established for such purposes.

12.6 Accounting and Interest. NCPA must maintain a detailed accounting of Customer's deposits into and withdrawals from the Security Account. Interest, if any, earned on the Security Account shall be credited to Customer's Security Account. NCPA makes no representation that the Security Account will earn any particular amount of interest or any interest.

12.7 Return of Funds. On the termination of this Agreement Customer's Security Account funds shall be paid to Customer thirty (30) Calendar Days after the effective date of such termination. NCPA will, in its reasonable discretion, as determined by the General Manager, estimate the then outstanding liabilities of Customer, including any estimated contingent liabilities, and will retain all such funds until all such liabilities have been fully paid or otherwise satisfied in full. After such determination by the General Manager, the balance of Customer's Security Account will be refunded to Customer within thirty (30) Calendar Days.

Section 13. SETTLEMENT OF DISPUTES

13.1 Settlement of Disputes. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Customer and NCPA agree to resolve the dispute in accordance with the following:

13.1.1 Each Party shall designate a senior management or executive level representative to negotiate any dispute.

13.1.2 The representative shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

13.1.3 If the issue remains unresolved after sixty (60) Calendar Days of good faith negotiations, despite having used their best efforts to do so, either Party may pursue whatever other remedies may be available to it.

13.1.4 This informal resolution process is not intended to nor shall be construed to change the time periods for failing a claim or action specified by Government Code § 900, *et seq.* for any claims that may be subject to the California Tort Claims Act.

Section 14. STATUS OF NCPA

At all times during the term of this Agreement, NCPA will be an independent contractor and will not be an employee of Customer. Customer will have the right to control NCPA only insofar as the results of NCPA's Services rendered pursuant to this Agreement; however, otherwise Customer will have no right to control the means by which NCPA accomplishes Services rendered under this Agreement. Notwithstanding any other agency, state, local or federal policy, rule, regulation, law, or ordinance to the contrary, NCPA and any of its employees, agents, and subcontractors providing Services under this Agreement will 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 Customer, including but not limited to Customer's retirement benefits or workers compensation benefits.

Section 15. MISCELLANEOUS

15.1 Confidentiality. To the maximum extent allowed by law, including the Public Records Act, the Parties agree to keep confidential all confidential or trade secret information made available to them in connection with this Agreement. Confidential or trade secret information must be marked or expressly identified as such.

If a Party ("Receiving Party") receives a request from a Third Party for access to, or inspection, disclosure or copying of, any of the other Party's (the "Supplying Party") confidential data or information ("Disclosure Request"), then the Receiving Party shall provide notice and a copy of the Disclosure Request to the Supplying Party within three (3) Business Days of receipt of the Disclosure Request. Within three (3) Business Days of receipt of such notice, the Supplying Party shall provide notice to the Receiving Party either:

(i) that the Supplying Party believes there are reasonable legal grounds for denying or objecting to the Disclosure Request and will seek a protective order or other judicial determination to protect the confidential information. In such case, the Supplying Party will cover all of its own costs and further agrees to indemnify and pay any and all costs incurred by Receiving Party as a result of the Supplying Party's attempts to protect from disclosure the information; or

(ii) that the Receiving Party may disclose the information.

15.2 Survival of Obligations. The defense and indemnity obligations of Section 6 shall survive the termination of this Agreement.

15.3 No Consequential Damages. FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL A PARTY OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EACH PARTY HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.

15.4 Waiver. No waiver of the performance by a Party of any obligation under this Agreement with respect to any default or any other matter arising in connection with this Agreement will be effective unless given by the other Party. Any such waiver by the other Party in any particular instance will not be deemed a waiver with respect to any subsequent performance, default or matter.

15.5 Amendments. Unless otherwise provided for in this Agreement, this Agreement may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

15.5.1 Amendments of Appendices. The Appendices that are attached to and made part of this Agreement include detailed principles, descriptions and procedures for NCPA's provision of Services to Customer. Upon mutual written consent of the Designated Representative of each Party, the Appendices of this Agreement may be amended from time to time, without the requirement of an approval as required pursuant to Section 15.5; provided, however, Appendix A and Appendix B may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

15.6 Assignment of Agreement.

15.6.1 Binding Upon Successors. This Agreement, including the Appendices attached hereto, inure to the benefit of and will be binding upon the respective successors and assignees of the Parties to this Agreement.

15.6.2 No Assignment. This Agreement, nor any interest herein, may be transferred or assigned by a Party hereto except with the consent in writing of the other Parties hereto, where such consent shall not be unreasonably withheld.

15.7 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, are held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of this Agreement and their application will not be affected thereby, but will remain in force and effect unless the court holds that such provisions are not severable from all other provisions of this Agreement.

15.8 Governing Law. This Agreement must be interpreted, governed by, and construed under the laws of the State of California.

15.9 Headings. All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.

15.10 Notices. Any notice, demand or request provided for in this Agreement, or served, given or made shall become effective when delivered to the person specified below (the "Designated Representative"):

NCPA:
David Dockham
Assistant General Manager, Power Management
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
E-mail: dave.dockham@ncpa.com

Customer: City of San Jose
Name: Lori Mitchell
Title: Director
Address: 200 East Santa Clara Street, 14th Floor
San Jose, CA 95013
E-mail: Lori.Mitchell@Sanjoseca.gov

All notices shall be deemed delivered when personally delivered, three (3) Business Days after deposit in the United States mail first class postage prepaid, or on the first Business Day following delivery through electronic communication. A Party may change its Designated Representative by providing notice to the other Party, and such change shall not constitute an amendment to this Agreement.

15.11 Warranty of Authority. Each Party represents and warrants that it has been duly authorized by all requisite approval and action to execute and deliver this Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms.

15.12 Venue. In the event that a Party brings any action 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 Santa Clara or in the United States District Court for the Northern District of California.

15.13 Attorneys' Fees. If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, each Party will be responsible for its own fees and costs, including attorneys' fees, associated with the action.

15.14 Counsel Representation. Pursuant to the provisions of California Civil Code Section 1717 (a), each of the Parties were represented by counsel in the negotiation and execution of this Agreement and no one Party is the author of this Agreement or any of its subparts. Those terms of this Agreement which dictate the responsibility for bearing any attorney's fees incurred in arbitration, litigation or settlement in a manner inconsistent with the provisions of Section 6 were intentionally so drafted by the Parties, and any ambiguities in this Agreement shall not be interpreted for or against a Party by reason of that Party being the author of the provision.

15.15 No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor will any provision of this Agreement be deemed or construed by the Parties, by any third person or any Third Parties, to be for the benefit of any Third Party, nor will any Third Party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by the Parties of any of the provisions of this Agreement.

15.16 Integration; Incorporation. This Agreement, including all the appendices attached hereto, represents the entire and integrated agreement between Customer and NCPA relating to the subject matter of this Agreement, and supersedes all prior negotiations, representations, or agreements, either written or oral. All appendixes attached hereto are incorporated by reference into this Agreement.

15.17 Reliability Requirements. Unless otherwise specifically provided for herein, the Parties acknowledge that Customer and NCPA may be both individually responsible for compliance with the WECC and NERC Reliability Standards and criteria applicable to the functions for which each Party are respectively registered with NERC. The references to WECC

and NERC Reliability Standards, if any, throughout this Agreement do not make any alteration or enlargement of the requirements or standards applicable to each Party beyond their individual registrations with NERC.

15.18 Significant Regulatory Change or Operational Change.

15.18.1 A “Significant Regulatory Change” will be deemed to occur if FERC, the CPUC, the CAISO or any other court, public authority, governmental, or other lawfully established civilian authorities having jurisdiction, issues an order or decision or adopts or modifies a tariff or filed contract, or enacts a law that materially interferes with the ability of either Party to perform any of its obligations under this Agreement.

15.18.2 A “Significant Operational Change” will be deemed to occur due to (i) material amendments or revisions to any tariffs, contracts or other applicable documents referenced in this Agreement that directly affect a Party’s obligations under this Agreement, (ii) an action taken by the Balancing Authority that may have a material detrimental impact on the way a Party operates or must operate its Electric System, or that directly affects a Party’s obligations under this Agreement, or (iii) a significant change in Customer’s supply and demand portfolio that may result in material increase in the scale and scope of services contemplated at the Effective Date of this Agreement (e.g., Customer’s load increased more than fifteen (15) percent).

15.18.3 Notification of Significant Regulatory Change or Operational Change. At any time during the term of this Agreement, if any Party anticipates the occurrence of a Significant Regulatory Change or Significant Operational Change that may reasonably be expected to materially interfere with the ability of any Party to perform any of its obligations under this Agreement, or such Significant Regulatory Change or Significant Operational Change occurs, such Party will provide written notice to the other Party as soon as practicable. The notice must contain a description of the Significant Regulatory Change or Significant Operational Change, including expected time schedules, and of the effect of the significant change to the Parties. If the Party giving notice believes that it will be necessary to amend this Agreement to address the anticipated change or change when it

has occurred, then the notice to the other Party may include a proposal that the Parties meet to negotiate an appropriate amendment to this Agreement. The Parties agree to promptly enter into good faith negotiations and attempt to achieve a mutually agreeable modification to this Agreement to address any such Significant Regulatory Change or Significant Operational Change.

15.18.4 Amendment of Agreement. If the Parties agree that an amendment to this Agreement is necessary to address a Significant Regulatory Change or Significant Operational Change, the Parties will proceed to negotiate such amendment in good faith. If the Parties have not reached agreement within one hundred and twenty (120) Calendar Days of the date of the first meeting, either Party may terminate this Agreement upon one hundred and eighty (180) Calendar Days prior written notice provided to the other Party.

IN WITNESS WHEREOF, NCPA and Customer have, by the signature of its duly authorized representative shown below, executed and delivered a counterpart of this Agreement.

Northern California Power Agency

City of San Jose

RANDY S. HOWARD, General Manager

TONI TABER
City Clerk

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Approved as to Form:

General Counsel

APPENDIX A
SCOPE OF SERVICES

All services provided by NCPA to Customer pursuant to this Agreement are described in this Appendix A (collectively referred to herein as “Services”).

Section 1. SCHEDULING SERVICES

As of the Effective Date of this Agreement, NCPA shall act as Customer’s Scheduling Coordinator until the earlier of either: (i) the date on which Customer has completed the process of transferring and/or migrating the content of its portfolio (including, but not limited to, loads, generation, trades, and/or other scheduled CAISO products) from a Scheduling Coordinator account (commonly referred to as “SCID”) registered by NCPA, to a Scheduling Coordinator account registered by Customer, or (ii) March 31, 2019. At such time, Customer shall then act as its own Scheduling Coordinator, and shall assign certain scheduling and settlement duties and responsibilities to NCPA, acting as Customer’s Scheduling Agent, as further described in Appendix A hereto; provided, however, if Customer has not completed the process of transferring and/or migrating the content of its portfolio to a Scheduling Coordinator account registered by Customer on or prior to March 31, 2019, NCPA shall have the right, but not the obligation, to terminate this Agreement, as set forth in Section 5.2 of this Agreement.

1.1 Description of Service. NCPA shall provide scheduling services (“Scheduling Services”) to Customer, acting as Customer’s Scheduling Coordinator or Scheduling Agent, as further set forth herein, in accordance with this Agreement, the CAISO Tariff, and other rules and requirements, as applicable. Scheduling Services include the following duties, and are furthermore described in Appendix C of this Agreement:

1.1.1 NCPA, in coordination with Customer, will facilitate Customer’s Scheduling Coordinator registration with the CAISO. NCPA will assist Customer with managing the various steps that are required to complete all of the Scheduling Coordinator certification requirements set forth in the CAISO Tariff and Business Practice Manuals.

1.1.2 NCPA will assist Customer with the process of transferring Customer's resources from the Scheduling Coordinator account in which they currently reside, if any, to either NCPA's Scheduling Coordinator account, or Customer's Scheduling Coordinator account.

1.1.3 Development and submission of schedules and Bids for Customer's loads, resources, trades, ancillary services and/or other CAISO products in the CAISO energy and ancillary services markets, or other markets, as applicable. All schedules and Bids will be made and submitted to the CAISO in accordance with Appendix C and the CAISO Tariff, or other balancing authority areas in accordance with the applicable rules and requirements. Customer's owned and operated generation facilities, if any, for which NCPA supplies Scheduling Services on behalf of are listed in Appendix E.

1.1.4 NCPA shall perform outage coordination and management for Customer's generating resource planned and unplanned outages in accordance with applicable rules and requirements, including, but not limited to, the CAISO Tariff and associated operational procedures.

1.1.5 Obtain and maintain settlement quality meter data in accordance with the CAISO Tariff, the MSA CAISO ME or MSA SC, as applicable, to be used for multiple purposes, including, but not limited to forecasting and settlement validation. For the purpose of clarity, Customer intends to acquire, or has acquired, the services of a Third Party supplier to provide and/or perform meter data management services on behalf of Customer. Meter data management services include, but are not limited to, collection of meter data, validation of meter data, profiling and formatting of meter data, and development and submission of Settlement Quality Meter Data to the CAISO in accordance with the requirements of the CAISO Tariff. Metering services provided by NCPA, as contemplated herein, are limited to collecting the processed Settlement Quality Meter Data from and/or through applicable access, as provided by the CAISO (e.g., querying data from the CAISO MRI-S software application), storing such data, and using the data for the

purpose of forecasting and validating CAISO settlement charges and credits attributed to Customer's activities.

1.1.6 Submit regulatory data to appropriate Balancing Authorities by defined deadlines, including Resource Adequacy supply plans and compliance filings.

1.1.7 Develop, submit and management of E-Tags for Customer interchange transactions.

1.1.8 Review, validate, and reconcile CAISO settlement charges and credits for services, file timely disputes and pursuant dispute resolution.

Section 2. CONTROL CENTER SERVICES

2.1 Description of Service. NCPA shall provide control center services ("Control Center Services") for Customer's owned and operated generation facilities (if any) for which NCPA supplies Scheduling Coordination Services. Such duties shall include the following, and are furthermore described in Appendix D of this Agreement:

2.1.1 Monitoring and dispatching of Customer generation facilities.

2.1.2 Management of unplanned outages and system emergencies.

2.1.3 Monitor real time telemetry, data flow and manage system data.

2.1.4 Call-out field and emergency service personnel in response to certain operational conditions.

2.1.5 Operational coordination, communication, monitoring and equipment clearance and switching with Customer's generation facility personnel and Third Parties.

2.1.6 Monitor alarms and operate Customer generation facilities in accordance with any applicable Operating Procedures and requirements, as may be set forth in Appendix D, including regulatory and/or environmental requirements.

2.1.7 Comply with the Customer Emergency Action Plan ("EAP"), and initiating the EAP as required.

Section 3. PORTFOLIO MANAGEMENT AND OPTIMIZATION SERVICES

3.1 Description of Services. NCPA shall provide portfolio management and optimization services (“Portfolio Management and Optimization Services”) to Customer pursuant to this Agreement. Portfolio Management and Optimization Services include the following duties:

3.1.1 Acting as an Operating Entity on behalf of Customer.

3.1.2 Providing pre-scheduling and real-time optimization services (including development of bidding strategies) for Customer’s loads and resources.

3.1.3 Performing long term, medium term and short term resource planning and optimization on behalf of Customer.

3.1.4 Development and management of load and resource balance information; providing transactional recommendations in coordination with planning and risk management strategies adopted by Customer.

3.1.5 Focused industry restructuring and advocacy support within the CAISO stakeholder initiative process, in support of Customer’s planning and optimization activities; provided, however, NCPA is not authorized to directly advocate and/or assume policy positions, on behalf of Customer, that are inconsistent with and/or in conflict with policy positions and/or objectives of NCPA’s Members.

3.1.6 Entering into Balance of Month Transactions for purchasing and selling energy, capacity, transmission capacity, and other related services and products on behalf of Customer.

3.1.7 Monitor and analyze contract requirements, and provide recommendations and other advice to Customer regarding strategies for maximizing the benefits of such contracts.

3.1.8 Provide support with development of master agreements and other transacting instruments.

3.1.9 Coordination of daily and intra-daily operational communications with Customer's operational counterparts, including coordination with Customer's meter data management agent.

3.1.10 Performing transactional and bilateral checkouts and settlements for physical and financial energy, and energy related product transactions, and initiating and processing related disputes.

3.1.11 Perform load forecasting and provide accurate real time, hour ahead, day ahead, week ahead, and month ahead load forecasts to Customer.

3.1.12 Provide monthly forecast reconciliation reports comparing forecast to actual electric usage, and update forecasting models, as required, to reduce systematic forecasting errors.

3.1.13 Submit Congestion Revenue Rights nominations and bids, acting as Customer's agent, and provide quarterly effectiveness reports.

3.1.14 Develop and provide performance reports and operational reports to Customer, and provision of interval and summary data through use of web based portal interface.

3.1.15 Develop and provide risk management services, including development of risk management policies and regulations, strategies, and reporting tools.

Section 4. INFORMATION REQUIREMENTS

4.1 Information Requirements. To enable NCPA to perform the duties associated with Services provided to Customer in accordance with this Agreement, Customer shall timely provide the following information, instructions, and communications to NCPA (as applicable):

4.1.1 Meter Data. Customer shall provide NCPA access to settlement quality meter data from loads and resources scheduled and Bid by NCPA for Customer under this Agreement, and to maintain such meters and metering equipment in accordance with the standards and requirements as set forth in the CAISO Tariff.

4.1.2 Operational Data. Customer shall provide NCPA access to certain real-time operational systems and information (as mutually determined by NCPA and Customer) including, but is not limited to: (i) Supervisory Control and Data Acquisition (“SCADA”) systems, (ii) Programmable Logic Controllers (“PLC”), and (iii) Real-time telemetry and recording devices.

4.1.3 Scheduling and Operating Procedures. NCPA shall prepare, and Customer shall approve, written scheduling procedures (“Scheduling Procedures”) and operating procedures (“Operating Procedures”) related to Customer loads and generation resources that convey Customer’s guidelines for how NCPA is to perform certain Scheduling Services and Control Center Services under this Agreement, and included at such time as Appendix C and Appendix D, respectively. Such Scheduling Procedures and Operating Procedures shall be agreed to sufficiently in advance of their application so as to reasonably enable NCPA to perform such activities.

Section 5. SUPPLEMENTAL SERVICES IN ACCORDANCE WITH TASK ORDER PROCESS

5.1 Description of Service. NCPA may, at its sole discretion, provide certain technical support services, or other advisory services, to Customer upon mutual written agreement between the Parties (“Supplemental Services”). All requests for Supplemental Services shall be submitted by Customer to NCPA in accordance with the task order process described in Appendix F (“Task Order Process”).

5.2 Compensation for Supplemental Services. Costs for NCPA’s provision of Supplemental Services shall be charged to Customer on a time and materials basis. Pursuant to Section 7.1 of this Agreement, in consideration of NCPA’s provision of Supplemental Services, Customer shall pay NCPA the sum of: (i) an amount equal to the number of hours required to complete each respective task, multiplied by the applicable hourly rate listed in the Supplemental Services Rate Schedule contained in Appendix B, and (ii) out of pocket expenses and the cost of materials. The scope of each Supplemental Service shall be specified in each respective task order (“Task Order Request”) developed by the Parties pursuant to the Task Order Process.

Section 6. SERVICE TRANSITION

The Parties acknowledge that prior to the date on which specific Services shall be supplied by NCPA for a specific Customer load and/or generating resource, the Parties may be required perform certain work and other activities to establish and enable the systems and processes that are required to perform Services as of the date on which Services for a specific Customer load and/or generating resource is to commence. Such activities may include establishing common business practices, developing business requirements, establishing connectivity of systems and equipment, coordinated training of staff, and other activities that may be required to enable NCPA to provide, and Customer to receive, Services. During this transition period (the "Transition Period"), the Parties agree to cooperate in good faith to establish and enable the systems and processes that are required to perform Services. All activities to be performed by NCPA during the Transition Period are included as part of the comprehensive Services provided to Customer, pursuant to this Agreement, even though such work and activities may be performed by NCPA prior to the date on which specific Services shall be supplied by NCPA for a specific Customer generating resource.

APPENDIX B

COMPENSATION SCHEDULE

Pursuant to Section 7.1 of this Agreement, Customer shall pay NCPA the amounts listed in this Appendix B (the "Compensation Schedule") in consideration for Services provided under this Agreement.

Section 1. COMPENSATION SCHEDULE

1.1 In consideration for NCPA's provision of all Services, except Supplemental Services, Customer shall pay NCPA the amount set forth in Section 1.1 of this Appendix B for Services rendered during the first one (1) year period in which NCPA is supplying Services to Customer. For the purpose of clarity, the first one (1) year period shall begin on September 1, 2018, and shall continue through August 31, 2019.

1.1.1 During the first one (1) year period of this Agreement, for the period beginning on September 1, 2018, and continuing through the date on which Customer implements Phase 2 of its implementation plan (the "Phase 1 Period"), Customer shall pay NCPA an amount equal to Twenty Five Thousand Dollars (\$25,000.00) for Services rendered during each month of the Phase 1 period; and

1.1.2 During the first one (1) year period of this Agreement, for the period beginning on the date on which Customer implements Phase 2 of its implementation plan through August 31, 2019 (the "Phase 2 Period"), Customer shall pay NCPA an amount equal to Fifty Two Thousand Five Hundred Dollars (\$52,500.00) for Services Rendered during each month of the Phase 2 period.

If the date on which NCPA begins supplying Scheduling Services to Customer occurs after September 1, 2018, the compensation schedule listed herein for the first one (1) year period shall be adjusted based on the actual date on which NCPA begins supplying Scheduling Services to Customer. For example, if NCPA begins supplying Scheduling Services to Customer of October 1, 2018, the period associated with the Phase 1 Period will be adjusted according.

1.2 For each subsequent one (1) year period of the term of this Agreement, Customer shall pay NCPA an amount equal to: (i) the sum of the annual amount charged to Customer during the prior year escalated at a rate of two percent (2%) per year; provided, however, for the one (1) year period immediately following the first one (1) year period, the amount of compensation used to perform the calculation described in Section 1.2 of Appendix B shall be \$630,000.00, even if such amount is prorated during the first one (1) year period, as further described in Section 1.1 of Appendix B.

1.3 Unless otherwise provided herein, such annual amounts shall be billed to Customer in twelve (12) equal monthly installments, in accordance with Section 8 of this Agreement.

Section 2. SUPPLEMENTAL SERVICES

2.1 Pursuant to Section 5 of Appendix A, NCPA may provide Supplemental Services to Customer. All costs charged to Customer for Supplemental Services are separate from and in addition to the compensation paid for all other Services, as set forth in Section 1 of this Appendix B. The following is the hourly rate schedule applicable to Supplemental Services (“Supplemental Services Rate Schedule”):

SUPPLEMENTAL SERVICES RATE SCHEDULE

	CY 2017	
Job Classification	Hourly Rate (\$/Hr.)	
Accountant/Analyst I-III	\$	150.00
Administrative Assistant I-III	\$	90.00
Assistant General Manager	\$	300.00
Computer Tech Analyst I-IV	\$	170.00
Sr. Computer Tech Analyst	\$	180.00
Risk Manager	\$	180.00
Compliance Manager	\$	230.00
Engineer/Energy Resource Analyst I-IV	\$	180.00
Mgr. Information Svcs. and Power Settlements	\$	240.00
Power Settlements Analyst	\$	160.00
Power Settlements Manager	\$	210.00
Scheduler/Planner	\$	180.00
Supervisor I-III	\$	230.00

This rate schedule may be amended from time to time, but in no event more than one time annually, by NCPA as its costs of labor increase, and may add, subtract or amend job classification titles (and their respective hourly rates) as its job classification schedule is amended. NCPA shall provide written notice to Customer of any such amendment prior to charging any increased rate.

APPENDIX C

SCHEDULING PROCEDURES

The Scheduling Procedures are separately attached to this Agreement as Appendix C.

SJCE-PM-401 – Scheduling and Bidding

APPENDIX D

OPERATING PROCEDURES

The Operating Procedures are separately attached to this Agreement as Appendix D.

RESERVED

APPENDIX E

CUSTOMER RESOURCES

The following is a list of Customer's resource for which NCPA provides Services pursuant to this Agreement.

RESERVED

APPENDIX F

TASK ORDER PROCESS

Pursuant to Section 5 of Appendix A, NCPA may, at its sole discretion, provide certain Supplemental Services to Customer. All requests for Supplemental Services shall be submitted by Customer to NCPA in accordance with the Task Order Process described in this Appendix F.

Section 1. Task Order Process

1.1 Submission of a Task Order. Customer may submit a Task Order Request for Supplemental Services to NCPA in accordance with the terms and conditions of this Agreement. All Supplemental Services requests shall be submitted to NCPA in writing using the task order request form attached to this Appendix F ("Task Order Request Form"). In the Task Order Request Form, Customer shall provide a description of the desired Supplemental Services, a time frame on which Customer is seeking such Supplemental Services to be completed, and all other relevant details that may assist NCPA's review and consideration of the Task Order Request.

1.2 Review of Task Order Request. Once NCPA receives a Task Order Request from Customer, NCPA will review the Customer's request to determine if NCPA can perform the desired work. Once NCPA has completed its review of the Task Order Request, NCPA will provide a written response to Customer to confirm that NCPA is either: (i) able and willing to perform the Supplemental Services as requested, or (ii) not able or not willing to perform the Supplement Services as requested. If NCPA is able and willing to perform the Supplemental Services as requested, NCPA will provide a written proposal for NCPA's provision of the requested Supplemental Services to Customer, including a detailed project scope and estimated cost for performing the desired work ("Supplemental Services Task Order").

1.3 Task Order Confirmation. Upon receipt of the Supplemental Services Task Order, if any, Customer may agree to accept or not accept NCPA's proposal to supply Supplemental Services. If Customer agrees to accept NCPA's proposal to supply Supplemental Services, upon mutual written consent of the Designated Representatives of each Party, the Parties shall

confirm the terms and conditions of the Supplemental Services by executing the Supplemental Services Task Order. NCPA shall invoice Customer for the full estimated cost of the Supplemental Services, as set forth in the Supplemental Services Task Order, prior to NCPA's provision of the Supplemental Services to Customer. Such amounts shall be billed to Customer in accordance with Section 8 of this Agreement.

1.4 Billing Adjustments. Upon completion of the Supplemental Services, NCPA shall provide a final written accounting for all actual costs associated with NCPA's provision of the Supplemental Services to Customer, and shall either: (i) refund any positive difference between estimated costs and actual costs, or (ii) invoice Customer for the amount of actual costs that are greater than the amount of estimated costs collected from Customer ("Adjustment Amount"). Any Adjustment Amount shall be billed to Customer in accordance with Section 8 of this Agreement.

1.5 Disputes. Any disputes associated with NCPA's provision of Supplemental Services to Customer shall be resolved under the dispute resolution procedures set forth in Section 13 of this Agreement.

Northern California Power Agency

Task Order Request Form

Attention: Contract Administration
651 Commerce Drive
Roseville, CA 95678
Phone: 916-781-4229
Email: tony.zimmer@ncpa.com

Dated As: _____
Date of Completion: _____

Customer Information:

Customer Name: _____
Designated Representative: _____
Address: _____
Phone: _____
Email: _____

Task Details

Additional Notes:

[Customer Designated Representative]


	Power Management Procedure SJCE-PM-401
Ver. 1	Scheduling and Bidding
Prepared By: Tony Zimmer	Date Issued: 09/01/2018

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1. PURPOSE

- 1.1. The purpose of this procedure is to provide guidance to NCPA scheduling and operational staff, and SJCE staff, regarding the process to be used to schedule and bid SJCE's demand and supply in the CAISO day-ahead and real-time markets, and to ensure that SJCE's demand and supply are scheduled and operated in accordance with all applicable operating limits and requirements.
- 1.2. This procedure is developed to be read in coordination with the Agreement, but is not intended to supersede and/or replace any provision of the Agreement; therefore, in the event of any conflict between any provisions including in this procedure and the Agreement, the Agreement shall govern.

2. SCOPE

- 2.1. The scope of this procedure applies to applicable NCPA scheduling and transactional staff, and SJCE staff, and includes details pertaining to scheduling and communication timelines, transactional authority, and design and implementation of scheduling and bidding strategies for SJCE's demand and supply, and coordination of scheduling and bidding strategies with the NDC personnel, SJCE staff, and third parties.

3. REFERENCES

- 3.1. CAISO Tariff and Business Practice Manuals.

4. DEFINITIONS

- | | |
|----------------|------------------------------------------|
| 4.1. Agreement | Services Agreement between NCPA and SJCE |
| 4.2. CAISO | California Independent System Operator |
| 4.3. SJCE | San Jose Clean Energy |
| 4.4. NCPA | Northern California Power Agency |
| 4.5. NDC | NCPA Dispatch Center |

5. RESPONSIBILITIES

- 5.1. Management.
 - 5.1.1. NCPA and SJCE management are responsible for ensuring that their respective employees are familiar with the purpose of this procedure. NCPA management will review this procedure, as needed, to ensure the procedure remains consistent with current business practices. If the requirements for this procedure change as a result of such review, NCPA management will instruct their respective employees to make necessary changes to the procedure within thirty (30) days, followed by the review and approval of the same.

- 5.2. Employees.

- 5.2.1. All NCPA scheduling, operational, and transactional staff, and SJCE staff, who are subject to the requirements of this procedure, shall be familiar with, and adhere to the polices, practices, and procedures set forth in this document and the Agreement.

6. PROCEDURE

6.1. Coordination and Communications.

- 6.1.1. SJCE staff shall promptly notify NCPA in advance of any new or material changes to its supply portfolio, including, but not limited to, additions to, retirements of, or any changes in generation, power supply contracts, transmission resources, or other supply sources which can affect SJCE's current or future load and resource balance, or NCPA's obligations to acquire sufficient supply to service SJCE's demand in the Balance-of-Month timeframe.
- 6.1.2. NCPA, in coordination with SJCE, shall develop and supply a load and resource balance report at least quarterly to SJCE, using demand and supply forecasts developed by NCPA. The load and resource balance information shall be utilized by NCPA to guide NCPA's portfolio management activities, including, but not limited to, supply investment and transactional activities, to maintain reliability of service, and to strive to obtain the maximum overall economies on behalf of SJCE.

6.2. Forecasting.

- 6.2.1. Using certain input variables, including, but not limited to, historic demand, weather information, economic and demographic data, and impacts of energy efficiency, NCPA staff will develop a month-ahead, week-ahead, day-ahead, hour-ahead, and real-time demand forecast for SJCE. Such forecasts will be used for both planning and operational purposes. For example, the month-ahead forecast will be used to develop a pre-month scheduling and optimization plan for SJCE.
- 6.2.2. The process used to develop forecasts, and the types of data used to develop forecasts, shall remain dynamic in nature and may deviate from time to time to ensure the forecast is adjusted to reflect current market conditions. As such, the data requirements for development of the forecast may be adjusted in coordination with SJCE staff periodically. NCPA staff shall coordinate with SJCE staff at least quarterly to review the current methodology used to develop the forecasts, and to identify what input variables SJCE staff may need to supply to NCPA staff to ensure the accuracy of the forecast.

- 6.2.3. NCPA shall provide a monthly forecast reconciliation report to SJCE to compare the forecasts to actual demand usage, and shall update the forecasting models, as required, to reduce systematic forecasting errors.

6.3. Day-Ahead Market Scheduling.

- 6.3.1. NCPA shall develop and submit schedules and Bids for SJCE's demand and supply into the CAISO day-ahead market. All schedules and Bids shall be transmitted and submitted to the CAISO in accordance with the applicable scheduling timelines and scheduling formats, as set forth in the CAISO Tariff and Business Practice Manuals, using software and/or tools owned, operated, and maintained by NCPA.

- 6.3.2. Schedules and Bids submitted into the CAISO day-ahead market, on behalf of SJCE, will be developed in accordance with the following general guidelines/strategies:

- 6.3.2.1. NCPA shall self-schedule SJCE's hourly load based on a forecast developed by NCPA. In accordance with the CAISO Tariff, load can only be scheduled into the CAISO day-ahead market, and cannot be adjusted or supplemented as part of the CAISO real-time market process.

- 6.3.2.2. NCPA shall schedule all Inter-SC Trades, as applicable, in coordination with the responsible counterparty, consistent with the terms and conditions as may be set forth in the applicable transaction confirmation. If during the scheduling process, an Inter-SC Trade scheduled by NCPA does not pass initial validation associated with the requirement for matched trades, NCPA's scheduling staff will coordinate with the responsible counterparty and strive to identify and resolve any outstanding deficiencies.

- 6.3.2.3. NCPA shall self-schedule and/or submit economic Bids for interchange transactions (imports or exports), and shall develop, submit and manage all corresponding E-Tags that may be required to process such interchange transactions.

6.4. Real-Time Market Scheduling.

- 6.4.1. NCPA shall develop and submit schedules and Bids for SJCE's demand and supply into the CAISO real-time market. All schedules and Bids shall be transmitted and submitted to the CAISO in accordance with the applicable scheduling timelines and scheduling formats, as set forth in the CAISO Tariff and Business Practice Manuals, using software and/or tools owned, operated, and maintained by NCPA.

6.4.2. Schedules and Bids submitted into the CAISO real-time market, on behalf of SJCE, will be developed in accordance with the following general guidelines/strategies:

6.4.2.1. NCPA shall schedule all Inter-SC Trades, as applicable, in coordination with the responsible counterparty, consistent with the terms and conditions as may be set forth in the applicable transaction confirmation. If during the scheduling process, an Inter-SC Trade scheduled by NCPA does not pass initial validation associated with the requirement for matched trades, NCPA's scheduling staff will coordinate with the responsible counterparty and strive to identify and resolve any outstanding deficiencies.

6.4.2.2. NCPA shall self-schedule and/or submit economic Bids for interchanges transactions (imports or exports), and shall develop, submit and manage all corresponding E-Tags that may be required to process such interchange transactions.

6.5. Balance-of-Month Transactions.

6.5.1. NCPA is authorized to purchase and sell energy, capacity, ancillary services and transmission on behalf of SJCE and thereby will strive to economically service SJCE's demand, and meet other applicable service/regulatory obligations. NCPA is authorized to enter into purchase and sale transactions, under its own name, for a term of balance of month or less, including, but not limited to, transactions in the day-ahead/prescheduling period (pursuant to the WECC Scheduling Calendar), intra-day period, and real-time period for energy, capacity, ancillary services and transmission on behalf of SJCE.

6.5.2. All Balance-of-Month transactions consummated by NCPA, on behalf of SJCE, in accordance with the Agreement shall satisfy the following conditions:

6.5.2.1. All transactions shall be made in accordance with all requirements and conditions set forth in NCPA's Energy Risk Management Policy and Energy Risk Management Regulations, including, but not limited to, those limiting the term and volume of transactions made by NCPA; and

6.5.2.2. To the extent applicable, all transactions shall be made in accordance with all requirements and conditions set forth in the risk management policies and/or regulations adopted by SJCE; and

6.5.2.3. All transactions shall be limited to those Approved Products listed in NCPA's Energy Risk Management Policy and Energy Risk Management Regulations; and

6.5.2.4. All transactions undertaken by NCPA, pursuant to the Agreement, may only be initiated using one or more of the approved transaction instruments (“Transaction Instruments”) as listed herein.

6.5.3. Approved Transaction Instruments that may be used to consummate transaction pursuant to the Agreement including the following:

6.5.3.1. WSPP Agreement

6.5.3.2. EEI Master Power Purchase and Sale Agreement

6.5.3.3. Bilateral Agreements, pending prior SJCE approval of contract structure

6.6. Acquisition of GHG Compliance Instruments.

6.6.1. NCPA shall acquire GHG Compliance Instruments to satisfy any GHG compliance obligations that result from NCPA’s provision of services under the Agreement, including, but not limited to, the purchase and sale of interchange transactions (energy imports and exports), to the extent such GHG Compliance Instruments are not otherwise supplied to NCPA by SJCE. All direct costs associated with the acquisition of GHG Compliance Instruments shall be charged to SJCE in accordance with the Agreement.

7. REPORTS

7.1. Day-Ahead and Real-Time Market Results.

7.1.1. NCPA shall develop and publish a report identifying all schedules and Bids submitted into the CAISO day-ahead and CAISO real-time market on behalf of SJCE, and the awards issued and published by the CAISO resulting from the schedules and Bids submitted. This information will be published on the NCPA Connect Collaboration Workspace in summary form, and all detailed interval level information will be made available for SJCE staff access using the NCPA Data Portal.

7.2. Settlements.

7.2.1. NCPA shall publish all SJCE CAISO invoices/settlement statements on the NCPA Connect Collaboration Workspace.

7.2.2. NCPA shall develop and publish a SJCE settlement details report on the NCPA Connect Collaboration Workspace, which will include summary information describing all of the charges and credits included in each applicable CAISO invoice.

7.2.3. NCPA shall publish all settlement information and detail associated with CAISO charges and credits included in each CAISO settlement statement, and all

detailed interval and charge code level information will be made available for SJCE staff access using the NCPA Data Portal.

7.3. Resource Adequacy.

- 7.3.1. All SJCE compliance materials associated with applicable Resource Adequacy requirements, including, but not limited to, Resource Adequacy Plans, Resource Adequacy Supply Plans, and forecasts, shall be published on the NCPA Connect Collaboration Workspace.

8. CONTACTS

8.1. NCPA Staff Contact Information.

- Scheduling and Operations
 - Prescheduling@ncpa.com
 - Jesse Shields (Prescheduler): 916-781-4227; jesse.shields@ncpa.com
 - Phil Mensonides (Prescheduler): 916-781-4228; phil.mensonides@ncpa.com
 - Ken Goeke (Scheduling Supervisor): 916-781-4290; ken.goeke@ncpa.com
 - Dispatch Console (Operations): 916-781-4237; dispatch@ncpa.com
 - Scheduling Coordinators: 916-781-4381; SC2@ncpa.com
- Contract Administration
 - Tony Zimmer: 916-781-4229; tony.zimmer@ncpa.com

9. ATTACHMENTS

- 9.1. Attachment 1 – WECC Scheduling Calendar

10. VERSION HISTORY

No.	Explanation	Date	By
1	New Procedure	09/01/2018	Tony Zimmer

11. DISTRIBUTION

Location	Copies
NCPA Dispatch Center	1
NCPA DRC	1
SJCE	1
NCPA Connect Collaboration Workspace	1

ATTACHMENT 1
2018 WECC SCHEDULING CALENDAR

2018 WECC SCHEDULING CALENDAR