

File No. 230557

Committee Item No. 9

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date July 19, 2023

Board of Supervisors Meeting Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Draft SCS Amendment No. 4
- Draft FLS Amendment No. 4
- SCS Original Agreement 8/13/2004
- SCS Amendment No. 1 2/10/2010
- SCS Amendment No. 2 6/8/2015
- SCS Amendment No. 3 6/18/2020
- FLS Original Agreement 8/13/2004
- FLS Amendment No. 1 11/30/2007
- FLS Amendment No. 2 1/13/2012
- FLS Amendment No. 3 9/4/2018
- Electric Svc Original Agreement 8/16/2021
- PUC Resolution No. 23-0102 5/9/2023
- _____

Completed by: Brent Jalipa Date July 14, 2023

Completed by: Brent Jalipa Date _____

1 [Contract Amendments - Western Area Power Administration - Power and Scheduling
2 Coordinator Services - Term Extension and Increasing Maximum Contract Amount to
3 \$41,500,000; Waiver of Certain Municipal Code Requirements]

3

4 **Ordinance approving the fourth amendments to two contracts between the San**
5 **Francisco Public Utilities Commission (SFPUC) and the United States Department of**
6 **Energy Western Area Power Administration, for delivery of low-cost power and**
7 **scheduling coordinator services to Treasure Island and Yerba Buena Island to extend**
8 **the term by five years and 3 months from October 1, 2024, for a total term of September**
9 **1, 2005, through December 31, 2029, and increasing the maximum amount of the**
10 **agreements to \$41,500,000; approving the City indemnifying and holding harmless the**
11 **United States against claims arising from the City’s activities under the contract;**
12 **waiving Administrative Code requirements that a City contract contain a statement of**
13 **guaranteed maximum costs and a statement regarding liability of claimants for**
14 **submitting false claims; and waiving certain other Administrative Code and**
15 **Environment Code requirements upon findings made by the SFPUC General Manager.**

16

17 NOTE: Additions are *single-underline italics Times New Roman*;
18 Deletions are *strike through italics Times New Roman*.
19 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike through normal~~.

19

20 Be it ordained by the People of the City and County of San Francisco:

21 Section 1. Findings.

22 (a) The City, through its Public Utilities Commission (PUC), provides electric utility
23 service at Treasure Island and Yerba Buena Island (TI/YBI) under a multi-year Cooperative
24 Agreement with the United States Navy.

25

1 (b) The City is the local reuse authority for Naval Station Treasure Island under the
2 Federal Base Closure and Realignment Act (BRAC), and as a result is entitled to purchase
3 low-cost electricity from the federal government.

4 (c) The Board of Supervisors has previously approved four agreements with the
5 Western Area Power Administration (WAPA) of the United States Department of Energy for
6 low-cost electric services and scheduling coordinator services to TI/YB. The contracts for low-
7 cost electric services and scheduling coordinator services were initially approved for a period
8 of five years from September 1, 2005, through September 30, 2010, pursuant to Ordinance
9 No. 17-05. The First Amendment was approved pursuant to Ordinance No. 276-07, which
10 extended the contract from October 1, 2010 through September 30, 2015. The Second
11 Amendment was approved pursuant to Ordinance No. 256-11, which extended the contract
12 from October 1, 2015 through September 30, 2020. The Third Amendment was approved
13 pursuant to Ordinance No. 197-18, which extended the contract from October 1, 2020 through
14 September 30, 2024.

15 (d) On October 17, 2019, WAPA asked all its customers to amend these contracts
16 with an extension through December 31, 2029, so that WAPA could procure power and
17 related services for periods beyond the current contract expiration date.

18 (e) The Full Load Service Contract 22-SNR-02770 allows for WAPA to provide
19 Portfolio Management services and make Custom Product Power purchases to meet the full
20 electrical requirements for TI/YBI at the points of delivery agreed to by Pacific Gas and
21 Electric Company.

22 (f) The Scheduling Coordinator Contract 22-SNR-02771 allows for WAPA to act as
23 the City's's scheduling coordinator for all interactions with the California Independent System
24 Operator.

1 (g) The extension of the two contracts referenced in subsections (e) and (f), through
2 December 31, 2029, would increase the total estimated costs from \$28,386,486 to
3 \$41,500,000. The actual cost will be determined by the quantity of power used at TI/YBI, but
4 will not exceed \$41,500,000.

5 (h) The contract amendments are on a standard form used by the United States for
6 power services. Indemnification of the United States is a required element of the contract. In
7 addition, WAPA will not agree to modify the contracts to include the statements required by
8 Administrative Code Sections 21.19 and 21.35, regarding guaranteed maximum costs and
9 liability of claimants for filing false claims.

10 (i) The PUC approved the fourth amendments to the two contracts at a public
11 meeting on May 9, 2023, in Resolution No. 23-0102, a copy of which is on file with the Clerk
12 of the Board of Supervisors in File No. 230557.

13 Section 2. Authorization of Fourth Amendments to Contracts.

14 (a) The General Manager of the PUC is hereby authorized to execute the fourth
15 amendment to the contract for full load service with WAPA. A copy of the fourth amendment
16 to the contract is on file with the Clerk of the Board of Supervisors in File No. 230557.

17 (b) The General Manager of the PUC is hereby authorized to execute the fourth
18 amendment to the contract for scheduling coordinator service with WAPA. A copy of the
19 fourth amendment to the contract is on file with the Clerk of the Board of Supervisors in File
20 No. 230557.

21 Section 3. Waiver of Certain Municipal Code Requirements.

22 For the purpose of the contracts referenced in Section 2, the Board of Supervisors
23 finds that it is reasonable and in the public interest to grant the waivers as specified below.

24 (a) The requirement of Administrative Code § 21.19 that every contract include a
25 statement regarding guaranteed maximum costs is hereby waived.

1 (b) The requirement of Administrative Code Section 21.35 that every contract include a
2 statement regarding liability of claimants for submitting false claims to the City is hereby
3 waived.

4 (c) Where the General Manager finds and documents in writing both that the
5 transaction represents the best opportunity available to the City to obtain essential services
6 and products in a manner beneficial to the City, and that it is not feasible to add all standard
7 City contract provisions to the agreement, the following standard contract provisions are
8 hereby waived to the extent found necessary, reasonable, and in the public interest by the
9 General Manager:

- 10 (1) Implementing the MacBride Principles (Admin. Code Chapter 12F);
- 11 (2) Increased participation by small and micro local businesses in City
12 contracts (Admin. Code Chapter 14B);
- 13 (3) The competitive bidding requirement (Admin. Code Section 21.1);
- 14 (4) First source hiring requirements (Admin. Code Chapter 83); and
- 15 (5) The tropical hardwood and virgin redwood ban (Environ. Code
16 Chapter 8).

17 Section 4. Appropriation of Funds.

18 The costs under the fourth amendments to these contracts will be recovered through
19 the electric utility rates at TI/YBI, and will be included in the annual budgets for the PUC's
20 Power Enterprise.

21 Section 5. Effective Date.

22 This ordinance shall become effective 30 days after enactment. Enactment occurs
23 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
24
25

1 sign the ordinance within 10 days of receiving it, or the Board of Supervisors overrides the
2 Mayor's veto of the ordinance.

3

4

5

6

7 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

8

9

10 By: /s/
 MARGARITA GUTIERREZ
 Deputy City Attorney

11

12

13

14

15 n:\legana\as2023\1800259\01665633.doc

16

17

18

19

20

21

22

23

24

25

LEGISLATIVE DIGEST

[Contract Amendments - Western Area Power Administration - Power and Scheduling Coordinator Services - Term Extension and Increasing Maximum Contract Amount to \$41,500,000; Waiver of Certain Municipal Code Requirements]

Ordinance approving the fourth amendments to two contracts between the San Francisco Public Utilities Commission (SFPUC) and the United States Department of Energy Western Area Power Administration, for delivery of low-cost power and scheduling coordinator services to Treasure Island and Yerba Buena Island to extend the term by five years and 3 months from October 1, 2024, for a total term of September 1, 2005, through December 31, 2029, and increasing the maximum amount of the agreements to \$41,500,000; approving the City indemnifying and holding harmless the United States against claims arising from the City's activities under the contract; waiving Administrative Code requirements that a City contract contain a statement of guaranteed maximum costs and a statement regarding liability of claimants for submitting false claims; and waiving certain other Administrative Code and Environment Code requirements upon findings made by the SFPUC General Manager.

Amendments to Current Law

This ordinance would approve waivers of requirements in contract amendments with the Western Area Power Administration (WAPA) for services to ensure reliable delivery of low-cost electric power for use at Treasure Island and Yerba Buena Island (TI/YBI). The ordinance would also indemnify the United States against claims resulting from acts of the City under the contract amendment and increase the maximum amount of the agreements from \$28,386,486 to \$41,500,000;

Background Information

Under the Federal Base Closure and Realignment Act, the City is the local reuse authority for the Treasure Island Naval Station, under the auspices of the Treasure Island Development Authority (TIDA). The Public Utilities Commission manages the Treasure Island utilities for TIDA, including water, sewerage, natural gas, and electricity.

Currently, the City has a power purchase agreement, previously approved by the Board of Supervisors, with the U.S. Department of Energy Western Area Power Administration (WAPA), effective from January 1, 2005 through 2054. Under this existing power purchase agreement between the City and WAPA, WAPA guarantees that TIDA receives the amount of electricity needed by TIDA to meet TIDA's electricity needs and provides scheduling

coordination services, coordinating the scheduling of electricity through the California Independent System Operator, the not-for-profit public benefit corporation operating the State's wholesale power grid.

WAPA is the City's Scheduling Coordinator and supplemental power provider to TI/YBI. A Scheduling Coordinator is responsible for submitting schedules to the California Independent System Operator (CAISO) for all buyers and sellers transmitting electricity on the ISO controlled grid. The ISO requires a Scheduling Coordinator to meet extensive financial, operational, equipment, software, and security requirements, including maintaining an operations center 24 hours a day, 7 days a week. WAPA also provides additional power to serve the City's TI/YBI load that is unmet by the amount of generation the City has already contracted to receive from WAPA under its base resource Power Purchase Agreement. The supplemental power provided by WAPA may include long-term, short-term, day-ahead, and hour-ahead purchases, and/or other arrangements. The City's current contracts with WAPA for these services expires on September 30, 2024.

On October 17, 2019, WAPA requested the City amend the current contracts for supplemental power and scheduling coordinator services because WAPA must begin purchasing power beyond the current contract termination dates. The proposed ordinance would approve amendments to the WAPA contracts through September 30, 2029. WAPA's standard contracts for these services do not include the City's required false claims provision or the guaranteed maximum amount provision. In addition, WAPA's standard agreement indemnifies and holds WAPA harmless for claims arising out of the City's activities under the contract.

It is estimated that the amendments would increase the maximum amount of the contracts from \$28,386,486 to \$41,500,000.

n:\legana\as2018\1800259\01251924.doc

<p>Item 9 File 23-0557</p>	<p>Department: Public Utilities Commission (PUC)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would approve Amendment No. 4 to the Scheduling Coordinator Service and Full Load Service contracts between the San Francisco Public Utilities Commission (SFPUC) and the U.S. Department of Energy’s Western Area Power Administration (WAPA), increasing the not-to-exceed amount by \$13,130,000, for a total not-to-exceed of \$41,500,000, and extending the term by five years through December 2029. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • SFPUC is entitled to purchase low-cost electricity for Treasure Island and Yerba Buena Island from the federal government under the Federal Base Closure and Realignment Act. Since 2001, SFPUC has had a Base Resource electricity purchase contract with WAPA, which expires in December 2054. SFPUC also has a Scheduling Coordinator Service and Full Load Service contract to meet California Independent Systems Operator (CAISO) requirements and supplement the electricity provided through the base contract. The Scheduling Coordinator Service and Full Load Service contracts expire December 31, 2024. • WAPA typically seeks certainty from its customers every five years to make advanced energy purchases and avoid spikes in the market. The proposed increase in the contract amount is due to the estimated cost of the 2025-2029 supplemental electricity and scheduling coordinator costs, including a ten percent contingency. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed Amendment No. 4 would increase the not-to-exceed amount of the contracts by \$13,130,000. For 2025-2029, SFPUC estimates annual electricity purchased under the Base Resources Contract of 3,101 megawatt hours (MWh) while supplemental electricity purchases are estimated to range from 15,674 MWh to 18,131 MWh per year. • Most residents on Treasure Island are customers of the Treasure Island Development Authority (TIDA). The contracts are funded by rates charged by SFPUC to these customers through TIDA. TIDA residential customers are not individually metered, but receive a uniform utility fee that bundles water, electricity, and natural gas, averaged across occupied residential units. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed ordinance. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

The San Francisco Public Utilities Commission (SFPUC) is entitled to purchase low-cost electricity for Treasure Island and Yerba Buena Island from the federal government under the Federal Base Closure and Realignment Act. In January 2001, the Board of Supervisors approved a base resource electricity purchase contract between SFPUC and the U.S. Department of Energy Western Area Power Administration (WAPA) for a term of 20 years, from January 2005 through December 2024, and an amount not to exceed \$20,000,000 (File 00-2191). In May 2021, the Board of Supervisors approved Amendment No. 1 to the contract, extending the term by 30 years through December 2054, and increasing the not-to-exceed amount by \$7,691,541, for a total not to exceed \$27,691,541 (File 21-0336).

Subsequently, the Board of Supervisors approved a supplemental electricity¹ purchase contract between SFPUC and WAPA for (1) Scheduling Coordinator Services,² and (2) electricity to supplement the electricity provided through the base contract (Full Load Service). The supplemental electricity purchase contract has been amended three times, with the term extended through December 2024 and the not-to-exceed amount increased to \$28,370,000 (Files 07-1458, 11-1096, and 18-0356).³

The three contract amendments were proposed at WAPA’s request, as WAPA typically seeks certainty from its customers every five years to make advanced energy purchases and avoid spikes in the market.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would approve Amendment No. 4 to the Scheduling Coordinator Services and Full Load Service contracts between SFPUC and WAPA, increasing the not-to-exceed amount by \$13,130,000, for a total not-to-exceed of \$41,500,000, and extending the term by five years through December 2029. All other contract terms would remain unchanged.

¹ Under the 1998-2004 power purchase agreement between SFPUC and WAPA, WAPA guaranteed that TIDA’s electricity requirements in excess of the base allocation would be met through a supplemental agreement with PG&E. The subsequent 2005-2024 power purchase agreement did not have a guarantee for supplemental electricity.

² Scheduling Coordinator Services are required for all electricity transmitters by the California Independent System Operator (CAISO), which operates California’s wholesale power grid. The Scheduling Coordinator is needed to meet financial, operational, equipment, software, and security requirements, and to maintain a 24-hour operations center.

³ The proposed ordinance incorrectly states that the contract expires on September 30, 2024.

The proposed ordinance would also: 1) indemnify the United States against claims results from acts of the City under the contract amendment, and 2) waive contract requirements in Administrative Code Sections 21.29 and 21.35 regarding maximum costs and liability of claimants for filing false claims. These code provisions, which are not standard in federal power purchase contracts, were also waived in ordinance approving the third amendment to the WAPA agreements.

According to Jeremy Spitz, SFPUC Local and Regional Policy and Government Affairs Manager, the increase in the contract amount is due to the estimated cost of the 2025-2029 supplemental electricity and scheduling coordinator costs, including a ten percent contingency. Spending in excess of the \$42 million would require Board of Supervisors’ approval (the proposed \$41.5 million not-to-exceed amount plus the \$500,000 buffer provided by City Charter Section 9.118(b)).

While the base allocation portfolio is hydro generation, the subject contract to provide supplemental electricity generally is based on lowest market cost from unspecified resources within California.

FISCAL IMPACT

The electricity received under the Base Resource Contract between SFPUC and WAPA varies each year and is accordingly supplemented by electricity purchases under the Full Service Contract. For 2025-2029, SFPUC estimates annual electricity purchased under the Base Resources Contract of 3,101 megawatt hours (MWh) while supplemental electricity purchases are estimated to range from 15,674 MWh to 18,131 MWh per year. Projected contract expenditures are shown in Exhibit 1 below.

Exhibit 1: Projected Contract Expenditures

Year	Supplemental Energy	Scheduling Coordinator Services	Total Expenditures
2025	\$1,627,692	\$925,275	\$2,552,967
2026	1,561,107	953,033	2,514,140
2027	1,487,072	981,624	2,468,696
2028	1,432,628	1,011,073	2,443,701
2029	1,458,258	1,041,405	2,499,663
<i>Subtotal, Projected Expenditures</i>	<i>\$7,566,758</i>	<i>\$4,912,410</i>	<i>\$12,479,168</i>
Contingency (10% of Projected Expenditures)	756,676	491,241	1,247,917
Actual and Projected Expenditures through 2024			27,772,915
Total Not-to-Exceed			\$41,500,000

Source: SFPUC. Totals may not add due to rounding.

SFPUC estimates that supplemental energy will cost approximately \$100.51 per MWh in 2025, decreasing to \$77.74 per MWh in 2029 and will include annual portfolio management charges of \$43,285 to \$48,717 in the same timeframe. A 10 percent contingency is included to account for increased energy costs or volume. A detailed breakdown of anticipated contract expenditures is included as Attachment 1 to this report.

Most residents on Treasure Island are customers of the Treasure Island Development Authority (TIDA). The SFPUC serves these customers under rates set by TIDA. TIDA residential customers

are not individually metered, but receive a uniform utility fee that bundles water, electricity, and natural gas, averaged across occupied residential units. The electricity rate charged to the TIDA customers is \$0.234 per kilowatt hour (kWh) as of April 2023, which is less than PG&E's current 2023 retail rate of \$0.298 per kWh.

RECOMMENDATION

Approve the proposed ordinance.

Attachment 1: Detailed Breakdown of Anticipated Expenditures

Year	Supplemental Electricity (MWh)	Estimated Price per MWh	Total Supplemental Electricity Cost	Portfolio Management Charge	Scheduling Coordinator Charge	CAISO Charges and FERC Fees	Restoration Charges	Total Expenditures
2025	15,764	\$100.51	\$1,584,408	\$43,285	\$64,908	\$778,516	\$81,851	\$2,552,967
2026	16,330	\$92.87	1,516,523	44,583	66,855	801,871	84,307	2,514,140
2027	16,913	\$85.21	1,441,151	45,921	68,861	825,928	86,836	2,468,696
2028	17,513	\$79.10	1,385,330	47,298	70,927	850,705	89,441	2,443,701
2029	18,131	\$77.74	1,409,541	48,717	73,055	876,227	92,124	2,499,663
<i>Subtotal, Projected Expenditures</i>			<i>\$7,336,953</i>	<i>\$229,804</i>	<i>\$344,605</i>	<i>\$4,133,247</i>	<i>\$434,558</i>	<i>\$12,479,168</i>
Contingency (10% of Projected Expenditures)			733,695	22,980	34,461	413,325	43,456	1,247,917
Actual and Projected Expenditures Through 2024								27,772,915
Total Not-to-Exceed								\$41,500,000

Source: SFPUC

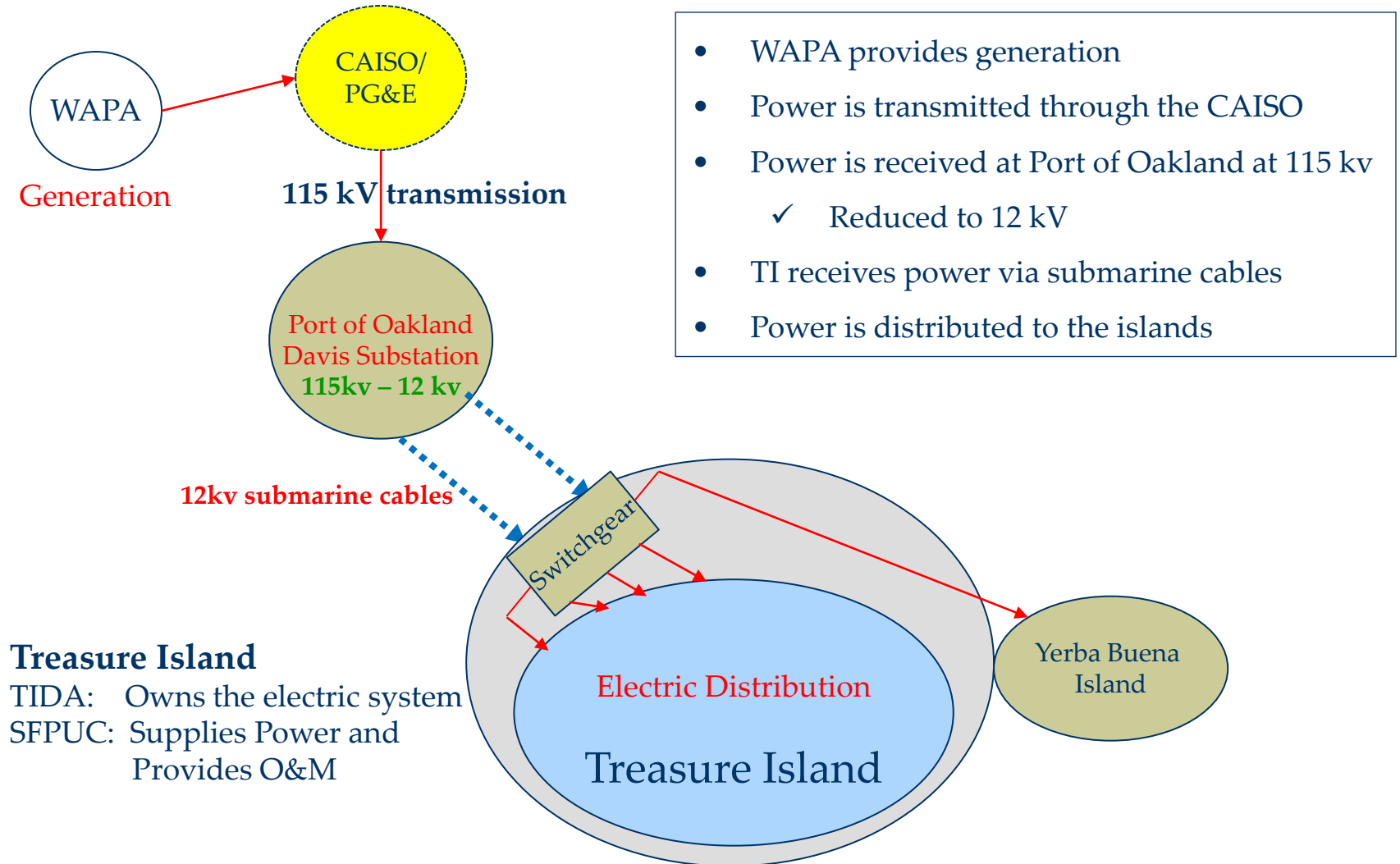
Note: Price per MWh is rounded to the nearest two decimals.

Amendment to the Full Load Service and Scheduling Coordinator Contracts with the U.S. Department of Energy, Western Area Power Administration ("WAPA")

Julia Olguin
Director of Power Origination and Supply
SFPUC Power Enterprise

July 19, 2023

Treasure Island and Yerba Buena Island



Background

- SFPUC was successor to the energy contracts between WAPA and USNavy
- Base Resource Contract

Original

Duration: 1/1/2005 – 12/31/2024

PUC Approval: Resolution No. 00-254 on November 14, 2000

BOS Approval: Resolution No. 0056-01, File 002191 on January 22, 2001

Amendment No. 1

Duration: 1/1/2025 – 12/31/2054

PUC Approval: Resolution No. 21-0049 on March 23, 2021

BOS Approval: Resolution No. 219-21, File 210336 on May 11, 2021

Background

- Full Load Service and Scheduling Coordinator Contracts

Original

Duration: 1/1/2005 – 9/30/2010

PUC Approval: Resolution No. 04-0148 on September 14, 2004, and
Resolution No. 04-0197 on November 30, 2004

BOS Approval: Resolution No. 0017-05, File 043151 on January 11, 2005

Amendment No. 1

Duration: 10/1/2010 – 9/30/2015

PUC Approval: Resolution No. 07-0178 on October 9, 2007

BOS Approval: Resolution No. 0276-07, File 071458 on December 4, 2007

Amendment No. 2

Duration: 10/1/2015 – 9/30/2020

PUC Approval: Resolution No. 11-0153 on September 13, 2011

BOS Approval: Resolution No. 256-11, File 111096 on November 16, 2011

Amendment No. 3

Duration: 10/1/2020 – 12/31/2024

PUC Approval: Resolution No. 18-0035 on February 27, 2018

BOS Approval: Resolution No. 197-18, File 180356 on July 31, 2018

Renewal of Contracts

- Full Load Service and Scheduling Coordinator Contracts

To continue to provide supplemental power and scheduling coordinator services for Treasure Island and Yerba Buena Island

Duration: 1/1/2025 – 12/31/2029

PUC Approval: Resolution No. 23-0102 on May 9, 2023

Termination

- WAPA Agreement
 - One (1) year advance written notice of requested termination date to exit
 - OR may be terminated upon thirty (30) days advance notice if no longer a Base Resource customer



Contract 22-SNR-02771

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals.....	2
3.	Agreement.....	3
4.	Effective Date and Term of Contract.....	3
5.	Definition of Terms	3
6.	Scheduling Coordinator Services Provided by WAPA	4
7.	Scheduling and Metering	6
8.	Independent System Operator or Regional Transmission Organization	7
9.	Scheduling Coordinator Charges and Costs.....	8
10.	Creditworthiness	8
11.	Billing and Payment of Services Provided Under this Contract.....	9
12.	Trust Account for Advanced Funds	10
13.	Default Provisions.....	11
14.	Indemnification and Liability	12
15.	Enforceability	12
16.	General Power Contract Provisions	13
17.	Exhibit Made Part of Contract.....	13
18.	Execution by Counterparts.....	13
19.	Electronic Signatures	13
	Signature Clause	
	Resolution/Certificate	
	General Power Contract Provisions (September 1, 2007)	
	Exhibit A – Scheduling Coordinator Services Charges	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

1. PREAMBLE:

This Contract is made this _____ pursuant to the Acts of Congress approved June 17, 1902, (32 Stat. 388); August 26, 1937, (50 Stat. 844); August 4, 1939, (53 Stat. 1187); and August 4, 1977, (91 Stat. 565); and Acts amendatory or supplementary to the foregoing Acts; between the UNITED STATES OF AMERICA (United States), acting by and through the Administrator, Western Area Power Administration, Department of Energy, represented by the officer executing this Contract, or a duly appointed successor, hereinafter referred to as WAPA or the Contracting Officer; and CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER AND POWER, a Municipal Corporation organized and existing under the laws of the State of California, hereinafter referred to as CCSF or the Contractor, its successors and assigns; both also hereinafter referred to individually as Party and together as Parties.

///
///
///

1 **2. EXPLANATORY RECITALS:**

2 2.1 WAPA markets the surplus generation from and operates a high-voltage
3 transmission system as a part of the Central Valley Project (CVP).

4
5 2.2 On August 15, 2017, WAPA's final 2025 Power Marketing Plan (Marketing
6 Plan) was published in the Federal Register (82 FR 38675). The Marketing Plan
7 provides for WAPA to develop Custom Products for customers who request
8 them.

9
10 2.3 Pursuant to the Marketing Plan, WAPA executed Base Resource Contract
11 20-SNR-02377 (Base Resource Contract) with CCSF on August 16, 2021. Section
12 7 of the Base Resource Contract allows for WAPA to develop Custom Products for
13 CCSF.

14
15 2.4 Under the Base Resource Contract, WAPA requires that all WAPA power
16 be scheduled in accordance with the applicable balancing authority area operator
17 requirements and that each customer designate a certified Scheduling
18 Coordinator. WAPA is a certified California Independent System Operator
19 (CAISO) Scheduling Coordinator and is offering this service as a Custom
20 Product.

21
22 2.5 CCSF has requested that WAPA provide Scheduling Coordinator
23 services, as specified herein, as a Custom Product.

24
25 2.6 WAPA is willing to provide Scheduling Coordinator services to CCSF
26 under the terms and conditions of this Contract.

27 ///

28 ///

1 **3. AGREEMENT:**

2 The Parties agree to the terms and conditions set forth herein.

3
4 **4. EFFECTIVE DATE AND TERM OF CONTRACT:**

5 4.1 This Contract shall become effective upon execution by the Parties, and
6 shall remain in effect through December 31, 2029, except as otherwise provided
7 herein.

8
9 4.2 The date of initial service under this Contract is December 31, 2024, at
10 11:59:59 p.m.

11
12 4.3 Either Party may terminate this Contract by giving the other Party a one
13 (1) year advance written notice of the requested termination date.

14
15 4.4 WAPA may suspend or terminate this Contract pursuant to Section 13
16 herein.

17
18 4.5 WAPA may terminate this Contract upon thirty (30) days advance notice if
19 CCSF ceases to be a WAPA Base Resource customer.

20
21 4.6 All obligations incurred under this Contract shall be preserved until
22 satisfied.

23
24 **5. DEFINITION OF TERMS:**

25 As used herein, the following terms whether singular or plural, or used with or without
26 initial capitalization, shall have the following meanings:

27 5.1 "Base Resource" means CVP and Washoe Project power (capacity and
28 energy) output, determined by WAPA to be available for Customers, including

1 the Environmental Attributes, only after meeting the requirements of Project Use
2 and First Preference Customers, and any adjustments for maintenance,
3 reserves, system losses, and certain ancillary services.

4
5 5.2 “CAISO” means the California Independent System Operator or its
6 successor.

7
8 5.3 “CAISO Tariff” means the California Independent System Operator
9 Agreement and Tariff, conformed as of September 26, 2021, as it may be
10 modified or amended from time-to-time.

11
12 5.4 “Custom Product” means a combination of products and services which
13 may be made available by WAPA per customer request.

14
15 5.5 “Portfolio Manager” means an entity responsible for determining balanced
16 hourly load and resource schedules for a customer.

17
18 5.6 “Scheduling Coordinator” means an entity that is responsible for
19 submitting and modifying bids and interchange schedules and Inter-SC Trades to
20 and settling with the CAISO, in accordance with the protocols specified in the
21 CAISO Tariff.

22
23 **6. SCHEDULING COORDINATOR SERVICES PROVIDED BY WAPA:**

24 6.1 CCSF hereby authorizes WAPA to act as its Scheduling Coordinator and
25 WAPA shall be responsible for all obligations and duties of a Scheduling
26 Coordinator on behalf of CCSF pursuant to the CAISO Tariff.

27 ///

28 ///

1 6.2 In its capacity as Scheduling Coordinator, WAPA shall use data or other
2 information provided by CCSF's Portfolio Manager and submit day-ahead
3 schedules to the CAISO, in accordance with the CAISO Tariff, for CCSF's load.
4 When WAPA is not CCSF's Portfolio Manager, and CCSF's Portfolio Manager
5 does not provide WAPA with day-ahead schedules in accordance with the
6 CAISO Tariff or other necessary information in a timely manner and prior to the
7 time WAPA submits day-ahead schedules to the CAISO, WAPA will, at its
8 discretion, either: (1) not submit a day-ahead schedule on CCSF's behalf; or (2)
9 provide a day-ahead schedule based on reasonable estimates. In any case,
10 CCSF shall be responsible for all costs resulting from CCSF's Portfolio Manager
11 not providing information to WAPA in an appropriate and/or timely manner.
12

13 6.3 If WAPA is not CCSF's Portfolio Manager, WAPA is under no obligation to
14 submit a schedule to the CAISO if the schedule provided by CCSF's Portfolio
15 Manager is not in accordance with the CAISO Tariff.
16

17 6.4 Pursuant to the CAISO Tariff, CCSF's Portfolio Manager may request an
18 adjustment to CCSF's day-ahead schedule in the hour-ahead market. If WAPA
19 is not CCSF's Portfolio Manager, WAPA shall make the adjustment with the
20 CAISO; Provided, That, WAPA receives all information necessary to
21 accommodate the adjustment in a timely manner; Provided Further, That, the
22 requested adjustment does not conflict with existing contractual arrangements
23 between the Parties or the CAISO Tariff.
24

25 6.5 WAPA shall receive, validate, and disseminate CAISO data and
26 settlement information to CCSF or its designated representative.

27 ///

28 ///

1 6.6 On a monthly basis, WAPA will develop and transmit statements to CCSF
2 with a breakdown of CAISO charges and credits and any other costs related to
3 CCSF's CAISO transactions.

4
5 6.7 WAPA shall dispute those CAISO charges related to CCSF's CAISO
6 transactions that WAPA or CCSF believes to be incorrect and disputable under
7 the CAISO Tariff. If CCSF requests that WAPA dispute a CAISO charge(s),
8 WAPA shall initiate a dispute; Provided, That, WAPA agrees that such charge(s)
9 are incorrect and are disputable under the CAISO Tariff.

10
11 6.8 As CCSF's Scheduling Coordinator, WAPA may be required to provide
12 legal representation on behalf of CCSF in CAISO-related legal proceedings.
13 CCSF agrees to pay WAPA's legal fees, and all costs associated with its
14 involvement with any CAISO-related activities that require WAPA's legal support.

15
16 6.9 WAPA may provide additional Scheduling Coordinator-related services as
17 mutually agreed to by the Parties in writing.

18
19 **7. SCHEDULING AND METERING:**

20 All services provided by WAPA to CCSF under this Contract will be subject to the same
21 Scheduling and Metering terms and conditions as provided under CCSF's Base
22 Resource Contract with WAPA the same as if they had been expressly set forth herein;
23 Except, That, CCSF shall notify WAPA of any changes in metering devices and their
24 configurations used to meter CCSF's load within five (5) business days to the extent
25 that CCSF is aware of such changes.

26 ///

27 ///

28 ///

1 **8. INDEPENDENT SYSTEM OPERATOR OR REGIONAL TRANSMISSION**

2 **ORGANIZATION:**

3 8.1 WAPA is a sub-balancing authority area within BANC. WAPA operates in
4 conformance with its sub-balancing authority area and BANC's balancing
5 authority area protocols, business practices and procedures. In the event of
6 changes to any protocols, business practices and procedures, WAPA may make
7 any changes necessary to this Contract to conform to the operating and
8 scheduling protocols, business practices and procedures in accordance with
9 Section 17 of the Base Resource Contract.

10
11 8.2 The Parties understand that, in the future, WAPA may also change its
12 operating configuration such as by: (1) joining an independent system operator
13 or RTO; or (2) participating in future markets such as energy imbalance markets;
14 or (3) making system configurations to meet future operating requirements. In
15 such an event, if WAPA is required to conform to the protocols, business
16 practices or procedures, WAPA shall make changes to this Contract to conform
17 to the terms and conditions required by such events in accordance with
18 Section 17 of the Base Resource Contract.

19
20 8.3 In the event that: (1) WAPA incurs costs from the balancing authority
21 area, WAPA's sub-balancing authority area, CAISO, an RTO, or a different
22 balancing authority area for serving CCSF's load; or (2) CCSF does not abide by
23 the protocols of the balancing authority area, an RTO, or other balancing
24 authority area operator that are applicable to WAPA and WAPA incurs costs as a
25 result, CCSF agrees to pay all such costs attributable to CCSF.

26 ///

27 ///

28 ///

1 **9. SCHEDULING COORDINATOR CHARGES AND COSTS:**

2 9.1 WAPA Charge: The charge, including WAPA's labor and equipment
3 costs, associated with providing Scheduling Coordinator Services to CCSF under
4 this Contract is specified in Exhibit A attached hereto. CCSF shall pay for such
5 charge as described in Section 11. By August 1st of each year during the term of
6 this Contract, WAPA will review the charge for Scheduling Coordinator Services
7 and, if necessary, will revise Exhibit A to reflect the updated charge for providing
8 this service, and will send CCSF a revised Exhibit A for its signature. The
9 revised Exhibit A shall become effective on January 1st of the following year. If
10 WAPA has not received the signed revised Exhibit A from CCSF by the effective
11 date and has not received a notice of termination from CCSF, WAPA will begin to
12 operate and charge under the revised Exhibit A.

13
14 9.2 CAISO Costs: CCSF shall pay all CAISO costs charged by the CAISO for
15 transactions occurring under this Contract. CCSF shall pay for such costs as
16 described in Section 11.

17
18 **10. CREDITWORTHINESS:**

19 For determining the ability of CCSF to meet its obligations related to service hereunder,
20 WAPA may require reasonable credit review procedures. If WAPA determines that
21 CCSF does not meet WAPA's creditworthiness standards, WAPA may require CCSF to
22 provide and keep in effect during the term of this Contract, an unconditional and
23 irrevocable letter of credit or an alternate form of security acceptable to WAPA to meet
24 its responsibilities and obligations under this Contract; Provided, That, if WAPA
25 determines that CCSF has maintained a credit history that satisfies WAPA's
26 requirements for a period of time determined to be sufficient by WAPA, WAPA will
27 discuss with CCSF options regarding the letter of credit or an alternative form of
28 security.

1 **11. BILLING AND PAYMENT OF SERVICE PROVIDED UNDER THIS**

2 **CONTRACT:**

3 WAPA will bill, and CCSF shall pay for services provided under this Contract in
4 accordance with the procedures established under either Section 11.1 or Section 11.2,
5 as solely determined by WAPA. If determined necessary by WAPA, WAPA may
6 change the section under which WAPA is billing and CCSF is paying upon sixty (60)
7 days' notice to CCSF.

8 11.1 After-the-Fact Billing: CCSF shall pay WAPA for Scheduling Coordinator
9 services provided in the previous month as directed on the monthly electric
10 service bill; or

11
12 11.2 Advance Funding: WAPA will estimate the initial amount of funds
13 required. The estimate shall initially be based on two (2) months of WAPA's
14 costs attributable to CCSF for Scheduling Coordinator services; Provided,
15 That, if WAPA determines at a later date that two (2) months is either less
16 than, or in excess of, the amount that WAPA determines is appropriate to
17 maintain on behalf of CCSF, WAPA will either bill such shortage to CCSF
18 pursuant to Section 12.2.1, or refund such excess to CCSF pursuant to
19 Section 12.2.2.

20
21 11.3 The initial advance funding amount shall be due on the date specified on
22 the bill for collection.

23
24 11.4 Any alternative method of advance funding shall be set forth in a separate
25 contractual agreement.

26 ///

27 ///

28 ///

1 **12. TRUST ACCOUNT FOR ADVANCED FUNDS:**

2 CCSF understands that it may be required to advance funds to WAPA pursuant to
3 Section 11.2 and this section for services provided under this Contract. This Section 12
4 provides for establishing and maintaining the trust account(s) required if Section 11.2 is
5 in effect.

6 12.1 Funds that CCSF advances to WAPA shall be sent in accordance with the
7 information included on the bill(s) for collection or as otherwise directed.
8

9 12.2 CCSF shall be required to maintain a balance in the trust account in an
10 amount that WAPA, pursuant to Section 11.2, has determined to be appropriate
11 to maintain on behalf of CCSF. WAPA shall monitor the account and if WAPA
12 determines that:

13 12.2.1 There are not sufficient funds in the account, WAPA shall notify
14 CCSF of the shortage in writing and CCSF shall advance the requested
15 amount of funds to WAPA within ten (10) days; or

16 12.2.2 There are excessive funds in the WAPA trust account, WAPA, at
17 its sole discretion, will either: (1) decrease subsequent amounts required
18 by the amount in excess of the estimate, or (2) return any excess funds to
19 CCSF.
20

21 12.3 WAPA will provide CCSF with:

22 12.3.1 A monthly statement of transactions that were posted to the trust
23 account(s), and the end-of-month balance in the account(s); and,

24 12.3.2 An electric service bill that will reflect the previous month of
25 WAPA's costs and the CAISO costs and the amount of advance funding
26 required from CCSF for the costs that WAPA anticipates it will incur while
27 providing Scheduling Coordinator services for the following month.
28

///

1 12.4 Should CCSF be required to maintain a trust account pursuant to
2 Section 11.2, and this Section 12, WAPA shall be under no obligation to provide
3 service under this Contract without CCSF advancing sufficient funds and said
4 funds being available to WAPA from the trust account(s) as described herein.

5
6 12.5 Within ninety (90) days after termination of this Contract and after WAPA
7 has determined that all obligations incurred under this Contract have been
8 satisfied, WAPA shall return any funds remaining in its trust account(s) to CCSF
9 without interest.

10
11 **13. DEFAULT PROVISIONS:**

12 13.1 The failure of CCSF to perform any of its payment obligations under this
13 Contract shall constitute a default. If WAPA determines CCSF to be in default,
14 WAPA shall notify CCSF, in writing via First-Class mail, return receipt requested,
15 FedEx, UPS or some other method that can be tracked. If CCSF has not cured
16 such default within seven (7) days of receiving the notice of default, WAPA may
17 suspend service under this Contract. Upon receipt of payment of amounts owed,
18 WAPA shall work with CCSF to reinstate service under this Contract as soon as
19 practicable.

20
21 13.2 If CCSF is determined to be in default and does not cure such default
22 within forty-five (45) days of receiving the notice of default, WAPA shall have the
23 right to terminate this Contract, and assess damages, as follows:

24 13.2.1 If WAPA's aggregate gains exceed its aggregate losses and
25 costs, including obligations incurred on behalf of CCSF that extend past
26 the current month, WAPA, after any set-off, shall make no payment to
27 CCSF and, notwithstanding anything in this Contract to the contrary, the

28 ///

1 amount by which such gain exceeds the losses and costs for the purposes
2 of this Contract shall be zero (0); or

3 13.2.2 If WAPA's aggregate gains do not exceed its aggregate losses,
4 including obligations incurred on behalf of CCSF that extend past the
5 current month, WAPA will promptly calculate the damages associated with
6 the default. As soon as practical, WAPA will provide notice to CCSF of
7 the amount of the damages. Payment for the damages shall be made by
8 CCSF to WAPA within ten (10) business days after such notice is
9 received.

10
11 **14. INDEMNIFICATION AND LIABILITY:**

12 CCSF shall at all times indemnify, defend, and save WAPA harmless from any and all
13 damages, losses, claims and actions relating to injury to or death of any person or
14 damage to property, demands, suits, recoveries, costs and expenses, court costs,
15 attorney fees, and all other obligations by or to third parties, arising out of or resulting
16 from WAPA's performance of its obligations under this Contract on behalf of CCSF,
17 except in cases of negligence or intentional wrongdoing by WAPA. WAPA's liability
18 shall be determined in accordance with the provisions of the Federal Tort Claims Act, as
19 amended.

20
21 **15. ENFORCEABILITY:**

22 It is not the intent of the Parties that this Contract confer any rights on third parties to
23 enforce the provisions of this Contract except as required by law or express provision in
24 this Contract. Except as provided in this Section, this Contract may be enforced, or
25 caused to be enforced, only by WAPA or CCSF, or their successors or assigns.

26 ///
27 ///
28 ///

1 **16. GENERAL POWER CONTRACT PROVISIONS:**

2 The GPCP, effective September 1, 2007, attached hereto, are hereby made a part of
3 this Contract, the same as if they had been expressly set forth herein.
4

5 **17. EXHIBIT MADE PART OF CONTRACT:**

6 Exhibit A (Scheduling Coordinator Services Charges) existing under this Contract may
7 vary during the term hereof. Exhibit A shall become a part of this Contract during the
8 term fixed by its provisions. Exhibit A is attached hereto and shall be in force and effect
9 in accordance with its terms until respectively superseded by a subsequent exhibit.
10

11 **18. EXECUTION BY COUNTERPARTS:**

12 This Contract may be executed in any number of counterparts and, upon execution and
13 delivery by each Party, the executed and delivered counterparts together shall have the
14 same force and effect as an original instrument as if all Parties had signed the same
15 instrument. Any signature page of this Contract may be detached by any counterpart of
16 this Contract without impairing the legal effect of any signatures thereon and may be
17 attached to another counterpart of this Contract identical in form hereto, by having
18 attached to it one or more signature pages.
19

20 **19. ELECTRONIC SIGNATURES:**

21 The Parties agree that this Contract may be executed by handwritten signature or
22 digitally signed using DocuSign, Adobe Sign, or Adobe E-Signature. An electronic or
23 digital signature is the same as a handwritten signature and shall be considered valid
24 and acceptable.

25 ///

26 ///

27 ///

28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed the day
2 and year first above written.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

(Attest)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____
Address: _____

WESTERN AREA POWER ADMINISTRATION

By: _____
Name: Arun K. Sethi
Title: Vice President of Power Marketing
For Sierra Nevada Region
Address: 114 Parkshore Drive
Folsom, CA 95630-4710

RESOLUTION/CERTIFICATE
OF
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

EXHIBIT A
(Scheduling Coordinator Services Charges)

1. This Exhibit A, to be effective under and as a part of Contract 22-SNR-02771 (Contract), shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit A or termination of the Contract.

2. The monthly charges for Scheduling Coordinator services are set forth in the tables below. Table 1 sets forth a total monthly base charge applicable to all customers. Tables 2 and 3 set forth additive charges that may be applicable to customers based on schedule changes and additional meters in excess of those allowed for under the base charge.

3. The monthly Scheduling Coordinator services base charge is yet to be determined. Prior to January 1, 2025, WAPA will revise this Exhibit A to include a base charge and update any charges set forth in Tables 2 and 3 below if necessary.

Table 1 – Base Charge

Service	Charge
Scheduling Coordinator Services	TBD
Schedule Changes (less than or equal to 30 per month)	0.00
Metering Agent (less than or equal to 10 meters)	0.00
Trust Account(s) Administration	0.00
Total	TBD

Table 2 – Additional Schedule Changes Charge

Additional Schedule Changes	Charge
31 to 50	\$ 500.00
51 to 70 [additive to the charge above (\$500.00 plus \$1,000.00)]	1,500.00
71 to 90 [additive to the charge above (\$1,500.00 plus \$1,500.00)]	3,000.00

Table 3 – Additional Meter Charge

Number of Meters	Charge
11 to 20	\$ 500.00
21 to 30	1,000.00
31 to 40	1,500.00
Meters in excess of 41 will cost \$500.00 per every 10 meters	

**WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS**

Page

I. APPLICABILITY.

1. Applicability	1
------------------------	---

II. DELIVERY OF SERVICE PROVISIONS.

2. Character of Service	1
3. Use of Capacity or Energy in Excess of Contract Obligation	1
4. Continuity of Service	1
5. Multiple Points of Delivery	2
6. Metering	2
7. Existence of Transmission Service Contract	3
8. Conditions of Transmission Service	3
9. Multiple Points of Delivery Involving Direct and Indirect Deliveries	3
10. Construction, Operation, and Maintenance of Contractor's Power System	3-4

III. RATES, BILLING, AND PAYMENT PROVISIONS.

11. Change of Rates	4
12. Minimum Seasonal or Annual Capacity Charge	4
13. Billing and Payment	4-5
14. Nonpayment of Bills in Full When Due	5
15. Adjustments for Fractional Billing Period	5
16. Adjustments for Curtailments to Firm Service	5-6

IV. POWER SALES PROVISIONS.

17. Resale of Firm Electric Service (Wholesale Sales for Resale)	6
18. Distribution Principles	6
19. Contract Subject to Colorado River Compact	6

V. FACILITIES PROVISIONS.

20. Design Approval	6-7
21. Inspection and Acceptance	7
22. As-Built Drawings	7
23. Equipment Ownership Markers	7
24. Third-Party Use of Facilities	7
25. Changes to Western Control Facilities	7-8
26. Modification of Western Facilities	8
27. Transmission Rights	8
28. Construction and Safety Procedures	8-9
29. Environmental Compliance	9
30. Responsibility for Regulated Materials	9

VI. OTHER PROVISIONS.

31. Authorized Representatives of the Parties	9
32. Effect of Section Headings	10
33. Operating Guidelines and Procedures	10
34. Uncontrollable Forces	10
35. Liability	10
36. Cooperation of Contracting Parties	10-11
37. Transfer of Interest in the Contract or Change in Preference Status	11
38. Choice of Law and Forum	12
39. Waivers	12
40. Notices	12
41. Contingent Upon Appropriations and Authorization	12
42. Covenant Against Contingent Fees	12
* 43. Contract Work Hours and Safety Standards	13
44. Equal Opportunity Employment Practices	13
45. Use of Convict Labor	13

*Legal Citation Revised September 1, 2007

WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS

I. APPLICABILITY.

1. Applicability.

1.1 These General Power Contract Provisions (Provisions) shall be a part of the contract to which they are attached. In the event these Provisions differ from requirements of the contract, specific terms set forth in the contract shall prevail.

1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with Provisions 10, 17, 18, 19, 29, 30, 36, 43, 44, and 45 of these General Power Contract Provisions.

II. DELIVERY OF SERVICE PROVISIONS.

2. Character of Service.

Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

3. Use of Capacity or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of Western. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Western, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.

4. Continuity of Service.

Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision 34 (Uncontrollable Forces) herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

5. Multiple Points of Delivery.

When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

6. Metering.

6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western, a designated representative of Western, or where situations deem it appropriate as determined by Western, by the Contractor or its agent(s). In the event metering equipment is furnished and maintained by the Contractor or its agent(s) and the equipment is used for billing and other accounting purposes by Western, the Contractor shall ensure that the metering equipment complies with applicable metering policies established by Western.

6.2 Meters shall be secured by appropriate security measures and meters shall not be accessed except when the meters are to be inspected, tested, adjusted, or repaired. Representatives of affected parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested each year by the party responsible for meter maintenance, unless a different test interval is determined in accordance with good utility practices by an applicable regional metering policy, or as agreed upon by the parties. Meters shall also be tested at any reasonable time upon request by a party hereto, or by an affected supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance as soon as practicable. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Provision 6.3 below.

6.3 Except as otherwise provided in Provision 6.4 hereof, should any meter that is used by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during the period of failure to register accurately, shall, for billing purposes, be estimated by Western from the best available information.

6.4 If inspections and tests of a meter used by Western for billing or other accounting purposes disclose an error exceeding 2 percent, or a lesser range in error as agreed upon by the parties, then a correction based upon the inaccuracy found shall be made to the service records for the period of inaccuracy as determined by Western. If the period of inaccuracy cannot be determined, the inaccuracy shall be assumed to have existed during the entire monthly billing period immediately preceding the billing period in which the inspection or test was made and the resulting correction shall be made accordingly.

6.5 Any correction in billing or other accounting information that results from a correction in meter records shall be made in a subsequent monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties arising out of inaccurate metering equipment.

7. Existence of Transmission Service Contract.

If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish service over its own facilities.

8. Conditions of Transmission Service.

8.1 When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.

8.2 Unless otherwise provided in the contract or applicable rate schedule, the Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.

8.3 Western will endeavor to inform the Contractor from time to time of any changes planned or proposed on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system, because of changes or conditions on the system over which the service is supplied, shall not be a charge against or a liability of Western.

8.4 If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to making such changes, but not thereafter.

8.5 If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to the date on which said capacity ceases to be available to Western, but not thereafter.

9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.

When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its load served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by Western, available at the direct delivery points affected is fully utilized.

10. Construction, Operation, and Maintenance of Contractor's Power System.

The Contractor shall, and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by Western, will not interfere with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or

discontinue furnishing services to the Contractor if, after notice by Western, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by Western to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this Provision shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.

III. RATES, BILLING, AND PAYMENT PROVISIONS.

11. Change of Rates.

Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to Western within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

12. Minimum Seasonal or Annual Capacity Charge.

When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.

13. Billing and Payment.

13.1 Western will normally issue bills to the Contractor for services furnished during the preceding month within ten (10) days after the end of the billing period.

13.2 If Western is unable to issue timely monthly bill(s), Western may elect to render estimated bill(s). Such estimated bill(s) shall be subject to the same payment provisions as final bill(s), and any applicable adjustments will be shown on a subsequent monthly bill.

13.3 Payments of bills issued by Western are due and payable by the Contractor before the close of business on the twentieth (20th) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western. Bills will be paid electronically or via the Automated Clearing House method of payment unless a written request to make payments by mail is submitted by the Contractor and approved by Western. Should Western agree to accept payments by mail, these payments will be accepted as timely and without assessment of the charge provided for in Provision 14 (Nonpayment of Bills in Full When Due) if a United States

Post Office first class mail postmark indicates the payment was mailed at least three (3) calendar days before the due date.

13.4 The parties agree that net billing procedures will be used for payments due Western by the Contractor and for payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. Payments due one party in any month shall be offset against payments due the other party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists. The parties shall exchange such reports and information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

14. Nonpayment of Bills in Full When Due.

14.1 Bills not paid in full by the Contractor by the due date specified in Provision 13 (Billing and Payment) hereof shall bear a charge of five hundredths percent (0.05%) of the principal sum unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Western will also assess a fee of twenty-five dollars (\$25.00) for processing a late payment. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.

14.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either by law or in equity, for the breach of any of the terms hereof.

15. Adjustments for Fractional Billing Period.

The demand or capacity charge and minimum charges shall each be proportionately adjusted when fractional billing periods are applicable under this contract. A fractional billing period can occur: 1) at the beginning or end of electric service; 2) at the beginning or end of irrigation pumping service each year; 3) for a fractional billing period under a new rate schedule; or 4) for fractional periods due to withdrawals of electric services. The adjustment will be made based on the ratio of the number of hours that electric service is available to the Contractor in such fractional billing period, to the total number of hours in the billing period involved. Energy billing shall not be affected by fractional billing periods.

16. Adjustments for Curtailments to Firm Service.

16.1 Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of one (1) hour or longer in duration each. Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Provision 14 (Nonpayment of Bills In Full When Due). For purposes of billing adjustments under this Provision, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.

16.2 The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, of each reduction, of: the number of hours reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that

the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.

16.3 The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of one (1) hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.

IV. **POWER SALES PROVISIONS.**

17. Resale of Firm Electric Service (Wholesale Sales for Resale).

The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by that utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.

18. Distribution Principles.

The Contractor agrees that the benefits of firm electric power or energy supplied under the contract shall be made available to its consumers at rates that are established at the lowest possible level consistent with sound business principles, and that these rates will be established in an open and public manner. The Contractor further agrees that it will identify the costs of firm electric power or energy supplied under the contract and power from other sources to its consumers upon request. The Contractor will demonstrate compliance with the requirements of this Provision to Western upon request.

19. Contract Subject to Colorado River Compact.

Where the energy sold under the contract is generated from waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13 (a) of the Boulder Canyon Project Act of December 21, 1928, 43 U.S.C. §§ 617a-e, and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.

V. **FACILITIES PROVISIONS.**

20. Design Approval.

All facilities, construction, and installation by the Contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's current "General Requirements for Interconnection," in effect upon the signing of the contract document providing for each interconnection, copies of which are available from Western. At least ninety (90) days, unless otherwise agreed,

prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor's needs.

21. Inspection and Acceptance.

Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the work site. Any materials or work that Western determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the Contractor before the new facilities are energized.

22. As-Built Drawings.

Within a reasonable time, as determined by Western, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor's drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by Western. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by Western.

23. Equipment Ownership Markers.

23.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the United States right-of-way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.

23.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor's right-of-way or in the Contractor's substations pursuant to the contract which are owned by the United States, by permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.

24. Third-Party Use of Facilities.

The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by Western, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.

25. Changes to Western Control Facilities.

If at any time during the term of the contract, Western determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission

system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by Western, to be paid by the Contractor. Western shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, Western shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions to the contract and require the removal of the Contractor's facilities.

26. Modification of Western Facilities.

Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.

27. Transmission Rights.

If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.

28. Construction and Safety Procedures.

28.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the contract. The Contractor and the authorized employees, agents, and subcontractors of the Contractor shall comply with all applicable safety laws and building and construction codes, including the provisions of Chapter 1 of the Power System Operations Manual, entitled Power System Switching Procedure, and the Occupational Safety and Health Administration regulations, Title 29 C.F.R. §§ 1910 and 1926, as amended or supplemented. In addition to the safety program required herein, upon request of the United States, the Contractor shall provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

28.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Western.

28.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the site.

28.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.

28.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any requirement of this Provision, or Provision 21 (Inspection and Acceptance) herein, Western or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

29. Environmental Compliance.

Facilities installed under the contract by any party shall be constructed, operated, maintained, replaced, transported, and removed subject to compliance with all applicable laws, including but not limited to the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa-470mm, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations, and executive orders.

30. Responsibility for Regulated Materials.

When either party owns equipment containing regulated material located on the other party's substation, switchyard, right-of-way, or other property, the equipment owner shall be responsible for all activities related to regulated materials in such equipment that are necessary to meet the requirements of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-9675, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2702-2761, the Clean Water Act, 33 U.S.C. §§ 1251-1387, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-j26, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, and any other existing or subsequent applicable laws, regulations, and executive orders. Each party shall label its equipment containing regulated material in accordance with appropriate laws and regulations. If the party owning the equipment does not perform activities required under appropriate laws and regulations within the time frame specified therein, the other party may perform or cause to be performed the required activities after notice to and at the sole expense of the party owning the equipment.

VI. OTHER PROVISIONS.

31. Authorized Representatives of the Parties.

Each party to the contract, by written notice to the other, shall designate the representative(s) who is (are) authorized to act in its behalf with respect to those matters contained in the contract which are the functions and responsibilities of the authorized representatives of the parties. Each party may change the designation of its authorized representative(s) upon oral notice given to the other, confirmed promptly by written notice.

32. Effect of Section Headings.

Section headings or Provision titles appearing in the contract or these General Power Contract Provisions are inserted for convenience only and shall not be construed as interpretations of text.

33. Operating Guidelines and Procedures.

The parties to the contract may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.

34. Uncontrollable Forces.

Neither party to the contract shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Provision 13 (Billing and Payment) herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

35. Liability.

35.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractors', its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under the contract.

35.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

36. Cooperation of Contracting Parties.

If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Provisions 13 (Billing

and Payment) and 14 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.

37. Transfer of Interest in Contract or Change in Preference Status.

37.1 No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the prior written approval of the Administrator of Western. Any voluntary transfer of the contract or of the rights of the Contractor under the contract made without the prior written approval of the Administrator of Western may result in the termination of the contract; Provided, That the written approval of the Administrator shall not be unreasonably withheld; Provided further, That if the Contractor operates a project financed in whole or in part by the Rural Utilities Service, the Contractor may transfer or assign its interest in the contract to the Rural Utilities Service or any other department or agency of the Federal Government without such prior written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this Provision.

37.2 The Contractor shall maintain its status as an entity eligible for preference in Western's sale of Federal power pursuant to Reclamation law, as amended and supplemented.

37.3 Western shall give the Contractor written notice of Western's proposed determination that the Contractor has violated Provision 37.1 and Western's proposed action in response to the violation.

37.4 The Contractor shall have 120 days after receipt of Western's notice provided under Provision 37.3 to submit a written response to Western. The Contractor may also make an oral presentation to the Administrator during this 120-day period.

37.5 At any time during this process, the Contractor and Western may agree upon corrective action to resolve Western's proposed determination that the Contractor is in violation of Provision 37.1.

37.6 Within 30 days of receipt of the Contractor's written response provided under Provision 37.4, Western will notify the Contractor in writing of its final decision. The Administrator's written notice will include the intended action, the effective date thereof, and the reasons for taking the intended action. Implementation of the Administrator's action shall take place no earlier than 60 days from the Contractor's receipt of such notice.

37.7 Any successor to Western shall be subject to all the provisions and conditions of the contract to the same extent as though such successor were an original signatory to the contract.

37.8 Nothing in this Provision shall preclude any right to judicial review available to the Contractor under Federal law.

38. Choice of Law and Forum.

Federal law shall control the obligations and procedures established by this contract and the performance and enforcement thereof. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the parties agree to pursue alternative dispute resolution.

39. Waivers.

Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.

40. Notices.

Any notice, demand, or request specifically required by the contract or these Provisions to be in writing shall be considered properly given when delivered in person or sent by postage prepaid registered or certified mail, commercial delivery service, facsimile, electronic, prepaid telegram, or by other means with prior agreement of the parties, to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice. Where facsimile or electronic means are utilized for any communication covered by this Provision, the sending party shall keep a contemporaneous record of such communications and shall verify receipt by the other party.

41. Contingent Upon Appropriations and Authorization.

41.1 Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the contract. In case such appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

41.2 In order to receive and expend funds advanced from the Contractor necessary for the continued performance of the obligations of the United States under the contract, additional authorization may be required. In case such authorization is not received, the Contractor hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

42. Covenant Against Contingent Fees.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Western shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

43. Contract Work Hours and Safety Standards.

The contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 3701, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

44. Equal Opportunity Employment Practices.

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

45. Use of Convict Labor.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble.....	1
2.	Explanatory Recitals	2
3.	Agreement	2
4.	Effective Date and Term of Contract.....	3
5.	Definition of Terms	3
6.	Custom Product Power Furnished by WAPA	5
7.	Delivery Arrangements	5
8.	Portfolio Manager Services.....	6
9.	Internal Generation.....	8
10.	Scheduling Coordinator Services	9
11.	Additional Services Necessary to Provide Custom Product(s)	9
12.	Scheduling And Metering.....	9
13.	Independent System Operator or Regional Transmission Organization.....	10
14.	Full Load Service Charges	11
15.	Creditworthiness.....	11
16.	Billing And Payment for Services Provided Under This Contract.....	12
17.	Trust Account for Advanced Funds	13
18.	Default Provisions	14
19.	Enforceability	15
20.	General Power Contract Provisions	15
21.	Exhibits Made Part of Contract.....	15
22.	Execution by Counterparts	15
23.	Electronic Signatures	16
	Signature Clause	
	Resolution/Certificate	
	General Power Contract Provisions (September 1, 2007)	
	Schedule of Rates for Custom Product Power	
	Exhibit A – Full Load Service	
	Exhibit B – Charges for Portfolio Manager Services	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

1. PREAMBLE:

This Contract is made this _____ pursuant to the Acts of Congress approved June 17, 1902, (32 Stat. 388); August 26, 1937, (50 Stat. 844); August 4, 1939, (53 Stat. 1187); and August 4, 1977, (91 Stat. 565); and Acts amendatory or supplementary to the foregoing Acts; between the UNITED STATES OF AMERICA (United States), acting by and through the Administrator, Western Area Power Administration, Department of Energy, represented by the officer executing this Contract, or a duly appointed successor, hereinafter called WAPA or Contracting Officer; and CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER AND POWER, a municipal corporation organized and existing under the laws of the State of California, hereinafter referred to as CCSF or the Contractor, its successors and assigns; both also hereinafter referred to individually as Party and together as Parties.

///
///
///

1 **2. EXPLANATORY RECITALS:**

2 2.1 The Parties entered into Base Resource Contract 20-SNR-02377 on
3 August 16, 2021. The Base Resource Contract provides the terms and
4 conditions whereby WAPA will provide Base Resource electric service to CCSF.

5
6 2.2 At times, power provided under the Base Resource Contract will not be
7 sufficient to meet the electrical needs of CCSF at the delivery point(s) specified
8 herein.

9
10 2.3 WAPA's final 2025 Power Marketing Plan, published in the Federal
11 Register on August 15, 2017 (82 FR 38675), provides for WAPA to develop
12 Custom Products for customers who request them. Section 7.7 of the Base
13 Resource Contract allows for WAPA to develop a Custom Product for CCSF.

14
15 2.4 CCSF requested a Custom Product in the form of Custom Product Power
16 to meet the load at a specific delivery point(s).

17
18 2.5 CCSF also requested WAPA provide Portfolio Manager services.

19
20 2.6 WAPA and CCSF recognize that, due to load diversity, there may be
21 benefits to aggregating some Full Load Service Customers' Base Resource
22 Percentages and Custom Product Power requirements for power purchases; and
23 additional business efficiencies may be realized through consolidation of power
24 scheduling and related activities.

25
26 **3. AGREEMENT:**

27 The Parties agree to the terms and conditions set forth herein.

28 ///

1 **4. EFFECTIVE DATE AND TERM OF CONTRACT:**

2 4.1 This Contract shall become effective upon execution by the Parties and
3 shall remain in effect through December 31, 2029, except as otherwise provided
4 for herein.

5
6 4.2 The date of initial service under this Contract is December 31, 2024, at
7 11:59:59 p.m.

8
9 4.3 Either Party may terminate this Contract by giving the other Party a one
10 (1) year advance written notice of the requested termination date.

11
12 4.4 WAPA may suspend or terminate service under this Contract pursuant to
13 Section 18.

14
15 4.5 WAPA may terminate this Contract upon thirty (30) days advance notice if
16 CCSF ceases to be a WAPA Base Resource customer.

17
18 4.6 All obligations incurred under this Contract shall be preserved until
19 satisfied.

20
21 **5. DEFINITION OF TERMS:**

22 As used herein, the following terms whether singular or plural, or used with or without
23 initial capitalization, shall have the following meanings:

24 5.1 "Base Resource" means Central Valley Project (CVP) and Washoe Project
25 power (capacity and energy) output, determined by WAPA to be available for
26 Customers, including the Environmental Attributes, only after meeting the
27 requirements of Project Use and First Preference Customers, and any

28 ///

1 adjustments for maintenance, reserves, system losses, and certain ancillary
2 services.

3
4 5.2 “Custom Product” means a combination of products and services which
5 may be made available by WAPA per Customer request.

6
7 5.3 “Custom Product Power” means firm capacity and energy, provided by
8 WAPA, a Customer(s) needs in addition to its Base Resource for use in meeting
9 that customer’s load.

10
11 5.4 “Customer” means an entity with a contract and receiving electric service
12 from WAPA’s Sierra Nevada Region.

13
14 5.5 “Full Load Service Customer” means a Customer that will have its entire
15 load at its delivery point(s) specified in Exhibit A met by WAPA, and its Portfolio
16 Manager functions for those delivery point(s) performed by WAPA.

17
18 5.6 “Internal Generation” means a power resource owned and operated by a
19 Full Load Service Customer and located on its side of the meter within its electric
20 system and its generation output is intended solely to serve the Customer’s load.

21
22 5.7 “Portfolio Manager” means an entity responsible for determining balanced
23 hourly load and resource schedules for a Customer.

24
25 5.8 “Regional Transmission Organization” or “RTO” means an organization
26 that meets the minimum characteristics and performs the minimum functions
27 specified in Federal Energy Regulatory Commission Order 2000, as that order
28 may be amended or superseded.

1 5.9 "Scheduling Coordinator" means an entity that is responsible for
2 submitting and modifying bids and interchange schedules and Inter-SC Trades to
3 and settling with the California Independent System Operator (CAISO), in
4 accordance with the protocols specified in the CAISO Tariff.
5

6 **6. CUSTOM PRODUCT POWER FURNISHED BY WAPA:**

7 6.1 WAPA will provide additional power to those Full Load Service Customers
8 whose loads exceed their Base Resource. WAPA may aggregate the needs of
9 Full Load Service Customers to determine Custom Product Power requirements.
10

11 6.2 Custom Product Power provided by WAPA may include long-term, short-
12 term, day-ahead, and hour-ahead purchases, and/or other arrangements.
13

14 6.3 WAPA will provide Custom Product Power to CCSF to serve the load
15 unmet by the power provided under CCSF's Base Resource Contract. CCSF's
16 expected annual peak capacity and energy are specified in Section 2 of Exhibit A
17 attached hereto. CCSF shall provide written notification to WAPA of any expected
18 increase or decrease in the capacity and energy amounts specified in Exhibit A.
19 Such notification shall be made as soon as practicable, and no less than ninety
20 (90) days prior to the expected change in the capacity and energy amounts
21 specified in Exhibit A.
22

23 **7. DELIVERY ARRANGEMENTS:**

24 7.1 WAPA will use best efforts to contract with the appropriate parties for the
25 transmission and distribution service necessary to make CCSF's Custom Product
26 Power available at the point(s) of delivery specified in Section 4 of Exhibit A. If
27 WAPA is successful in contracting for transmission and distribution on behalf of
28

1 CCSF, CCSF will be required to execute a third-party transmission contract with
2 WAPA to receive such service.

3
4 7.2 In the event that WAPA is unable to secure transmission and distribution
5 service on behalf of CCSF, WAPA will make CCSF's Custom Product Power
6 available at the point(s) of delivery specified in Exhibit A of CCSF's Base
7 Resource Contract. CCSF shall ultimately be responsible for arranging for the
8 transmission and distribution necessary to receive Custom Product Power
9 provided under this Contract to the delivery point specified in Section 4 of
10 Exhibit A.

11
12 **8. PORTFOLIO MANAGER SERVICES:**

13 8.1 During the term of this Contract WAPA shall serve as CCSF's Portfolio
14 Manager. In such capacity, WAPA will need load data and other information to
15 determine the power necessary to meet CCSF's load. If WAPA does not have
16 access to the information it needs, WAPA will request it from CCSF. CCSF shall
17 provide the information within thirty (30) days of a request from WAPA. Said
18 data may include, but is not limited to, the following:

19 8.1.1 Historical hourly load data at the delivery point(s) specified in
20 Section 4 of Exhibit A; and

21 8.1.2 Expected future loads at the delivery point(s) specified in Section 4
22 of Exhibit A during the term of this Contract.

23 8.1.3 Internal Generation projections as set forth in Exhibit C, if
24 applicable.

25
26 8.2 If requested by WAPA, CCSF will submit to WAPA its annual planned
27 power usage for the upcoming calendar year by October 1 of each year during
28 the term of this Contract. CCSF shall provide the information to WAPA in a

1 format agreed to between the Parties. In addition, CCSF must provide any
2 planned significant changes in its power usage to WAPA in writing not less than
3 ninety (90) days prior to the planned change. WAPA will revise Exhibit A to this
4 Contract to reflect such changes in power usage. The information provided by
5 CCSF will be used by WAPA in determining daily power schedules for CCSF.
6

7 8.3 On a daily basis, using the information provided in Sections 8.1 and 8.2,
8 WAPA will determine the power necessary on an hourly basis to fully serve
9 CCSF's load at the delivery point(s) specified in Exhibit A, as follows:

10 8.3.1 Using the information as provided in Section 6 of CCSF's Base
11 Resource Contract, WAPA will determine the hourly use of CCSF's Base
12 Resource for the day.

13 8.3.2 If CCSF's Base Resource does not fully meet CCSF's forecasted
14 load, WAPA will schedule CCSF's share of exchange program energy, if
15 any, to serve CCSF's load.

16 8.3.3 Once all Base Resource and exchange program energy has been
17 distributed, WAPA will meet CCSF's unmet forecasted load with Custom
18 Product Power.

19 8.3.4 Any Base Resource in excess of CCSF's forecasted load will be
20 retained by WAPA for distribution under the exchange program in
21 accordance with Exhibit B to CCSF's Base Resource Contract.

22 8.3.5 After WAPA has determined the resource mix to meet CCSF's
23 hourly load, WAPA will provide the resource schedules to the balancing
24 authority area operator in accordance with its protocols and as further
25 described in the Scheduling Coordinator Contract.

26 ///

27 ///

28 ///

1 8.4 WAPA shall not be liable in the event that power and/or transmission is
2 scheduled either in excess of or below that necessary to serve CCSF's hourly
3 load.

4
5 **9. INTERNAL GENERATION:**

6 If CCSF currently has Internal Generation or intends to install Internal Generation,
7 Subsections 9.1 and/or 9.2 shall apply to CCSF.

8 9.1 Existing Internal Generation: WAPA will integrate CCSF's Internal
9 Generation into CCSF's energy portfolio using technical specifications and
10 historical data to forecast load. If requested, CCSF shall provide WAPA with
11 technical and general information about its on-site Internal Generation facility.
12 The information that may be required is provided below:

13 9.1.1 Internal Generation Specifications:

- 14 9.1.1.1 Type of Internal Generation (solar, wind, other);
- 15 9.1.1.2 Exact geographical location of Internal Generation
16 including longitude and latitude;
- 17 9.1.1.3 Installed capacity rating in kilowatts;
- 18 9.1.1.4 If solar, rating of inverter;
- 19 9.1.1.5 Type of solar (stationary or tracking);
- 20 9.1.1.6 Type of solar tracking (single-axis or dual-axis tracking);
- 21 9.1.1.7 Operational date after installation;
- 22 9.1.1.8 Expected yearly loss of capacity due to aging of system
23 after installation; and
- 24 9.1.1.9 Other pertinent information as may be required.

25 9.1.2 Notifications: CCSF shall notify WAPA of any changes to the
26 information in Section 9.1 above, thirty (30) days prior to the operational
27 date of the change.

28 ///

1 9.2 New or Increased Internal Generation: CCSF shall notify and coordinate
2 with WAPA on any new Internal Generation planned to be located on its facility.
3 If requested, CCSF shall provide WAPA with technical and general information
4 as outlined in Section 9.1.1. Exhibit C will set forth any scheduling or other
5 procedures required for integrating Internal Generation into CCSF's energy
6 portfolio.

7
8 9.3 WAPA shall have no obligation to include CCSF's Internal Generation in CCSF's
9 energy portfolio if CCSF does not comply with the requirements set forth in this
10 Section 9.

11
12 **10. SCHEDULING COORDINATOR SERVICES:**

13 For WAPA to provide Full Load Service as described in this Contract, WAPA must be
14 CCSF's Scheduling Coordinator. Scheduling Coordinator services will be provided
15 under a separate contract.

16
17 **11. ADDITIONAL SERVICES NECESSARY TO PROVIDE CUSTOM PRODUCT(S):**

18 CCSF understands that additional services, including but not limited to, scheduling the
19 resource and balancing authority area services may be necessary to provide the
20 Custom Products(s) requested under this Contract. CCSF shall be responsible for all
21 costs incurred by WAPA to provide Full Load Service as specified in this Contract.

22
23 **12. SCHEDULING AND METERING:**

24 All services provided by WAPA to CCSF under this Contract will be subject to the same
25 Scheduling and Metering terms and conditions as provided under CCSF's Base
26 Resource Contract with WAPA the same as if they had been expressly set forth herein;
27 Except, That, CCSF shall notify WAPA of any changes in metering devices and their

28 ///

1 configurations used to meter CCSF's load within five (5) business days to the extent
2 that CCSF is aware of such changes.

3
4 **13. INDEPENDENT SYSTEM OPERATOR OR REGIONAL TRANSMISSION**

5 **ORGANIZATION:**

6 13.1 WAPA is a sub-balancing authority area within BANC. WAPA operates in
7 conformance with its sub-balancing authority area and BANC's balancing
8 authority area protocols, business practices and procedures. In the event of
9 changes to any protocols, business practices and procedures, WAPA may make
10 any changes necessary to this Contract to conform to the operating and
11 scheduling protocols, business practices and procedures in accordance with
12 Section 17 of the Base Resource Contract.

13
14 13.2 The Parties understand that, in the future, WAPA may also change its
15 operating configuration such as by: (1) joining an independent system operator
16 or RTO; or (2) participating in future markets such as energy imbalance markets;
17 or (3) making system configurations to meet future operating requirements. In
18 such an event, if WAPA is required to conform to the protocols, business
19 practices or procedures, WAPA shall make changes to this Contract to conform
20 to the terms and conditions required by such events in accordance with
21 Section 17 of the Base Resource Contract.

22
23 13.3 In the event that: (1) WAPA incurs costs from the balancing authority
24 area, WAPA's sub-balancing authority area, CAISO, an RTO, or a different
25 balancing authority area for serving CCSF's load; or (2) CCSF does not abide by
26 the protocols of the balancing authority area, an RTO, or other balancing
27 authority area operator that are applicable to WAPA and WAPA incurs costs as a
28 result, CCSF agrees to pay all such costs attributable to CCSF.

1 **14. FULL LOAD SERVICE CHARGES:**

2 14.1 WAPA Charge: The charge, including WAPA's labor and equipment
3 costs, associated with providing Portfolio Manager services to CCSF under this
4 Contract is specified in Exhibit B attached hereto. CCSF shall pay for such
5 charge as described in Section 16. By August 1st of each year during the term of
6 this Contract, WAPA will review the charge for Portfolio Manager services and, if
7 necessary, will revise Exhibit B to reflect the updated charge for providing this
8 service, and will send CCSF a revised Exhibit B for its signature. The revised
9 Exhibit B shall become effective on January 1st of the following year. If WAPA
10 has not received the signed revised Exhibit B back from CCSF by the effective
11 date and has not received a notice of termination from CCSF, WAPA will begin to
12 operate and charge under the revised Exhibit B.

13
14 14.2 Custom Product Power Charges: CCSF shall pay for Custom Product
15 Power furnished hereunder in accordance with the rates, charges, and conditions
16 set forth in the CVP Schedule of Rates for Custom Product Power, effective
17 January 1, 2025, or any superseding rate schedules. CCSF shall pay for such
18 charges as described in Section 16.

19
20 **15. CREDITWORTHINESS:**

21 For determining the ability of CCSF to meet its obligations related to service hereunder,
22 WAPA may require reasonable credit review procedures. If WAPA determines that
23 CCSF does not meet WAPA's creditworthiness standards, WAPA may require CCSF to
24 provide and keep in effect during the term of this Contract, an unconditional and
25 irrevocable letter of credit or an alternate form of security acceptable to WAPA to meet
26 its responsibilities and obligations under this Contract; Provided, That, if WAPA
27 determines that CCSF has maintained a credit history that satisfies WAPA's
28 requirements for a period of time determined to be sufficient by WAPA, WAPA will

1 discuss with CCSF options regarding the letter of credit or an alternative form of
2 security.

3
4 **16. BILLING AND PAYMENT FOR SERVICES PROVIDED UNDER THIS**

5 **CONTRACT:**

6 WAPA will bill, and CCSF shall pay for services provided under this Contract in
7 accordance with the procedures established under either Section 16.1 or Section 16.2,
8 as solely determined by WAPA. If determined necessary by WAPA, WAPA may
9 change the section under which WAPA is billing and CCSF is paying upon sixty (60)
10 days' notice to CCSF.

11 16.1 After-the-Fact-Billing: CCSF shall pay WAPA for Full Load Service
12 provided in the previous month as directed on the monthly electric service bill; or

13
14 16.2 Advance Funding: WAPA will estimate the initial amount of funds
15 required. The estimate shall initially be based on two (2) months of WAPA's
16 costs attributable to CCSF for Full Load Service; Provided, That, if WAPA
17 determines at a later date that two (2) months is either less than, or in excess of,
18 the amount that WAPA determines is appropriate to maintain on behalf of CCSF,
19 WAPA will either bill such shortage to CCSF pursuant to Section 17.2.1, or
20 refund such excess to CCSF pursuant to Section 17.2.2.

21
22 16.3 The initial advance funding amount shall be due on the date specified on
23 the bill for collection.

24
25 16.4 Any alternative method of advance funding shall be set forth in a separate
26 contractual agreement.

27 ///

28 ///

1 **17. TRUST ACCOUNT FOR ADVANCED FUNDS:**

2 CCSF understands that it may be required to advance funds to WAPA pursuant to
3 Section 16.2 and this section for the services provided under this Contract. This
4 Section 17 provides for establishing and maintaining the trust account(s) required if
5 Section 16.2 is in effect.

6 17.1 Funds that CCSF advances to WAPA shall be sent in accordance with the
7 information included on the bill(s) for collection and electric service bill, or
8 otherwise directed.

9
10 17.2 CCSF shall be required to maintain a balance in the trust account in an
11 amount that WAPA, pursuant to Section 16.2, has determined to be appropriate
12 to maintain on behalf of CCSF. WAPA shall monitor the account and if WAPA
13 determines that:

14 17.2.1 There are not sufficient funds in the account, WAPA shall notify
15 CCSF of the shortage in writing and CCSF shall advance the requested
16 amount of funds to WAPA within ten (10) days; or

17 17.2.2 There are excessive funds in the WAPA trust account, WAPA, at
18 its sole discretion, will either: (1) decrease subsequent amounts required
19 by the amount in excess of the estimate, or (2) return any excess funds to
20 CCSF.

21
22 17.3 Should CCSF be required to maintain a trust account pursuant to
23 Section 16.2 and this Section 17, WAPA shall be under no obligation to provide
24 service under this Contract without CCSF advancing sufficient funds and said
25 funds being available to WAPA from the trust account(s) as described herein.

26
27 17.4 Within ninety (90) days after termination of this Contract and after WAPA
28 has determined that all obligations incurred under this Contract have been

1 satisfied, WAPA shall return any funds remaining in the trust account(s) to CCSF
2 without interest.

3
4 **18. DEFAULT PROVISIONS:**

5 18.1 The failure of CCSF to perform any of its payment obligations under this
6 Contract shall constitute a default. If WAPA determines CCSF to be in default,
7 WAPA shall notify CCSF, in writing via First-Class mail, return receipt requested,
8 FedEx, UPS or other method that can be tracked. If CCSF has not cured such
9 default within seven (7) days of receiving the notice of default, WAPA may
10 suspend service under this Contract. Upon receipt of payment of any amounts
11 owed, WAPA shall work with CCSF to reinstate service under this Contract as
12 soon as practicable.

13
14 18.2 If CCSF is determined to be in default and does not cure such default
15 within forty-five (45) days of receiving the notice of default, WAPA shall have the
16 right to terminate this Contract, and assess damages, as follows:

17 18.2.1 If WAPA's aggregate gains exceed its aggregate losses and
18 costs, including obligations incurred on behalf of CCSF that extend past
19 the current month, WAPA, after any set-off, shall make no payment to
20 CCSF and, notwithstanding anything in this Contract to the contrary, the
21 amount by which such gain exceeds the losses and costs for the purposes
22 of this Contract shall be zero (0); or

23 18.2.2 If WAPA's aggregate gains do not exceed its aggregate losses,
24 including obligations incurred on behalf of CCSF that extend past the
25 current month, WAPA will promptly calculate the damages associated with
26 the default. As soon as practical, WAPA will provide notice to CCSF of
27 the amount of the damages. Payment for the damages shall be made by

28 ///

1 CCSF to WAPA within ten (10) business days after such notice is
2 received.

3
4 **19. ENFORCEABILITY:**

5 It is not the intent of the Parties that this Contract confer any rights on third parties to
6 enforce the provisions of this Contract except as required by law or express provision in
7 this Contract. Except as provided in this Section, this Contract may be enforced, or
8 caused to be enforced, only by WAPA or CCSF, or their successors or assigns.

9
10 **20. GENERAL POWER CONTRACT PROVISIONS:**

11 The GPCP, effective September 1, 2007, attached hereto, are hereby made a part of
12 this Contract, the same as if they had been expressly set forth herein.

13
14 **21. EXHIBITS MADE PART OF CONTRACT:**

15 Exhibit A (Full Load Service), and Exhibit B (Charges for Portfolio Manager Services),
16 existing under this Contract may vary during the term hereof. Each of said exhibits shall
17 become a part of this Contract during the term fixed by its provisions. Exhibits A and B
18 are attached hereto and shall be in force and effect in accordance with its terms until
19 respectively superseded by a subsequent exhibit.

20
21 **22. EXECUTION BY COUNTERPARTS:**

22 This Contract may be executed in any number of counterparts and, upon execution and
23 delivery by each Party, the executed and delivered counterparts together shall have the
24 same force and effect as an original instrument as if all Parties had signed the same
25 instrument. Any signature page of this Contract may be detached by any counterpart of
26 this Contract without impairing the legal effect of any signatures thereon and may be
27 attached to another counterpart of this Contract identical in form hereto, by having
28 attached to it one or more signature pages.

1 **23. ELECTRONIC SIGNATURES:**

2 The Parties agree that this Contract may be executed by handwritten signature or
3 digitally signed using DocuSign, Adobe Sign or Adobe E-Signature. An electronic or
4 digital signature is the same as a handwritten signature and shall be considered valid
5 and acceptable.

6
7 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed the day
8 and year first above written.

9
10 CITY AND COUNTY OF SAN FRANCISCO
11 HETCH HETCHY WATER AND POWER

12 (Attest)

13 By: _____
14 Name: _____
15 Title: _____

By: _____
Name: _____
Title: _____
Address: _____

16
17 WESTERN AREA POWER ADMINISTRATION

18
19 By: _____
20 Name: Arun K. Sethi
21 Title: Vice President of Power Marketing
For Sierra Nevada Region
22 Address: 114 Parkshore Drive
Folsom, CA 95630-4710

RESOLUTION/CERTIFICATE
OF
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

EXHIBIT A
(Full Load Service)

1. This Exhibit A, to be effective under and as a part of Contract 22-SNR-02770 (Contract), shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit A or termination of the Contract.
2. On the effective date of this Exhibit A, WAPA will serve CCSF's load up to 17,900,000 kWh per year, at a maximum rate of delivery of 3,200 kW.
3. Power provided under this Contract will be delivered to the point(s) specified in Exhibit A of CCSF's Base Resource Contract.
4. If WAPA is able to contract with the Pacific Gas and Electric Company (PG&E) for transmission and distribution, and CCSF executes a contract with WAPA for third-party transmission service, WAPA will provide power to CCSF at the point at which CCSF's electric system is connected to PG&E's electric system.
5. All power deliveries provided under this Contract shall be adjusted for the applicable transformation and transmission losses.
6. WAPA has been directed by the U.S. Department of Energy to participate in the Cap and Trade Program.
7. In order to avoid participating in Cap and Trade through WAPA, WAPA will supply CCSF's Custom Product Power from within the State of California.

EXHIBIT B
(Charges for Portfolio Manager Services)

1. This Exhibit B, to be effective under and as a part of Contract 22-SNR-02770 (Contract), shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit B or termination of the Contract.
2. The monthly charge for Portfolio Manager (PM) services is yet to be determined. Prior to January 1, 2025, WAPA will revise this Exhibit B to include the monthly PM services charge.

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
CENTRAL VALLEY PROJECT, CALIFORNIA

CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
CENTRAL VALLEY PROJECT, CALIFORNIA

CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	PREAMBLE.....	1
2.	EXPLANATORY RECITALS.....	2
3.	AGREEMENT.....	2
4.	EFFECTIVE DATE AND TERM OF CONTRACT.....	3
5.	DEFINITION OF TERMS.....	3
6.	SCHEDULING COORDINATOR SERVICES PROVIDED BY WESTERN.....	4
7.	SCHEDULING AND METERING.....	6
8.	REGIONAL TRANSMISSION ORGANIZATION OR CONTROL AREA.....	6
9.	SCHEDULING COORDINATOR-RELATED COSTS.....	7
10.	BILLING AND PAYMENT OF WESTERN CHARGES.....	7
11.	BILLING AND PAYMENT OF ISO COSTS.....	8
12.	TRUST ACCOUNT(S) FOR ADVANCED FUNDS.....	10
13.	ESCROW ACCOUNT OPTION FOR ADVANCED FUNDS FOR ISO COSTS ..	11
14.	CREDITWORTHINESS.....	12
15.	DEFAULT PROVISIONS.....	12
16.	INDEMNIFICATION AND LIABILITY.....	13
17.	ENFORCEABILITY.....	14
18.	GENERAL POWER CONTRACT PROVISIONS.....	14
19.	EXHIBIT MADE PART OF CONTRACT.....	14
	SIGNATURE CLAUSE	
	RESOLUTION	
	GENERAL POWER CONTRACT PROVISIONS	
	EXHIBIT A – SCHEDULING COORDINATOR SERVICES CHARGES	

1
2
3
4 UNITED STATES
5 DEPARTMENT OF ENERGY
6 WESTERN AREA POWER ADMINISTRATION
7 CENTRAL VALLEY PROJECT, CALIFORNIA

8
9 CUSTOM PRODUCT CONTRACT
10 FOR
11 SCHEDULING COORDINATOR SERVICES
12 WITH
13 CITY AND COUNTY OF SAN FRANCISCO
14 HETCH HETCHY WATER AND POWER

15
16 1. **PREAMBLE:** This Contract is made this 13th day of August,
17 2004, pursuant to the Acts of Congress approved June 17, 1902, (32 Stat. 388);
18 August 26, 1937, (50 Stat. 844); August 4, 1939, (53 Stat. 1187); and August 4, 1977,
19 (91 Stat. 565); and Acts amendatory or supplementary to the foregoing Acts; between
20 the UNITED STATES OF AMERICA (United States), acting by and through the
21 Administrator, Western Area Power Administration, Department of Energy, hereinafter
22 called Western, represented by the officer executing this Contract, or a duly appointed
23 successor, hereinafter called the Contracting Officer; and CITY AND COUNTY OF SAN
24 FRANCISCO, HETCH HETCHY WATER AND POWER, a municipal corporation,
25 hereinafter called the Contractor or CCSF, its successors and assigns; each sometimes
26 hereinafter individually called the Party, and both sometimes hereinafter collectively
27 called the Parties.

28 ///

1 2. EXPLANATORY RECITALS:

2 2.1 Western markets the surplus generation from, and operates a high-voltage
3 transmission system as a part of, the Central Valley Project (CVP).

4
5 2.2 On June 25, 1999, Western's final 2004 Power Marketing Plan (Marketing
6 Plan) was published in the Federal Register (64 FR 34417). The Marketing Plan
7 provides for Western to develop Custom Products for customers who request
8 them.

9
10 2.3 Pursuant to the Marketing Plan, Western executed Base Resource
11 Contract 00-SNR-00347 (Base Resource Contract) with CCSF on
12 December 29, 2000. Section 8 of the Base Resource Contract allows for
13 Western to develop Custom Products for CCSF.

14
15 2.4 Under the Base Resource Contract, Western requires that all Western
16 power be scheduled in accordance with the applicable control area operator
17 requirements, and that each customer must designate a certified Scheduling
18 Coordinator. Western is a certified Scheduling Coordinator and is offering this
19 service as a Custom Product.

20
21 2.5 CCSF has requested that Western provide Scheduling Coordinator
22 services, as specified herein, as a Custom Product.

23
24 2.6 Western is willing to provide Scheduling Coordinator services to CCSF
25 under the terms and conditions of this Contract.

26
27 3. AGREEMENT:

28 The Parties agree to the terms and conditions set forth herein.

1 **4. EFFECTIVE DATE AND TERM OF CONTRACT:**

2 4.1 This Contract shall become effective on September 1, 2004, and shall
3 remain in effect until midnight of September 30, 2010 except as otherwise
4 provided herein.

5
6 4.2 The date of initial service under this Contract is January 1, 2005.

7
8 4.3 Either Party may terminate this Contract by giving the other Party a three
9 (3) month advance written notice of the requested termination date. Either Party
10 may also terminate this Contract pursuant to Section 8 herein.

11
12 4.4 Western may suspend or terminate this Contract pursuant to Section 15
13 herein.

14
15 4.5 Western may terminate this Contract upon 30 days notice if CCSF ceases
16 to be a Western customer.

17
18 4.6 All obligations incurred hereunder shall be preserved until satisfied.

19
20 **5. DEFINITION OF TERMS:**

21 As used herein, the following terms whether singular or plural, or used with or without
22 initial capitalization, shall have the following meanings:

23 5.1 "Base Resource" means CVP and Washoe Project power output, as
24 determined by Western to be available for marketing, after (1) meeting the
25 requirements of Project Use and First Preference Customers, and (2) any other
26 adjustments required for maintenance, regulation, reserves, transformation
27 losses, and ancillary services.

28 ///

1 5.2 "Central Valley Project" means the multipurpose Federal water and power
2 project extending from the Cascade Range in northern California to the plains
3 along the Kern River, south of the City of Bakersfield.

4
5 5.3 "Custom Product" means a combination of products and services,
6 excluding provisions for load growth, which may be made available by Western
7 per customer request, using the customer's Base Resource and supplemental
8 purchases made by Western.

9
10 5.4 "ISO" means the California Independent System Operator or its
11 successor.

12
13 5.5 "ISO Tariff" means the California Independent System Operator
14 Agreement and Tariff, conformed as of October 8, 2003, as it may be modified or
15 amended from time-to-time.

16
17 5.6 "Portfolio Manager" means an entity responsible for determining balanced
18 hourly load and resource schedules for a customer.

19
20 5.7 "Scheduling Coordinator" means an entity that is responsible for providing
21 hourly load and resource schedules to the ISO, in accordance with the protocols
22 specified in the ISO Tariff.

23
24 6. **SCHEDULING COORDINATOR SERVICES PROVIDED BY WESTERN:**

25 6.1 CCSF hereby authorizes Western to act as its Scheduling Coordinator and
26 Western shall be responsible for all obligations and duties of a Scheduling
27 Coordinator on behalf of CCSF pursuant to the ISO Tariff.

28 ///

1 6.2 Western shall use data or information provided by CCSF's Portfolio
2 Manager and submit day-ahead schedules to the ISO, in accordance with the
3 ISO Tariff, for CCSF's load. When Western is not CCSF's Portfolio Manager,
4 and in the event that CCSF's Portfolio Manager does not provide Western with
5 day-ahead schedules in accordance with the ISO Tariff or other necessary
6 information, in a timely manner, prior to the time Western submits day-ahead
7 schedules to the ISO, Western will at its discretion either: (1) not submit a day-
8 ahead schedule on CCSF's behalf; or (2) provide a day-ahead schedule based
9 on reasonable estimates. In any case, CCSF shall be responsible for all costs
10 resulting from CCSF's Portfolio Manager not providing information to Western in
11 an appropriate and/or timely manner.

12
13 6.3 If Western is not CCSF's Portfolio Manager, Western is under no
14 obligation to submit a schedule to the ISO if the schedule provided by CCSF's
15 Portfolio Manager is not in accordance with the ISO Tariff.

16
17 6.4 Pursuant to the ISO Tariff, CCSF's Portfolio Manager may request an
18 adjustment to CCSF's day-ahead schedule in the hour-ahead market. If Western
19 is not CCSF's Portfolio Manager, Western shall make the adjustment with the
20 ISO; Provided, That, Western receives all information necessary to
21 accommodate the adjustment in a timely manner; Provided Further, That, the
22 requested adjustment does not conflict with existing contractual arrangements
23 between the Parties or the ISO Tariff.

24
25 6.5 Western shall receive, validate, and disseminate ISO data and settlement
26 information to CCSF or its designated representative.

27 ///

28 ///

1 6.6 On a monthly basis, Western will develop and transmit statements to
2 CCSF with a breakdown of its ISO charges and credits and any related costs.

3
4 6.7 Western shall dispute those ISO charges related to CCSF's ISO
5 transactions that Western believes to be incorrect and disputable under the ISO
6 Tariff. If CCSF requests that Western dispute an ISO charge(s), Western shall
7 initiate a dispute; Provided, That, Western agrees that such charge(s) are
8 incorrect and are disputable under the ISO Tariff.

9
10 6.8 As CCSF's Scheduling Coordinator, Western may be required to provide
11 legal representation in ISO-related legal proceedings. CCSF agrees to pay
12 Western's legal fees and all costs associated with its involvement with any ISO-
13 related activities that require Western's legal support.

14
15 6.9 Western may provide additional Scheduling Coordinator-related services
16 as mutually agreed to by the Parties.

17
18 **7. SCHEDULING AND METERING:**

19 All services provided by Western to CCSF under this Contract will be subject to the
20 same Scheduling and Metering terms and conditions as provided under CCSF's Base
21 Resource Contract with Western the same as if they had been expressly set forth
22 herein.

23
24 **8. REGIONAL TRANSMISSION ORGANIZATION OR CONTROL AREA:**

25 Western currently operates within the ISO control area. The Parties understand that
26 Western may join a regional transmission organization (RTO) or become part of a
27 different control area. In the event that Western either joins or is required to conform to
28 the protocols of an RTO or a different control area, the Parties shall mutually agree to

1 make any protocol changes to this Contract to conform to the terms and conditions
2 required by such organization. If CCSF does not agree with the protocol changes, it
3 may terminate this Contract by providing a one-month written notice to Western. If
4 Western is not able to conform to the protocols, it may terminate this Contract by
5 providing a one-month written notice to CCSF. In the event that Western incurs costs
6 from an RTO or a different control area for serving CCSF's load, or CCSF does not
7 abide by the protocols applicable to Western, and Western incurs costs as a result,
8 CCSF agrees to pay all such costs attributable to CCSF.

9
10 **9. SCHEDULING COORDINATOR-RELATED COSTS:**

11 9.1 Western Charges: CCSF shall pay the Western charges associated with
12 providing Scheduling Coordinator services to CCSF pursuant to Exhibit A
13 attached hereto. By August 1st of each year during the term of this Contract;
14 Western will review the Scheduling Coordinator services charges and, if
15 necessary, will revise Exhibit A to reflect the updated costs for this service.

16
17 9.2 ISO Costs: CCSF shall pay all ISO costs charged by the ISO for
18 transactions which occur under this Contract. CCSF shall pay for such costs as
19 described in Section 11.

20
21 **10. BILLING AND PAYMENT OF WESTERN CHARGES:**

22 Western shall identify and bill CCSF for the labor and equipment costs associated with
23 providing Scheduling Coordinator services to CCSF. CCSF shall pay for Western
24 charges in accordance with the methods set forth in either Section 10.1 or Section 10.2,
25 as solely determined by Western. If Western has selected one method and
26 subsequently determines to change to the other method, Western will provide CCSF
27 with a two (2) month notification of this change.

28 ///

1 10.1 After-the-Fact-Billing: CCSF shall pay Western for charges for providing
2 Scheduling Coordinator services for the previous month on the monthly electric
3 service bill or other bill as Western deems appropriate; or

4
5 10.2 Advance Funding: CCSF's Western charges for Scheduling Coordinator
6 services will be paid from funds advanced from CCSF to Western. For
7 Scheduling Coordinator services charges collected pursuant to this section, the
8 following shall apply:

9 10.2.1 Western will estimate the initial amount of funds required. The
10 estimate shall be based on three (3) months of Western's charges for
11 providing Scheduling Coordinator services.

12 10.2.2 The initial advance funding amount shall be due on the date
13 specified on the bill for collection. The initial bill for collection will be
14 issued in September 2004.

15 10.2.3 On a monthly basis, Western will estimate its charges for
16 providing Scheduling Coordinator services to CCSF for the following
17 month. CCSF shall advance this amount to Western as specified on its
18 electric service bill or other bill as Western deems appropriate.

19 10.2.4 Western shall use funds from CCSF's trust account(s) on a
20 monthly basis for Western's charges associated with providing Scheduling
21 Coordinator services to CCSF.

22
23 11. BILLING AND PAYMENT OF ISO COSTS:

24 Western shall identify and bill CCSF for its attributable ISO costs. CCSF shall pay for
25 the ISO costs in accordance with one of the methods set forth in Section 11.1, Section
26 11.2, or Section 11.3, as solely determined by Western. If Western has selected one
27 method and subsequently determines to change to another method, Western will
28 provide CCSF with a two (2) month notification of this change.

1 11.1 CCSF Pays the ISO: CCSF makes a monthly direct payment to the ISO
2 for its monthly ISO costs. For ISO costs remitted directly to the ISO, the
3 following shall apply:

4 11.1.1 CCSF will be required to advance fund to Western three (3)
5 months of estimated ISO costs. Such funds will be used to pay the ISO in
6 the event that CCSF does not make payment to the ISO on the date
7 directed by Western.

8 11.1.2 Western will estimate the amount of funds required. The estimate
9 shall be based on three (3) months of ISO costs attributable to CCSF.

10 11.1.3 The advance funding amount determined by Western shall be due
11 on the date specified on the bill for collection. The initial bill for collection
12 will be issued in September 2004.

13
14 11.2 Western Pays the ISO: Western makes a monthly payment to the ISO on
15 behalf of CCSF for its ISO costs. When Western pays the ISO on behalf of
16 CCSF, the following shall apply:

17 11.2.1 CCSF will be required to advance fund to Western three (3)
18 months of estimated ISO costs.

19 11.2.2 Western will estimate the initial amount of funds required and
20 CCSF shall remit that amount to Western to be collected into a Western
21 trust account. The estimate shall be based on three (3) months of ISO
22 costs attributable to CCSF.

23 11.2.3 The advance funding amount determined by Western shall be due
24 on the date specified on the bill for collection. The initial bill for collection
25 will be issued in September 2004.

26 11.2.4 On a monthly basis, Western will estimate the ISO costs it
27 anticipates incurring on CCSF's behalf for the following month. CCSF
28

1 shall advance this amount to Western. Western shall use the funds
2 advanced on a monthly basis to pay the ISO on behalf of CCSF.
3

4 11.3 Third Party Payment to the ISO: An entity other than Western or CCSF
5 makes payment to the ISO on behalf of CCSF for its monthly ISO costs. This
6 payment arrangement will require that CCSF and the non-Western entity have
7 entered into a contractual arrangement that sets forth the terms and provisions of
8 this payment method. This arrangement must be approved by Western prior to
9 payment under this section is implemented, and must include provisions to
10 protect Western from non-payment of ISO costs by the third party. Using this
11 method, CCSF will not be required to advance funds to Western for CCSF's ISO
12 costs.
13

14 12. TRUST ACCOUNT(S) FOR ADVANCED FUNDS:

15 CCSF understands that it may be required to advance funds, to be collected into a
16 Western trust account(s) for services provided under this Contract. If advance funds
17 are required pursuant to Sections 10.2, 11.1, or 11.2, the following shall apply:

18 12.1 Funds that CCSF advances to Western shall be sent in accordance with
19 the information included on a Western bill(s) for collection, electric service bill, or
20 other bill as Western deems appropriate.
21

22 12.2 CCSF shall be required to maintain a balance in the trust account(s) at all
23 times of three (3) months of estimated Western costs, if Section 10.2 is in effect,
24 and three (3) months of estimated ISO costs if Sections 11.1 or 11.2 are in effect.

25 Western shall monitor the account(s) and if, Western determines that:

26 12.2.1 There are not sufficient funds in the account(s), Western shall
27 notify CCSF of the shortage and CCSF shall advance the requested
28 amount of funds to Western within ten (10) days; or

1 12.2.2 There are excessive funds in the Western trust account(s),
2 Western, at its sole discretion, will either: 1) decrease subsequent
3 amounts required by the amount in excess of the estimate, or 2) return
4 any excess funds to CCSF.

5
6 12.3 Western will provide CCSF with:

7 12.3.1 A monthly statement to CCSF of transactions that were posted to
8 the trust account(s), and the end-of-month balance in the account(s); and,

9 12.3.2 An electric service bill that will reflect the previous month's
10 Western's costs and the ISO costs and the amount of advance funding
11 required from CCSF for the costs that Western anticipates it will incur
12 while providing Scheduling Coordinator services for the following month.

13
14 12.4 Western shall be under no obligation to provide service under this
15 Contract without CCSF advancing sufficient funds and said funds being available
16 to Western from the trust account(s) as described herein.

17
18 12.5 Within sixty (60) days after termination of this Contract, and after Western
19 has determined that all obligations incurred under this Contract have been
20 satisfied, Western shall return any funds remaining in its trust account(s) to
21 CCSF without interest.

22
23 **13. ESCROW ACCOUNT OPTION FOR ADVANCED FUNDS FOR ISO COSTS:**

24 For ISO costs, CCSF may establish and maintain an escrow account for advanced
25 funds. If CCSF chooses to have an escrow account, the following shall apply:

26 13.1 CCSF will be required to advance fund three (3) months of estimated
27 dollars if the Parties are operating under either Sections 11.1 or 11.2. However if
28 CCSF chooses, it may have Western collect forty-five (45) days of estimated

1 dollars into a Western trust account(s) and it may deposit forty-five (45) days of
2 estimated dollars into a CCSF-managed escrow account.

3
4 13.2 CCSF shall be required to seek and establish an escrow account.

5
6 13.3 CCSF shall arrange for a three party escrow agreement between Western,
7 CCSF, and the financial institution maintaining the escrow account, that sets forth
8 the terms and conditions of the account. Such agreement must be structured to
9 allow the financial institution to make direct payments to Western immediately
10 upon request from CCSF.

11
12 13.4 CCSF shall have full responsibility for all costs associated with the
13 establishment and maintenance of an escrow account.

14
15 **14. CREDITWORTHINESS:**

16 For the purpose of determining the ability of CCSF to meet its obligations related to
17 service hereunder, Western may require reasonable credit review procedures. In
18 addition, Western may require CCSF to:

19 14.1 Provide and keep in effect during the term of this Contract, an
20 unconditional and irrevocable letter of credit as security to meet its
21 responsibilities and obligations under this Contract; or

22
23 14.2 Provide an alternate form of security, acceptable to Western.

24
25 **15. DEFAULT PROVISIONS:**

26 15.1 The failure of CCSF to perform any of its payment obligations under this
27 Contract shall constitute a default. If Western determines CCSF to be in default,

28 ///

1 Western shall notify CCSF in writing. If CCSF has not cured such default within
2 seven (7) days, Western may suspend service under this Contract.

3
4 15.2 If CCSF has not cured a default within forty-five (45) days (from the date
5 of default), or in a timeframe established by Western, Western shall have the
6 right to terminate this Contract, and assess damages, as follows:

7 15.2.1 If Western's aggregate gains exceed its aggregate losses and
8 costs, including obligations incurred on behalf of CCSF that extend past
9 the current month, Western, after any set-off, shall make no payment to
10 CCSF and, notwithstanding anything in this Contract to the contrary, the
11 amount by which such gain exceeds the losses and costs for the purposes
12 of this Contract shall be zero (0).

13 15.2.2 If Western's aggregate gains do not exceed its aggregate losses,
14 including obligations incurred on behalf of CCSF that extend past the
15 current month, Western will promptly calculate the damages associated
16 with the default. As soon as practical, Western will provide notice to
17 CCSF of the amount of the damages. Payment for the damages shall be
18 made by CCSF to Western within ten (10) business days after such notice
19 is received.

20
21 **16. INDEMNIFICATION AND LIABILITY:**

22 CCSF shall at all times indemnify, defend, and save Western harmless from any and all
23 damages, losses, claims and actions relating to injury to or death of any person or
24 damage to property, demands, suits, recoveries, costs and expenses, court costs,
25 attorneys fees, and all other obligations by or to third parties, arising out of or resulting
26 from Western's performance of its obligations under this Contract on behalf of CCSF,
27 except in cases of negligence or intentional wrongdoing by Western. Western's liability

28 ///

1 shall be determined in accordance with the provisions of the Federal Tort Claims Act, as
2 amended.

3

4 17. **ENFORCEABILITY:**

5 It is not the intent of the Parties that this Contract confer any rights on third parties to
6 enforce the provisions of this Contract except as required by law or express provision in
7 this Contract. This Contract may be enforced, or caused to be enforced, only by
8 Western or CCSF, or their successors or assigns.

9

10 18. **GENERAL POWER CONTRACT PROVISIONS:**

11 The GPCP, effective July 10, 1998, attached hereto, are hereby made a part of this
12 Contract, the same as if they had been expressly set forth herein.

13

14 19. **EXHIBIT MADE PART OF CONTRACT:**

15 Inasmuch as the Scheduling Coordinator Services Charges exist under this Contract
16 may vary during the term hereof, it will be set forth in Exhibit A. Exhibit A shall become
17 a part of this Contract during the term fixed by its provisions. Exhibit A is attached
18 hereto, and shall be in force and effect in accordance with its terms until superseded by
19 a subsequent exhibit.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed the day
2 and year first above written.

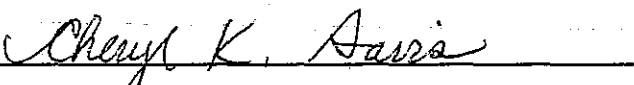
3
4 WESTERN AREA POWER ADMINISTRATION

5
6 By: 

7 Title: Power Marketing Manager

8 Address: 114 Parkshore Drive
9 Folsom, CA 95630-4710


10
11 CITY AND COUNTY OF SAN FRANCISCO
12 HETCH HETCHY WATER AND POWER

13 By: 

14 Title: Acting General Manager

15 Address: 1155 Market Street
16 San Francisco, CA 94103

17 (Attest)

18
19 By: 
20 Title: Deputy City Attorney

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES

WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble.....	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment	2
5.	Modification of Section 4.1 (Effective Date and Term of Contract) of the Contract	2
6.	Modification of Section 8 (Regional Transmission Organization or Balancing Authority) of the Contract	3
7.	Modification of Section 11 (Billing and Payment of ISO Costs) of the Contract	4
8.	Modification of Section 18 (General Power Contract Provisions) of the Contract	4
9.	Contract to Remain in Effect.....	5
10.	Authority to Execute.....	5
	General Power Contract Provisions [September 1, 2007]	

Contract 04-SNR-00724
Amendment 1

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES

WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

1. **PREAMBLE:**

This Amendment 1 to Contract 04-SNR-00724 (Contract) is made this 10th day of February, 2010, between the UNITED STATES OF AMERICA, DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION (Western) and the CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER AND POWER (CCSF), also hereinafter referred to individually as Party and together as Parties, pursuant to the same authorities as the Contract.

2. **EXPLANATORY RECITALS:**

2.1 The Parties entered into the Contract on August 13, 2004. Under the Contract, Western provides Scheduling Coordinator (SC) Services to CCSF. Under its terms, the Contract terminates at midnight on September 30, 2010. The Parties desire to extend the termination date of the Contract by five (5) years.

1 2.2 At the time the Contract for SC services was executed, Western was
 2 operating within the California Independent System Operator's control area.
 3 Effective January 1, 2005, Western began operating as a sub-control area within
 4 the Sacramento Municipal Utility District's control area. Also since the time of
 5 execution, industry terminology has replaced the phrase "control area" with the
 6 phrase "balancing authority". The Parties wish to reflect Western's current
 7 balancing authority status in the Contract.

8
 9 2.3 In order to allow Western more flexibility in billing for ISO costs, Western
 10 would like to add a provision to bill customers after-the-fact for such costs.

11
 12 2.4 Also at the time the Contract for SC services was executed, the July 10,
 13 1998 General Power Contract Provisions (GPCP) were effective. Western
 14 revised its GPCP effective September 1, 2007. The Parties wish to update the
 15 Contract with the current GPCP.

16
 17 **3. AGREEMENT:**

18 The Parties agree to the terms and conditions set forth herein.

19
 20 **4. TERM OF AMENDMENT:**

21 This Amendment shall become effective upon execution and shall remain in effect
 22 concurrently with the Contract.

23
 24 **5. MODIFICATION OF SECTION 4.1 (EFFECTIVE DATE AND TERM OF**
 25 **CONTRACT) OF THE CONTRACT:**

26 Section 4.1 of the existing Contract is hereby deleted in its entirety and replaced with a
 27 new Section 4.1 as shown below:

28 ///

1 4.1 This Contract shall become effective upon execution by the Parties
 2 and shall remain in effect through September 30, 2015; except as
 3 otherwise provided for herein.
 4

5 **6. MODIFICATION OF SECTION 8 (REGIONAL TRANSMISSION**
 6 **ORGANIZATION OR BALANCING AUTHORITY) OF THE CONTRACT:**

7 Section 8 of the existing Contract is deleted in its entirety and replaced with the new
 8 Sections 8.1 through 8.4 as shown below:

9 8.1 Western joined the Sacramento Municipal Utility District (SMUD)
 10 balancing authority on January 1, 2005, and, therefore, is operating in
 11 conformance with SMUD's protocols. The Parties hereby agree to make
 12 any changes necessary to this Contract to conform to SMUD's operating
 13 and scheduling protocols.
 14

15 8.2 The Parties understand that Western may also join a regional
 16 transmission organization (RTO). In the event Western either joins or is
 17 required to conform to the protocols of an RTO, the Parties shall agree to
 18 make any changes to this Contract to conform to the terms and conditions
 19 required by the RTO.
 20

21 8.3 If CCSF does not agree with the protocol changes, it may terminate
 22 this Contract by providing 30-days written notice to Western. If Western is
 23 not able to conform to the protocols, it may terminate this Contract by
 24 providing 30-days written notice to CCSF.
 25

26 8.4 In the event that: 1) Western incurs costs from SMUD, an RTO, or
 27 a different balancing authority for serving CCSF's load; or 2) CCSF does
 28 not abide by the protocols of SMUD, an RTO, or other balancing authority

1 that are applicable to Western and Western incurs costs as a result,
2 CCSF agrees to pay all such costs attributable to CCSF.

3
4 **7. MODIFICATION OF SECTION 11 (BILLING AND PAYMENT OF ISO COSTS)**
5 **OF THE CONTRACT:**

6 The first paragraph of Section 11 of the existing Contract is deleted and replaced with a
7 revised first paragraph as shown below:

8
9 Western shall identify and bill CCSF for its attributable ISO costs. CCSF shall pay for
10 the ISO costs in accordance with one of the methods set forth in Section 11.1, Section
11 11.2, Section 11.3, or Section 11.4, as solely determined by Western. If Western has
12 selected one method and subsequently determines to change to another method,
13 Western will provide CCSF with a two (2) month notification of this change.

14
15 Section 11 of the existing Contract is further modified with the addition of Section 11.4
16 as shown below:

17
18 11.4 After-the-Fact Billing: CCSF shall pay Western for its ISO costs from the
19 previous month on the monthly electric service bill or other bill as Western
20 deems appropriate.

21
22 **8. MODIFICATION OF SECTION 18 (GENERAL POWER CONTRACT**
23 **PROVISIONS) OF THE CONTRACT:**

24 Section 18 of the existing Contract is deleted in its entirety and replaced with the new
25 Section 18 as shown below:

26 18. The GPCP, effective September 1, 2007, attached hereto, are
27 hereby made a part of this Contract the same as if they had been
28 expressly set forth herein.

1 **9. CONTRACT TO REMAIN IN EFFECT:**

2 Except as expressly modified by this Amendment, said Contract shall remain in full
3 force and effect, and this Amendment shall be subject to all provisions of the Contract,
4 except as herein amended.
5

6 **10. AUTHORITY TO EXECUTE:**

7 Each individual signing this Amendment certifies that the Party represented has duly
8 authorized such individual to execute this Amendment that binds and obligates the
9 Party.
10

11 **IN WITNESS WHEREOF**, the Parties have caused this Amendment to be executed the
12 day and year first above written.
13

14 WESTERN AREA POWER ADMINISTRATION

15 By: *Sonja A. Anderson*
16 Sonja A. Anderson
17 Title: Power Marketing Manager
18 Address: 114 Parkshore Drive
Folsom, California 95630
19

20 CITY AND COUNTY OF SAN FRANCISCO
21 HETCH HETCHY WATER AND POWER

22 By: *E. Harrington*
23 Edward Harrington
24
25 Title: SFPUC General Manager

26 (Attest)

26 By: *Margaret S.* Address: 1155 Market Street
27 Deputy City Attorney San Francisco, CA 94103
28 Title: Deputy City Attorney

Contract 04-SNR-00724
Amendment 2

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES

WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment	2
5.	Modification of Section 4.1 (Effective Date and Term of Contract) of the Contract	2
6.	Contract and Amendment 1 to Remain in Effect	2
7.	Authority to Execute	3

Contract 04-SNR-00724
Amendment 2

1
2
3
4 UNITED STATES
5 DEPARTMENT OF ENERGY
6 WESTERN AREA POWER ADMINISTRATION
7 SIERRA NEVADA REGION

8 AMENDMENT 2

9 TO THE
10 CUSTOM PRODUCT CONTRACT
11 FOR
12 SCHEDULING COORDINATOR SERVICES

13 WITH

14 CITY AND COUNTY OF SAN FRANCISCO
15 HETCH HETCHY WATER AND POWER

16 1. **PREAMBLE:**

17 This Amendment 2 to Contract 04-SNR-00724 (Contract) is made this 8th day of
18 June, 2015, between the UNITED STATES OF AMERICA,
19 DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION
20 (Western) and the CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY
21 WATER AND POWER (CCSF), also hereinafter referred to individually as Party and
22 together as Parties, pursuant to the same authorities as the Contract.

23 2. **EXPLANATORY RECITALS:**

24 2.1 The Parties entered into the Contract on August 13, 2004. Under the
25 Contract, Western provides Scheduling Coordinator services to CCSF.

26 2.2 The Parties entered into Amendment 1 to the Contract on February 10,
27 2010. Amendment 1, among other things, extended the termination date of the
28 Contract to September 30, 2015.

1 2.3 The Parties desire to extend the termination date of the Contract by five
2 (5) years.

3
4 **3. AGREEMENT:**

5 The Parties agree to the terms and conditions set forth herein.
6

7 **4. TERM OF AMENDMENT:**

8 This Amendment 2 shall become effective upon execution and shall remain in effect
9 concurrently with the Contract.
10

11 **5. MODIFICATION OF SECTION 4.1 (EFFECTIVE DATE AND TERM OF**
12 **CONTRACT) OF THE CONTRACT:**

13 Section 4.1 of the existing Contract is hereby deleted in its entirety and replaced with a
14 new Section 4.1 as shown below:
15

16 4.1 This Contract shall become effective upon execution by the Parties
17 and shall remain in effect through September 30, 2020; except as
18 otherwise provided for herein.
19

20 **6. CONTRACT AND AMENDMENT 1 TO REMAIN IN EFFECT:**

21 Except as expressly modified by this Amendment 2, the Contract shall remain in full
22 force and effect, and this Amendment 2 shall be subject to all provisions of the
23 Contract, except as herein amended. Amendment 1 shall also remain in full force and
24 effect, except that Section 5 of Amendment 1 is hereby superseded by the modification
25 of this Amendment 2.

26 ///

27 ///

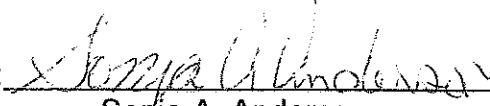
28 ///

1 **7. AUTHORITY TO EXECUTE:**

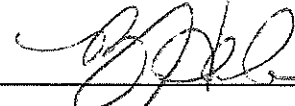
2 Each individual signing this Amendment 2 certifies that the Party represented has duly
3 authorized such individual to execute this Amendment 2 that binds and obligates the
4 Party.

5
6 **IN WITNESS WHEREOF**, the Parties have caused this Amendment 2 to be executed
7 the day and year first above written.

8
9 **WESTERN AREA POWER ADMINISTRATION**

10 By: 
11 Sonja A. Anderson
12 Title: Vice President of Power Marketing for
13 Sierra Nevada Region
14 Address: 114 Parkshore Drive
15 Folsom, CA 95630

16 **CITY AND COUNTY OF SAN FRANCISCO**
17 **HETCH HETCHY WATER AND POWER**

18 By: 
19
20 Title: Barbara Hale
21 Assistant General Manager 5/29/15
SFPUC Power

(Attest)

22 By: _____ Address: 525 Golden Gate Ave., 13th floor
23 Title: _____ San Francisco, CA 94102

24
25
26 Approved as to form

27 
28 Margarita Gutierrez
Deputy City Attorney

Contract 04-SNR-00724
Amendment 3

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 3

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES
WITH
CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 3

TO THE
CUSTOM PRODUCT CONTRACT
FOR
SCHEDULING COORDINATOR SERVICES

WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment	2
5.	Modification of Section 4.1 (Effective Date and Term of Contract) of the Contract	2
6.	Termination of Amendment 2	2
7.	Contract to Remain in Effect	3
8.	Authority to Execute	3

1
2
3
4 UNITED STATES
5 DEPARTMENT OF ENERGY
6 WESTERN AREA POWER ADMINISTRATION
7 SIERRA NEVADA REGION

8 AMENDMENT 3

9 TO THE
10 CUSTOM PRODUCT CONTRACT
11 FOR
12 SCHEDULING COORDINATOR SERVICES

13 WITH

14 CITY AND COUNTY OF SAN FRANCISCO
15 HETCH HETCHY WATER AND POWER

16 **1. PREAMBLE:**

17 This Amendment 3 to Contract 04-SNR-00724 (Contract) is made this _____ day of
18 _____, 2019, between the UNITED STATES OF AMERICA,
19 DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION (WAPA)
20 and the CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER AND
21 POWER (CCSF), also hereinafter referred to individually as Party and together as
22 Parties, pursuant to the same authorities as the Contract.

23 **2. EXPLANATORY RECITALS:**

24 2.1 The Parties entered into the Contract on August 13, 2004. Under the
25 Contract, WAPA provides Scheduling Coordinator services to CCSF.

26 2.2 The Parties entered into Amendment 1 to the Contract on February 10,
27 2010. Amendment 1, among other things, extended the termination date of the
28 Contract to September 30, 2015.

1 2.3 The Parties entered into Amendment 2 to the Contract on June 8, 2015.
2 Amendment 2 extended the termination date of the Contract to
3 September 30, 2020.
4

5 2.4 The Parties desire to extend the termination date of the Contract so that it
6 terminates concurrently with the Base Resource Contract.
7

8 **3. AGREEMENT:**

9 The Parties agree to the terms and conditions set forth herein.
10

11 **4. TERM OF AMENDMENT:**

12 This Amendment 3 shall become effective upon execution and shall remain in effect
13 concurrently with the Contract.
14

15 **5. MODIFICATION OF SECTION 4.1 (EFFECTIVE DATE AND TERM OF**
16 **CONTRACT) OF THE CONTRACT:**

17 Section 4.1 of the existing Contract is hereby deleted in its entirety and replaced with a
18 new Section 4.1 as shown below:
19

20 4.1 This Contract shall become effective upon execution by the Parties
21 and shall remain in effect until midnight of December 31, 2024; except as
22 otherwise provided for herein.
23

24 **6. TERMINATION OF AMENDMENT 2:**

25 Amendment 2 to the Contract is hereby terminated upon execution of this
26 Amendment 3.

27 ///

28 ///

1 **7. CONTRACT TO REMAIN IN EFFECT:**

2 Except as expressly modified by this Amendment 3, the Contract shall remain in full
3 force and effect, and this Amendment 3 shall be subject to all provisions of the
4 Contract, except as amended herein and by Amendment 1.

5
6 **8. AUTHORITY TO EXECUTE:**

7 Each individual signing this Amendment 3 certifies that the Party represented has duly
8 authorized such individual to execute this Amendment 3 that binds and obligates the
9 Party.

10 ///
11 ///
12 ///
13 ///
14 ///
15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Amendment 3 to be executed
2 the day and year first above written.


3
4 WESTERN AREA POWER ADMINISTRATION

5 By: _____
6 Arun K. Sethi
7 Title: Vice President of Power Marketing for
8 Sierra Nevada Region
9 Address: 114 Parkshore Drive
10 Folsom, CA 95630

11 CITY AND COUNTY OF SAN FRANCISCO
12 HETCH HETCHY WATER AND POWER

13 By:  _____
14 Barbara Hale

14 (Attest)

15 By:  _____
16 Margarita Gutierrez
17 Name: Deputy City Attorney
18 Title: _____
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	2
3.	Agreement	3
4.	Effective Date and Term of Contract	3
5.	Definition of Terms	4
6.	Supplemental Power Furnished by Western	5
7.	Delivery Arrangements	5
8.	Portfolio Management Services	6
9.	Additional Services Necessary to Provide Custom Product(s)	8
10.	Scheduling and Metering	8
11.	Regional Transmission Organization and Control Area	8
12.	Creditworthiness	9
13.	Billing and Payment for Portfolio Management Services	9
14.	Billing and Payment for Supplemental Power	10
15.	Trust Accounts for Advanced Funds	11
16.	Default Provisions	13
17.	General Power Contract Provisions	14
18.	Enforceability	14
19.	Exhibits Made Part of Contract	14

Certificate/Resolution

CVP Schedule of Rates for Custom Product Power

General Power Contract Provisions (July 10, 1998)

Exhibit A - Full Load Service

Exhibit B - Charges for Portfolio Management Services

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

1. PREAMBLE:

This Contract is made this 13th day of August, 2004, pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388); August 26, 1937 (50 Stat. 844); August 4, 1939 (53 Stat. 1187); and August 4, 1977 (91 Stat. 565); and Acts amendatory or supplementary to the foregoing Acts; between the UNITED STATES OF AMERICA, acting by and through the Administrator, WESTERN AREA POWER ADMINISTRATION, DEPARTMENT OF ENERGY, represented by the officer executing this Contract, or a duly appointed successor, hereinafter called Western or Contracting Officer; and the CITY & COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER & POWER, a Municipal Corporation, hereinafter referred to as CCSF or Contractor, its successors or assigns; both also hereinafter referred to individually as Party and together as Parties.

///

///

1 **2. EXPLANATORY RECITALS:**

2 2.1 The Parties entered into Base Resource Contract 00-SNR-00347 on
3 December 29, 2000. The Base Resource Contract provides the terms and
4 conditions whereby Western will provide Base Resource Electric Service to CCSF.
5

6 2.2 Western is currently revising Exhibit D to the Base Resource Contract.
7 Western will offer the revised Exhibit D to all customers prior to beginning service
8 under the Base Resource Contract. If CCSF rejects the provisions of Exhibit D,
9 Revision 1, its Base Resource Contract with Western will terminate.
10

11 2.3 At times, power provided under the Base Resource Contract will not be
12 sufficient to meet the electrical needs of CCSF at the delivery point(s) specified
13 herein.
14

15 2.4 Western's final 2004 Power Marketing Plan, published in the Federal
16 Register on June 25, 1999 (64 FRN 34417), provides for Western to develop
17 Custom Products for customers who request them. Section 8.7 of the Base
18 Resource Contract allows for Western to develop a Custom Product for CCSF.
19

20 2.5 CCSF has requested a Custom Product in the form of Supplemental Power
21 to meet the load at a specific delivery point(s).
22

23 2.6 CCSF has also requested Western to provide Portfolio Management
24 Services.
25

26 2.7 Western and CCSF recognize that, due to load diversity, there may be
27 benefits to aggregating some Full Load Service Customers' Base Resource
28 Percentages and Supplemental Power requirements for power purchases; and

1 additional business efficiencies may be realized through consolidation of power
2 scheduling and related activities.

3
4 2.8 Western is willing to provide the services requested by CCSF once CCSF
5 has accepted Exhibit D, Revision 1 to its Base Resource Contract with Western.

6
7 **3. AGREEMENT:**

8 The Parties agree to the terms and conditions set forth herein.
9

10 **4. EFFECTIVE DATE AND TERM OF CONTRACT:**

11 4.1 This Contract shall become effective upon execution by the Parties and
12 shall remain in effect through September 30, 2010; except as otherwise provided
13 for herein.

14
15 4.2 In the event that CCSF provides notice of termination of its Base Resource
16 Contract 00-SNR-00347 pursuant to Exhibit D, Revision 1 of said Contract, this
17 Contract shall immediately become null and void and no service shall be provided
18 under this Contract.

19
20 4.3 Except as provided for in Section 4.2 above, service under this Contract
21 shall begin January 1, 2005.

22
23 4.4 Western may suspend or terminate service under this Contract pursuant to
24 Section 16.

25
26 4.5 All obligations incurred under this Contract shall be preserved until
27 satisfied.

28 ///

1 **5. DEFINITION OF TERMS:**

2 As used herein, the following terms whether singular or plural, or used with or without
3 initial capitalization, shall have the following meanings:

4 5.1 "Base Resource" means CVP and Washoe Project power output, as
5 determined by Western to be available for marketing, after (1) meeting the
6 requirements of Project Use and First Preference Customers, and (2) any other
7 adjustments required for maintenance, regulation, reserves, transformation
8 losses, and ancillary services.

9
10 5.2 "Custom Product" means a combination of products and services,
11 excluding provisions for load growth, which may be made available by Western
12 per customer request, using the customer's Base Resource and supplemental
13 purchases made by Western.

14
15 5.3 "Full Load Service Customer" means a Base Resource customer that will
16 have its entire load at the delivery point(s) specified in Exhibit A met with Western
17 power, and whose Portfolio Management functions for said delivery point(s) will be
18 performed by Western.

19
20 5.4 "Portfolio Management Services" means determining balanced hourly load
21 and resource schedules for a customer.

22
23 5.5 "Regional Transmission Organization" or "RTO" means an organization that
24 meets the minimum characteristics and performs the minimum functions specified
25 in Federal Energy Regulatory Commission Order 2000, as that order may be
26 amended or superseded.

27 ///

28 ///

1 5.6 "Supplemental Power" means firm capacity and energy, provided by
2 Western, that a customer(s) needs in addition to its Base Resource for use in
3 meeting that customer's load.
4

5 **6. SUPPLEMENTAL POWER FURNISHED BY WESTERN:**

6 6.1 Western will provide additional power to those Full Load Service Customers
7 whose loads exceed their Base Resource. Western may aggregate the needs of
8 Full Load Service Customers to determine Supplemental Power requirements.
9

10 6.2 Supplemental Power provided by Western may include long-term, short-
11 term, day-ahead, and hour-ahead purchases, and/or other arrangements.
12

13 6.3 Western will provide Supplemental Power to CCSF to serve the load unmet
14 by the power provided under CCSF's Base Resource Contract. CCSF's expected
15 monthly peak capacity and energy are specified in Section 2 of Exhibit A attached
16 hereto. CCSF shall provide written notification to Western as soon as practicable,
17 and not less than ninety (90) days prior to, any expected increase or decrease in
18 the capacity and energy amounts specified in Exhibit A.
19

20 **7. DELIVERY ARRANGEMENTS:**

21 7.1 Western will use best efforts to contract with the appropriate parties for the
22 transmission and distribution service necessary to make CCSF's Supplemental
23 Power available at the point(s) of delivery specified in Section 4 of Exhibit A. If
24 Western is successful in contracting for transmission and distribution on behalf of
25 CCSF, CCSF will be required to execute a third-party transmission contract with
26 Western to receive such service.
27

27 ///

28 ///

1 7.2 In the event that Western is unable to secure transmission and distribution
 2 service on behalf of CCSF, Western will make CCSF's Supplemental Power
 3 available at the point(s) of delivery specified in Exhibit A of CCSF's Base
 4 Resource Contract. CCSF shall ultimately be responsible for arranging for the
 5 transmission and distribution necessary to receive Supplemental Power provided
 6 under this Contract to the delivery point specified in Section 4 of Exhibit A. By
 7 November 1, 2004, CCSF shall provide written notification demonstrating that it
 8 has arranged for delivery of its Supplemental Power. Said arrangements must
 9 allow for Western to schedule transmission and distribution on behalf of CCSF.

10
 11 **8. PORTFOLIO MANAGEMENT SERVICES:**

12 8.1 Western will need load data and other information to determine the power
 13 necessary to meet CCSF's load. If Western does not have access to the
 14 information it needs, Western will request it from CCSF. CCSF shall provide the
 15 information within thirty (30) days of a request from Western. Said data may
 16 include, but is not limited to, the following:

17 8.1.1 Historical hourly load data at the delivery point(s) specified in
 18 Section 4 of Exhibit A; and

19 8.1.2 Expected future loads at the delivery point(s) specified in Section 4
 20 of Exhibit A during the term of this Contract.

21
 22 8.2 By October 1 of each year, CCSF will submit to Western its annual planned
 23 power usage for the upcoming calendar year. CCSF shall provide this information
 24 to Western in a format agreed to between the Parties. CCSF must provide any
 25 planned significant changes in its power usage to Western in writing not less than
 26 ninety (90) days prior to the planned change. Western will revise Exhibit A to this
 27 Contract to reflect such changes in power usage. The information provided by
 28 CCSF will be used by Western in determining daily power schedules for CCSF.

1 8.3 On a daily basis, using the information provided in Sections 8.1 and 8.2,
2 Western will determine hourly schedules of the power necessary to fully serve
3 CCSF's load at the delivery point(s) specified in Exhibit A, as follows:

4 8.3.1 Using the information as provided in Section 8 of CCSF's Base
5 Resource Contract, Western will determine the hourly use of CCSF's Base
6 Resource for the day.

7 8.3.2 If CCSF's Base Resource does not fully meet CCSF's forecasted
8 load, Western will schedule CCSF's share of exchange program energy, if
9 any, to serve CCSF's load.

10 8.3.3 Once all Base Resource and exchange program energy has been
11 distributed, Western will meet CCSF's unmet forecasted load with
12 Supplemental Power.

13 8.3.4 Any Base Resource in excess of CCSF's forecasted load will be
14 retained by Western for distribution under the exchange program in
15 accordance with Exhibit B to CCSF's Base Resource Contract.

16 8.3.5 After Western has balanced the hourly load and resource schedules
17 for CCSF, Western will provide the schedules to CCSF's scheduling entity
18 in accordance with control area operator protocols.

19
20 8.4 During the active day, Western will use best efforts to take the appropriate
21 actions necessary to balance loads and resources.

22
23 8.5 Western shall not be liable in the event that power and/or transmission is
24 scheduled either in excess of or below that necessary to serve CCSF's hourly
25 load.

26 ///

27 ///

28 ///

1 **9. ADDITIONAL SERVICES NECESSARY TO PROVIDE CUSTOM PRODUCT(S):**
 2 CCSF understands that additional services, including but not limited to, scheduling the
 3 resource and control area services may be necessary to provide the Custom Product(s)
 4 requested under this Contract. CCSF shall be responsible for all costs incurred by
 5 Western to provide Full Load Service as specified in this Contract.

6
 7 **10. SCHEDULING AND METERING:**

8 10.1 All services provided by Western to CCSF under this Contract will be
 9 subject to the same scheduling and metering terms and conditions as provided
 10 under CCSF's Base Resource Contract the same as if they had been expressly
 11 set forth herein.

12
 13 10.2 CCSF shall provide the name and other pertinent information regarding its
 14 scheduling entity to Western no less than sixty (60) days prior to receiving service
 15 under this Contract. Western shall have no obligation to provide any service to
 16 CCSF if said information has not been provided to Western. However, CCSF
 17 shall not be relieved of its payment obligations hereunder.

18
 19 **11. REGIONAL TRANSMISSION ORGANIZATION OR CONTROL AREA:**

20 Western currently operates within the California Independent System Operator's control
 21 area. The Parties understand that Western may join an RTO or become a part of a
 22 different control area. In the event Western either joins or is required to conform to the
 23 protocols of an RTO or a different control area, the Parties shall mutually agree to make
 24 any protocol changes to this Contract to conform to the terms and conditions required
 25 by such organization. In the event that: 1) Western incurs costs from an RTO or a
 26 different control area for serving CCSF's load; or 2) CCSF does not abide by the
 27 protocols applicable to Western and Western incurs costs as a result, CCSF agrees to
 28 pay all such costs attributable to CCSF.

1 **12. CREDITWORTHINESS:**

2 For the purpose of determining the ability of CCSF to meet its obligations related to
3 service hereunder, Western may require reasonable credit review procedures. In
4 addition, Western may require CCSF to:

5 12.1 Provide and keep in effect during the term of this Contract, an unconditional
6 and irrevocable letter of credit as security to meet its responsibilities and
7 obligations under this Contract; or

8
9 12.2 Provide an alternate form of security acceptable to Western.

10
11 **13. BILLING AND PAYMENT FOR PORTFOLIO MANAGEMENT SERVICES:**

12 13.1 The costs associated with providing Portfolio Management Services to
13 CCSF are specified in Exhibit B attached hereto. By August 1st of each year
14 during the term of this Contract, Western will review the charges for Portfolio
15 Management Services and, if necessary, will revise Exhibit B to reflect the
16 updated costs for this service.

17
18 13.2 Western will bill and CCSF shall pay for Portfolio Management Services in
19 accordance with the procedures established under either Section 13.2.1 or
20 Section 13.2.2, as solely determined by Western. If determined necessary by
21 Western, Western may change the section under which Western is billing and
22 CCSF is paying upon sixty (60) days notice to CCSF.

23
24 13.2.1 After-The-Fact Billing:

25 CCSF shall pay Western for Portfolio Management Services provided in the
26 previous month as directed on the monthly electric service bill; or

27 ///

28 ///

1 13.2.2 Advance Funding:

2 13.2.2.1 Western will estimate the initial amount of funds required.

3 The estimate shall be based on three (3) months of Western's
4 charges for Portfolio Management Services.

5 13.2.2.2 The initial advance funding amount shall be due on the
6 date specified on the bill for collection. The initial bill for collection
7 will be issued in September 2004.

8 13.2.2.3 On a monthly basis, Western will estimate its charges
9 associated with providing Portfolio Management Services to CCSF
10 for the following month. CCSF shall advance this amount to
11 Western as specified on its electric service bill.

12 13.2.2.4 Western shall use funds from CCSF's trust account on a
13 monthly basis for Western's charges associated with providing
14 Portfolio Management Services to CCSF in the previous month.

15 13.2.2.5 Any alternative method of advance funding shall be set
16 forth in a separate contractual agreement.

17
18 **14. BILLING AND PAYMENT FOR SUPPLEMENTAL POWER:**

19 14.1 CCSF shall pay for Supplemental Power furnished hereunder in
20 accordance with the rates, charges, and conditions set forth in the CVP Schedule
21 of Rates for Custom Product Power, effective January 1, 2005, or any
22 superseding rate schedules.

23
24 14.2 Western will bill and CCSF shall pay for Supplemental Power in
25 accordance with the procedures established under either Section 14.2.1 or
26 Section 14.2.2, as solely determined by Western. If determined necessary by
27 Western, Western may change the section under which Western is billing and
28 CCSF is paying upon sixty (60) days notice to CCSF.

1 14.2.1 After-The-Fact Billing:

2 CCSF shall pay Western for Supplemental Power provided in the previous
3 month as directed on the monthly electric service bill; or

4 14.2.2 Advance Funding:

5 14.2.2.1 Western will estimate the initial amount of funds required.

6 The estimate shall be based on three or more months of
7 Western's costs attributable to CCSF for Supplemental Power.

8 14.2.2.2 The initial advance funding amount shall be due on the
9 date specified on the bill for collection. The initial bill for collection
10 will be issued in September 2004.

11 14.2.2.3 On a monthly basis, Western will estimate its costs
12 associated with providing Supplemental Power to CCSF for the
13 following month. CCSF shall advance this amount to Western as
14 specified on its electric service bill.

15 14.2.2.4 Advance funding for Supplemental Power costs may be
16 collected for a period extending beyond the following month if the
17 Parties agree.

18 14.2.2.5 Western shall use funds from CCSF's trust account on a
19 monthly basis for Western's costs associated with providing
20 Supplemental Power to CCSF in the previous month.

21 14.2.2.6 Any alternative method of advance funding shall be set
22 forth in a separate contractual agreement.

23
24 **15. TRUST ACCOUNTS FOR ADVANCED FUNDS:**

25 CCSF understands that it may be required to advance funds to Western for one or
26 more trust accounts pursuant to Sections 13.2.2 and 14.2.2 and this section for the
27 services provided under this Contract. This Section 15 provides for establishing and

28 ///

1 maintaining the trust account(s) required if Section 13.2.2 and/or Section 14.2.2 are in
2 effect.

3
4 15.1 Funds that CCSF advances to Western shall be sent in accordance with
5 the information included on the bill(s) for collection and electric service bills, or as
6 otherwise directed.

7
8 15.2 CCSF shall be required to maintain a balance of at least three (3) months
9 of estimated Portfolio Management Services and/or Supplemental Power costs in
10 the trust account(s) at all times. Western shall monitor the account(s); and, if
11 Western determines that:

12 15.2.1 There are not sufficient funds in one or more of the accounts,
13 Western shall notify CCSF of the shortage and CCSF shall advance the
14 requested amount of funds to Western within ten (10) days; or

15 15.2.2 There are excessive funds in one or more of the accounts,
16 Western, at its sole discretion, will either: 1) decrease subsequent amounts
17 required by the amount in excess of the estimate, or 2) return any excess
18 funds to CCSF.

19
20 15.3 Western will provide CCSF with:

21 15.3.1 A monthly statement of the transactions that were posted to the
22 trust account(s), and the end-of-month balance in the account(s); and

23 15.3.2 An electric service bill that will reflect the previous month's
24 Supplemental Power and Portfolio Management Services costs and the
25 amount of advance funding required from CCSF for the costs that Western
26 anticipates it will incur while providing Supplemental Power and/or Portfolio
27 Management Services to CCSF for the following month(s).

28 ///

1 15.4 Western shall be under no obligation to provide service under this Contract
2 without CCSF advancing sufficient funds and said funds being available in the
3 trust account(s) as described herein.

4
5 15.5 Within sixty (60) days after termination of this Contract, and after Western
6 has determined that all obligations incurred under this Contract have been
7 satisfied, Western shall return any funds remaining in the trust account(s) to
8 CCSF without interest.

9
10 **16. DEFAULT PROVISIONS:**

11 16.1 The failure of CCSF to perform any of its payment obligations under this
12 Contract shall constitute a default. If Western determines CCSF to be in default,
13 Western shall promptly notify CCSF in writing. If CCSF has not cured the default
14 within seven (7) days, Western may suspend service under this Contract.

15
16 16.2 If CCSF is determined to be in default and does not cure such default in a
17 manner and within the timeframe established by Western, Western shall have the
18 right to terminate this Contract, and assess damages, as follows:

19 16.2.1 If Western's aggregate gains exceed its aggregate losses and
20 costs, including obligations incurred on behalf of CCSF that extend past the
21 current month, Western, after any set-off, shall make no payment to CCSF
22 and, notwithstanding anything in this Contract to the contrary, the amount
23 by which such gain exceeds the losses and costs for the purposes of this
24 Contract shall be zero (0); or

25 16.2.2 If Western's aggregate gains do not exceed its aggregate losses,
26 including obligations incurred on behalf of CCSF that extend past the
27 current month, Western will promptly calculate the damages associated
28 with the default. As soon as practical, Western will provide notice to CCSF

1 of the amount of the damages. Payment for the damages shall be made
2 by CCSF to Western within ten (10) business days after such notice is
3 received.
4

5 **17. GENERAL POWER CONTRACT PROVISIONS:**

6 The GPCP, effective July 10, 1998, attached hereto, are hereby made a part of this
7 Contract, the same as if they had been expressly set forth herein; Provided, That, for
8 the term of this Contract, CCSF hereby agrees to waive its rights under this Contract to
9 Article 11 of the GPCP.
10

11 **18. ENFORCEABILITY:**

12 It is not the intent of the Parties that this Contract confer any rights on third parties to
13 enforce the provisions of this Contract except as required by law or express provision in
14 this Contract. Except as provided in this section, this Contract may be enforced, or
15 caused to be enforced, only by Western or CCSF, or their successors or assigns.
16

17 **19. EXHIBITS MADE PART OF CONTRACT:**

18 Exhibit A, Full Load Service, and Exhibit B, Charges for Portfolio Management
19 Services, attached to and existing under this Contract may vary during the term hereof.
20 Said Exhibits shall become a part of this Contract during the term fixed by their
21 provisions. Exhibits A and B are attached hereto, and shall be in force and effect in
22 accordance with their terms until superseded by a subsequent Exhibit, as allowed by
23 the terms of the Exhibits, or terminated.
24

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed
2 the day and year first above written.

3
4 CITY & COUNTY OF SAN FRANCISCO
5 HETCH HETCHY WATER & POWER

6
7 By: Cheryl K Davis

Title: Acting General Manager

Address: 1155 Market Street

San Francisco, CA 94103

8 Attest:

9 By: Joseph P. Carr

10 Title: Deputy City Attorney

11
12
13 WESTERN AREA POWER ADMINISTRATION

14
15 By: [Signature]

Title: Power Marketing Manager

Address: 114 Parkshore Drive

Folsom, California 95630

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE

WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble.....	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment.....	2
5.	Modification of Section 4 (Effective Date and Term of Contract) of the FLS Contract.....	3
6.	Modification of Section 5 (Definition of Terms) of the FLS Contract	3
7.	Modification of Section 8 (Portfolio Management Services) of the FLS Contract.....	3
8.	Modification of Section 10 (Scheduling and Metering) of the FLS Contract.....	4
9.	Modification of Section 11 (Control Area and Regional Trans- mission Organizations) of the FLS Contract	5
10.	Modification of Section 17 (General Power Contract Provisions) of the FLS Contract.....	5
11.	FLS Contract to Remain in Effect	6
12.	Authority to Execute.....	6

Resolution
General Power Contract Provisions [June 15, 2005]

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 1
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE

WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

1. **PREAMBLE:**

This Amendment 1 to Contract 04-SNR-00723 (FLS Contract) is made this 30th day of November, 2007, between the UNITED STATES OF AMERICA, DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION (Western) and the CITY & COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER & POWER, (CCSF), also hereinafter referred to individually as Party and together as Parties, pursuant to the same authorities as the FLS Contract.

2. **EXPLANATORY RECITALS:**

2.1 The Parties entered into the FLS Contract on August 13, 2004. Under the FLS Contract, Western provides Supplemental Power and Portfolio Management Services to CCSF.

2.2 Western is considering making Supplemental Power purchases extending beyond September 30, 2010, which is the current term of the FLS Contract.

1 2.3 In order to provide Supplemental Power from purchases extending
2 beyond the FLS Contract termination date to CCSF, the Parties must agree to
3 extend the term of the FLS Contract.
4

5 2.4 Due to the California Independent System Operator's Market Redesign
6 and Technology Upgrade, Western's procedures as CCSF's Portfolio Manager
7 will change and, therefore, the Parties desire to address those changes in this
8 Amendment.
9

10 2.5 At the time the FLS Contract was executed, Western was operating within
11 the California Independent System Operator's control area. Effective January 1,
12 2005, Western began operating as a sub-control area within the Sacramento
13 Municipal Utility District's control area. The Parties wish to reflect Western's
14 current control area status in the FLS Contract.
15

16 2.6 Also at the time the FLS Contract was executed, the August 15, 1995
17 General Power Contract Provisions (GPCP) were effective. Western revised its
18 GPCP effective June 15, 2005. The Parties wish to update the FLS Contract
19 with the current GPCP.
20

21 **3. AGREEMENT:**

22 The Parties agree to the terms and conditions set forth herein.
23

24 **4. TERM OF AMENDMENT:**

25 This Amendment shall become effective upon execution and shall remain in effect
26 concurrently with the FLS Contract.
27

27 ///

28 ///

1 **5. MODIFICATION OF SECTION 4 (EFFECTIVE DATE AND TERM OF**
 2 **CONTRACT) OF THE FLS CONTRACT:**

3 The following subsection of Section 4 of the FLS Contract is hereby modified as shown
 4 below:

5 4.1 This Contract shall become effective upon execution by the Parties
 6 and shall remain in effect through September 30, 2015; except as
 7 otherwise provided for herein.
 8

9 **6. MODIFICATION OF SECTION 5 (DEFINITION OF TERMS) OF THE FLS**
 10 **CONTRACT:**

11 The following subsection of Section 5 of the FLS Contract is hereby modified as shown
 12 below:

13 5.4 "Portfolio Management Services" means forecasting a customer's
 14 hourly load and determining the resources to meet that customer's load.
 15

16 **7. MODIFICATION OF SECTION 8 (PORTFOLIO MANAGEMENT SERVICES) OF**
 17 **THE FLS CONTRACT:**

18 The following subsections of Section 8 of the FLS Contract are hereby modified as
 19 shown below:

20 8.3 On a daily basis, using the information provided in Subsections 8.1
 21 and 8.2, Western will determine the power necessary on an hourly basis
 22 to fully serve CCSF's load at the delivery point(s) specified in Exhibit A, as
 23 follows:

24 8.3.1 Using the information as provided in Section 8 of CCSF's
 25 Base Resource Contract, Western will determine the hourly use of
 26 CCSF's Base Resource for the day.

27 ///

28 ///

1 8.3.2 If CCSF's Base Resource does not fully meet CCSF's
2 forecasted load, Western will schedule CCSF's share of exchange
3 program energy, if any, to serve CCSF's load.

4 8.3.3 Once all Base Resource and exchange program energy has
5 been distributed, Western will meet CCSF's unmet forecasted load
6 with Supplemental Power.

7 8.3.4 Any Base Resource in excess of CCSF's forecasted load will
8 be retained by Western for distribution under the exchange
9 program in accordance with Exhibit B to CCSF's Base Resource
10 Contract.

11 8.3.5 After Western has determined the resource mix to meet
12 CCSF's hourly load, Western will provide the schedules to CCSF's
13 scheduling entity in accordance with control area operator
14 protocols.

15
16 8.4 During the active day, Western will determine the appropriate
17 actions necessary to address changes in anticipated load and/or
18 resources.

19
20 **8. MODIFICATION OF SECTION 10 (SCHEDULING AND METERING) OF THE**
21 **FLS CONTRACT:**

22 The following subsection of Section 10 of the FLS Contract is hereby modified as
23 shown below:

24 10.1 All services provided by Western to CCSF under this Contract will
25 be subject to the scheduling and metering terms and conditions under
26 which Western is required to comply as determined by the control area in
27 which the load is located the same as if they had been expressly set forth
28 herein.

1 **9. MODIFICATION OF SECTION 11 (REGIONAL TRANSMISSION**
 2 **ORGANIZATION OR CONTROL AREA) OF THE FLS CONTRACT:**

3 Section 11 of the FLS Contract is hereby modified as shown below:

4 11.1 Western joined the SMUD control area on January 1, 2005, and,
 5 therefore, is operating in conformance with SMUD's protocols. The
 6 Parties hereby agree to make any changes necessary to this Contract to
 7 conform to SMUD's operating and scheduling protocols.

8
 9 11.2 The Parties understand that Western may also join an RTO. In the
 10 event Western either joins or is required to conform to the protocols of an
 11 RTO, the Parties shall agree to make any changes to this Contract to
 12 conform to the terms and conditions required by the RTO.

13
 14 11.3 In the event that: 1) Western incurs costs from SMUD, an RTO, or
 15 a different control area for serving CCSF's load; or 2) CCSF does not
 16 abide by the protocols of SMUD, an RTO, or other control area operator
 17 that are applicable to Western and Western incurs costs as a result,
 18 CCSF agrees to pay all such costs attributable to CCSF.

19
 20 **10. MODIFICATION OF SECTION 17 (GENERAL POWER CONTRACT**
 21 **PROVISIONS) OF THE FLS CONTRACT:**

22 Section 17 of the FLS Contract is hereby modified as shown below:

23 The GPCP, effective June 15, 2005, attached hereto, are hereby made a
 24 part of this Contract the same as if they had been expressly set forth
 25 herein; Provided, That, for the term of this Contract, CCSF hereby agrees
 26 to waive its rights under this Contract to Article 11 of the GPCP.

27 ///

28 ///

1 **11. FLS CONTRACT TO REMAIN IN EFFECT:**

2 Except as expressly modified by this Amendment, said FLS Contract shall remain in full
3 force and effect, and this Amendment shall be subject to all provisions of the FLS
4 Contract, except as herein amended.

6 **12. AUTHORITY TO EXECUTE:**

7 Each individual signing this Amendment certifies that the Party represented has duly
8 authorized such individual to execute this Amendment that binds and obligates the
9 Party.

11 **IN WITNESS WHEREOF**, the Parties have caused this Amendment to be
12 executed the day and year first above written.

15 WESTERN AREA POWER ADMINISTRATION

16
17 By: *Sonja A. Anderson*
18 Sonja A. Anderson
19 Title: Power Marketing Manager
20 Address: 114 Parkshore Drive
Folsom, California 95630

23 CITY & COUNTY OF SAN FRANCISCO
24 HETCH HETCHY WATER & POWER

25 (Seal) By: *[Signature]*
26 Title: SFPUC General Manager
27 By: _____ Address: 1155 Market Street, 11th Floor
28 Title: _____ San Francisco, CA 94103

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 07-0178

WHEREAS, Pursuant to Resolutions 04-0148 and 04-0197 the City has previously executed a Scheduling Coordinator Services ("SCS") Contract and Full Load Service ("FLS") Contract and Amendment with the Western Area Power Administration ("WAPA") for electric service to Treasure Island and Yerba Buena Island ("TI/YBI") effective September 1, 2004, for a period of five years or until September 30, 2010; and

WHEREAS, Under the SCS contract WAPA would perform the duties and obligations of a Scheduling Coordinator pursuant to the California Independent System Operator ("CAISO") Tariff; and

WHEREAS, Under the FLS contract WAPA would provide Portfolio Management Services and Supplemental Power Purchases to ensure that loads at TI/YBI would be reliably served and provide low cost power to TI/YBI; and

WHEREAS, WAPA is amending the FLS contract to extend the term by five years from September 30, 2010 to September 30, 2015; and

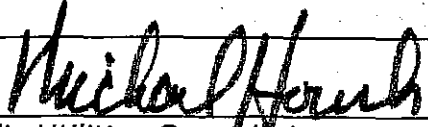
WHEREAS, The cost of the FLS contract will increase for WAPA to provide an additional five years of service to the City; and

WHEREAS, WAPA is amending the FLS contract to reflect the updated procedures imposed by the CAISO's Market Redesign and Technology Upgrade that changes the mechanisms for power transactions on the CAISO's grid; and

WHEREAS, The funding for the cost of the extended FLS contract will be paid for by the SFPUC's Power Enterprise Operating Budget to WAPA; now therefore, be it

RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is hereby authorized to execute the amendment to the FLS contract extending the term for an additional period of five years past the current termination date of September 30, 2010, to September 30, 2015, and to increase the previously authorized FLS contract amount with WAPA to a value not to exceed \$4,240,000, effective upon the approval of the amended contract by the Board of Supervisors pursuant to San Francisco Charter Section 9.118.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of October 9, 2007


Secretary, Public Utilities Commission

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

Contract 04-SNR-00723
Amendment 2

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 2
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE

WITH

THE CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble.....	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment	2
5.	Modification of Section 4 (Effective Date and Term of Contract) of the FLS Contract.....	2
6.	Modification of Section 17 (General Power Contract Provisions) of the FLS Contract.....	3
7.	FLS Contract to Remain in Effect	3
8.	Authority to Execute.....	3

Resolution
General Power Contract Provisions [September 1, 2007]

Contract 04-SNR-00723
Amendment 2

1
2
3
4 UNITED STATES
5 DEPARTMENT OF ENERGY
6 WESTERN AREA POWER ADMINISTRATION
7 SIERRA NEVADA REGION

8
9 AMENDMENT 2
10 (Extension / Portfolio Management Services)

11 TO THE
12 CUSTOM PRODUCT CONTRACT
13 FOR
14 FULL LOAD SERVICE

15 WITH

16 THE CITY & COUNTY OF SAN FRANCISCO
17 HETCH HETCHY WATER & POWER

18
19
20
21
22 **1. PREAMBLE:**

23 This Amendment 2 to Contract 04-SNR-00723 (FLS Contract) is made this 13th
24 day of JANUARY, 2012, between the UNITED STATES OF AMERICA,
25 DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION
26 (Western) and the CITY & COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER
27 & POWER, (CCSF), also hereinafter referred to individually as Party and together as
28 Parties, pursuant to the same authorities as the FLS Contract.

29
30
31
32 **2. EXPLANATORY RECITALS:**

33 2.1 The Parties entered into the FLS Contract on August 13, 2004. Under the
34 FLS Contract, Western provides Supplemental Power and Portfolio Management
35 Services to CCSF.

36 2.2 The Parties entered into Amendment 1 to the FLS Contract on

37
38 ///

1 November 30, 2007. This, among other things, extended the termination date of
 2 the FLS Contract to September 30, 2015.

3
 4 2.3 Western is considering making Supplemental Power purchases extending
 5 beyond September 30, 2015, which is the current term of the FLS Contract.

6
 7 2.4 In order to provide Supplemental Power from purchases extending
 8 beyond the FLS Contract termination date to CCSF, the Parties must agree to
 9 extend the term of the FLS Contract.

10
 11 2.5 At the time Amendment 1 to the FLS Contract was executed, the
 12 June 15, 2005 General Power Contract Provisions (GPCP) were effective.
 13 Western revised its GPCP effective September 1, 2007. The Parties wish to
 14 update the FLS Contract with the current GPCP.

15
 16 **3. AGREEMENT:**

17 The Parties agree to the terms and conditions set forth herein.

18
 19 **4. TERM OF AMENDMENT:**

20 This Amendment shall become effective upon execution and shall remain in effect
 21 concurrently with the FLS Contract.

22
 23 **5. MODIFICATION OF SECTION 4 (EFFECTIVE DATE AND TERM OF**
 24 **CONTRACT) OF THE FLS CONTRACT:**

25 The following subsection of Section 4 of the FLS Contract is hereby modified as shown
 26 below:

27 ///

28 ///

1 4.1 This Contract shall become effective upon execution by the Parties
2 and shall remain in effect through September 30, 2020; except as
3 otherwise provided for herein.
4

5 **6. MODIFICATION OF SECTION 17 (GENERAL POWER CONTRACT**
6 **PROVISIONS) OF THE FLS CONTRACT:**

7 Section 17 of the FLS Contract is hereby modified as shown below:

8 The GPCP, effective September 1, 2007, attached hereto, are hereby
9 made a part of this Contract the same as if they had been expressly set
10 forth herein; Provided, That, for the term of this Contract, CCSF hereby
11 agrees to waive its rights under this Contract to Article 11 of the GPCP.
12

13 **7. FLS CONTRACT TO REMAIN IN EFFECT:**

14 Except as expressly modified by this Amendment, said FLS Contract shall remain in full
15 force and effect, and this Amendment shall be subject to all provisions of the FLS
16 Contract, except as herein amended.
17

18 **8. AUTHORITY TO EXECUTE:**

19 Each individual signing this Amendment certifies that the Party represented has duly
20 authorized such individual to execute this Amendment that binds and obligates the
21 Party.

22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Amendment to be
2 executed the day and year first above written.

3
4
5 WESTERN AREA POWER ADMINISTRATION

6
7 By: *Sonja A. Anderson*
8 Sonja A. Anderson
9 Title: Power Marketing Manager
10 Address: 114 Parkshore Drive
Folsom, California 95630

11
12 CITY & COUNTY OF SAN FRANCISCO
13 HETCH HETCHY WATER & POWER

14
15 (Seal)

16 By: *M. D. Co.*
17 Deputy General Manager
18 Title: 1155 MARKET STREET
19 Address: SAN FRANCISCO CA 94103

20 Approved as to Form:

21 Dennis J. Herrera
22 City Attorney

23
24 By *Margarita Gutierrez*
25 Margarita Gutierrez
26 Deputy City Attorney
27
28

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 11-0153

WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") purchases low-cost electricity and other services from the federal government, through the Western Area Power Administration ("WAPA"), in order to provide electric service to Treasure Island and Yerba Buena Island ("TI/YBI"); and

WHEREAS, Pursuant to Resolution 04-0197 the City and County of San Francisco ("the City") has previously executed a Full Load Service ("FLS") contract with the WAPA for electric service to TI/YBI effective January 11, 2005, for a period of five years and nine months or until September 30, 2010; and

WHEREAS, Pursuant to Resolution 07-0178 the City has previously executed Amendment No. 1 to the FLS contract extending the term from September 30, 2010, to September 30, 2015; and

WHEREAS, Under the FLS contract WAPA provides Portfolio Management Services and Supplemental Power Purchases to ensure that loads at TI/YBI would be reliably served; and

WHEREAS, Amendment No. 2 amends the FLS contract to extend the term by five years from September 30, 2010 to September 30, 2015; and

WHEREAS, The FLS contract amount will increase to account for the additional five years that WAPA will have to provide Supplemental Power Purchases and Portfolio Management Services to serve the electric load at TI/YBI; and


WHEREAS, The FLS contract allows the City to continue providing low cost federal power for all the anticipated electric power needs of TI/YBI; and

WHEREAS, The cost of the extended FLS contract will be recovered through the electric utility rate at TI/YBI and paid for by the SFPUC's Power Enterprise to WAPA; now therefore, be it

RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is hereby authorized to execute Amendment No. 2 of the FLS contract with WAPA extending the term for an additional period of five years expiring on September 30, 2020 and increasing the previously authorized FLS contract amount with WAPA to a value not to exceed \$13,890,000, subject to the approval of the Board of Supervisors; and be it

FURTHER RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is authorized to seek approval of Amendment No. 2 of the FLS contract by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of _____ *September 13, 2011*



Secretary, Public Utilities Commission

Amended in Committee. 11/16/11

FILE NO. 111096

ORDINANCE NO.

256-11

1 [Contract Amendment – Western Area Power Administration - Electric Services – Not to
2 Exceed \$15,950,888]

3 Ordinance approving the second amendment to the contract between the City and
4 County of San Francisco and the United States, through the Department of Energy
5 Western Area Power Administration, for delivery of low-cost power and scheduling
6 coordinator services to Treasure Island and Yerba Buena Island; and approving the
7 City indemnifying and holding the United States harmless against claims arising from
8 the activities of the City under the contract, and waiving the requirement of Section
9 21.19 of the San Francisco Administrative Code which requires that a City contract
10 contain a statement of guaranteed maximum costs, and waiving the requirement of
11 Section 21.35 of the San Francisco Administrative Code which requires that every
12 contract contain a statement regarding liability of claimants for submitting false claims.
13

14
15 NOTE: Additions are *single-underline italics Times New Roman*;
16 deletions are *strike-through italics Times New Roman*.
17 Board amendment additions are double-underlined;
18 Board amendment deletions are ~~strikethrough-normal~~.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. FINDINGS. The Board of Supervisors hereby finds and declares that:

21 (1) The City, through its Public Utilities Commission (PUC), is currently providing
22 electric utility service at Treasure Island and Yerba Buena Island (TI/YBI) under a multi-year
23 Cooperative Agreement with the United States Navy.

24 (2) The City is the local reuse authority for Naval Station Treasure Island under the
25 Federal Base Closure and Realignment Act (BRAC), and as a result is entitled to purchase
low-cost electricity from the federal government.

PUBLIC UTILITIES COMMISSION
BOARD OF SUPERVISORS

1 (3) The Board of Supervisors has twice approved agreements with the Western
2 Area Power Administration ("WAPA") for low-cost electric services to Treasure Island and
3 Yerba Buena Island ("TI/YBI"). This contract was effective on September 1, 2005, for a period
4 of five years until September 30, 2010, pursuant to Ordinance No. 0017-05 on file with the
5 Clerk of the Board of Supervisors. The First Amendment was approved on December 4, 2007
6 pursuant to Ordinance 0276-07 on file with the Clerk of the Board of Supervisors, and
7 extended the contract from September 30, 2010 to September 30, 2015.

8 (4) The contracts between the City and WAPA include delivery of low-cost power
9 and scheduling coordinator services.

10 (5) These services, which are currently provided by WAPA, are necessary for the
11 City to provide reliable low-cost power for all anticipated electric power needs of TI/YBI.

12 (6) On July 26, 2011, WAPA asked the City to amend the contract with an extension
13 through September 30, 2020 now, so that WAPA could begin purchasing power for periods
14 beyond the current contract expiration date.

15 (7) The five-year extension of the Full Load Service contract would increase the
16 total estimated costs of the contract from four million, two hundred and forty thousand dollars
17 (\$4,240,000) to nine million, six hundred and fifty thousand dollars (\$9,650,000). The actual
18 cost will be determined by the quantity of power used at TI/YBI, but will not exceed ~~thirteen~~
19 ~~million, eight hundred and ninety thousand dollars (\$13,890,000)~~ fifteen million, nine hundred
20 and fifty, eight hundred and eighty eight dollars (\$15,950,888).

21 (8) Without these contracts, the City would be required to obtain these services
22 from a third party, such as PG&E, at a higher cost.

23 (9) The Contract is a standard form used by the United States for power services.
24 Indemnification of the United States is a required element of the contract. In addition, WAPA
25

1 would not agree to modify the contracts to include the statements required by San Francisco
2 Administrative Code Sections 21.19 and 21.35.

3 (10) The PUC approved this amendment at a public meeting on September 13, 2011,
4 in Resolution 11-0153, a copy of which is on file with the Clerk of the Board of Supervisors in
5 File No. 111096.

6 Section 2. The General Manager of the PUC is hereby authorized to execute
7 the amendment to the contract for full load service with WAPA. A copy of this contract is on
8 file with the Clerk of the Board of Supervisors in File No. 111096.

9 Section 3. WAIVERS. For the purpose of this contract, the Board of Supervisors
10 finds that it is reasonable and in the public interest to grant the waivers specified below.

11 (1) The Board of Supervisors hereby waives the requirement of San Francisco
12 Administrative Code § 21.19 that every contract include a statement regarding guaranteed
13 maximum costs.

14 (2) The Board of Supervisors hereby waives the requirement of San Francisco
15 Administrative Code Section 21.35 that every contract include a statement regarding liability
16 of claimants for submitting false claims to the City.

17 Section 4. APPROPRIATION OF FUNDS. The costs under this contract will be
18 recovered through the electric utility rates at TI/YBI, and will be included in the annual budgets
19 for the PUC's Power Enterprise.

20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: 
23 Margarita Gutierrez
24 Deputy City Attorney
25



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 111096

Date Passed: December 13, 2011

Ordinance approving the second amendment to the contract between the City and County of San Francisco and the United States, through the Department of Energy Western Area Power Administration, for delivery of low-cost power and scheduling coordinator services to Treasure Island and Yerba Buena Island; and approving the City indemnifying and holding the United States harmless against claims arising from the activities of the City under the contract, and waiving the requirement of the San Francisco Administrative Code Section 21.19 which requires that a City contract contain a statement of guaranteed maximum costs, and waiving the requirement of the San Francisco Administrative Code Section 21.35 which requires that every contract contain a statement regarding liability of claimants for submitting false claims.

November 16, 2011 Budget and Finance Committee - AMENDED

November 16, 2011 Budget and Finance Committee - CONTINUED AS AMENDED

November 30, 2011 Budget and Finance Committee - RECOMMENDED

December 06, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

December 13, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 111096

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/13/2011 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor Edwin Lee

12/20/11

Date Approved

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 3
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE
WITH

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

Contract 04-SNR-00723
Amendment 3

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

AMENDMENT 3
(Extension / Portfolio Management Services)

TO THE
CUSTOM PRODUCT CONTRACT
FOR
FULL LOAD SERVICE

WITH

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	1
3.	Agreement	2
4.	Term of Amendment	2
5.	Modification of Section 4 (Effective Date and Term of Contract) of the FLS Contract	2
6.	FLS Contract to Remain in Effect	3
7.	Authority to Execute.....	3
	Resolution	

Contract 04-SNR-00723
Amendment 3

1
2
3
4 UNITED STATES
5 DEPARTMENT OF ENERGY
6 WESTERN AREA POWER ADMINISTRATION
7 SIERRA NEVADA REGION

8 AMENDMENT 3
9 (Extension / Portfolio Management Services)

10 TO THE
11 CUSTOM PRODUCT CONTRACT
12 FOR
13 FULL LOAD SERVICE

14 WITH
15 CITY & COUNTY OF SAN FRANCISCO
16 HETCH HETCHY WATER & POWER

17 **1. PREAMBLE:**

18 This Amendment 3 to Contract 04-SNR-00723 (FLS Contract) is made this 4TH
19 day of SEPTEMBER, 2018, between the UNITED STATES OF AMERICA,
20 DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION (WAPA)
21 and the CITY & COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER & POWER
22 (CCSF), also hereinafter referred to individually as Party and together as Parties,
23 pursuant to the same authorities as the FLS Contract.

24 **2. EXPLANATORY RECITALS:**

25 2.1 The Parties entered into the FLS Contract on August 13, 2004. Under the
26 FLS Contract, WAPA provides Supplemental Power and Portfolio Management
27 Services to CCSF.

28 ///

///

1 2.2 The Parties entered into Amendment 2 to the FLS Contract on
2 January 13, 2012. This, among other things, extended the termination date of
3 the FLS Contract to September 30, 2020.

4
5 2.3 WAPA is considering making Supplemental Power purchases extending
6 beyond September 30, 2020, which is the current term of the FLS Contract.

7
8 2.4 In order to provide Supplemental Power from purchases extending
9 beyond the FLS Contract termination date to CCSF, the Parties must agree to
10 extend the term of the FLS Contract.

11
12 **3. AGREEMENT:**

13 The Parties agree to the terms and conditions set forth herein.
14

15 **4. TERM OF AMENDMENT:**

16 This Amendment shall become effective upon execution and shall remain in effect
17 concurrently with the FLS Contract.
18

19 **5. MODIFICATION OF SECTION 4 (EFFECTIVE DATE AND TERM OF**
20 **CONTRACT) OF THE FLS CONTRACT:**

21 The following subsection of Section 4 of the FLS Contract is hereby modified as shown
22 below:

23 4.1 This Contract shall become effective upon execution by the Parties
24 and shall remain in effect through December 31, 2024; except as
25 otherwise provided for herein.

26 ///

27 ///

28 ///

6. FLS CONTRACT TO REMAIN IN EFFECT:

Except as expressly modified by this Amendment, said FLS Contract shall remain in full force and effect, and this Amendment shall be subject to all provisions of the FLS Contract, except as herein amended.

7. AUTHORITY TO EXECUTE:

Each individual signing this Amendment certifies that the Party represented has duly authorized such individual to execute this Amendment that binds and obligates the Party.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed the day and year first above written.


WESTERN AREA POWER ADMINISTRATION

By: 
Arun K. Sethi

Title: Vice President of Power Marketing for
Sierra Nevada Region

Address: 114 Parkshore Drive
Folsom, California 95630

CITY & COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER & POWER

By: 
Name: Barbara Hale, AGM
SFPUC Power

(Attest)

Title: _____

By: _____ Address: 525 GOLDEN GATE AVE.

Title: _____ SAN FRANCISCO, CA 94102

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION

Contract 20-SNR-02377

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CONTRACT FOR ELECTRIC SERVICE
BASE RESOURCE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CONTRACT FOR ELECTRIC SERVICE
BASE RESOURCE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

<u>Section</u>	<u>Table of Contents</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	1
3.	Agreement	3
4.	Effective Date and Term of Contract	3
5.	Definition of Terms	3
6.	Base Resource Estimates and Availability Forecast	8
7.	Electric Service Furnished by WAPA	9
8.	Delivery Arrangements	11
9.	Scheduling Procedures, Business Practices and Protocols	11
10.	Exchange Program	13
11.	Independent System Operator or Regional Transmission Organization	14
12.	WAPA Rates	15
13.	Integrated Resource Plan	16
14.	Adjustment of Base Resource Percentage	16
15.	Metering and Power Measurement Responsibilities	17
16.	Changes in Organizational Status	19
17.	Protocols, Business Practices and Procedures	20
18.	Enforceability	21
19.	General Power Contract Provisions	21
20.	Exhibits Made Part of Contract	21
21.	Execution by Counterparts	22
22.	Electronic Signatures	22

Signature Clause
Resolution/Certificate

General Power Contract Provisions

- Exhibit A – Base Resource Percentage and Point(s) of Delivery
- Exhibit B – Exchange Program
- Exhibit C – Regulation and Reserves
- Exhibit D – Rate Schedule

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CONTRACT FOR ELECTRIC SERVICE
BASE RESOURCE
WITH

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

1. **PREAMBLE:** This Contract is made this _____ day of _____, 202____, pursuant to the Acts of Congress approved June 17, 1902, (32 Stat. 388); August 26, 1937, (50 Stat. 844); August 4, 1939, (53 Stat. 1187); and August 4, 1977, (91 Stat. 565); and Acts amendatory or supplementary to the foregoing Acts; between the UNITED STATES OF AMERICA (United States), acting by and through the Administrator, Western Area Power Administration, Department of Energy, hereinafter called WAPA, represented by the officer executing this Contract, or a duly appointed successor, hereinafter called the Contracting Officer; and CITY AND COUNTY OF SAN FRANCISCO, HETCH HETCHY WATER AND POWER, a municipal corporation, hereinafter called the Contractor or CCSF, its successors and assigns; each sometimes hereinafter individually called the Party, and both sometimes hereinafter collectively called the Parties.

2. **EXPLANATORY RECITALS:**

2.1 WAPA markets the surplus generation from, and operates a high-voltage transmission system as a part of, the Central Valley Project (CVP).

///

1 2.2 WAPA and the U.S. Department of the Interior, Bureau of Reclamation
2 (Reclamation), have agreed to work together to efficiently serve Project Use and
3 Preference Customer loads.

4

5 2.3 On August 15, 2017, WAPA's final 2025 Power Marketing Plan (Marketing
6 Plan) was published in the Federal Register (82 FR 38675). The Marketing Plan
7 sets forth how WAPA's Sierra Nevada Region will market the power generated
8 from the CVP and Washoe Project.

9

10 2.4 The Marketing Plan provides that starting on January 1, 2025, WAPA will
11 provide 98 percent of available CVP power to its existing Customers. Existing
12 Customers will have the right to extend 98 percent of their current Base
13 Resource percentage as provided in the Marketing Plan and under the terms and
14 conditions of this Contract.

15

16 2.5 CCSF desires to purchase and WAPA is willing to provide a percentage of
17 the Base Resource consistent with the Marketing Plan and the terms and
18 conditions of this Contract.

19

20 2.6 Under the Marketing Plan, WAPA requires that its Customers schedule
21 power in accordance with applicable operating requirements, including those of
22 the balancing authority area operator and WAPA's sub-balancing authority area
23 requirements.

24

25 2.7 WAPA markets power to Federal Preference Customers at the lowest
26 possible rates consistent with sound business principles pursuant to Section 1.1
27 of Delegation Order 00-037.00B.

28 ///

1 3. **AGREEMENT:**

2 The Parties agree to the terms and conditions set forth herein.

3

4 4. **EFFECTIVE DATE AND TERM OF CONTRACT:**

5 4.1 This Contract shall become effective on the date of execution and shall
6 remain in effect until midnight of December 31, 2054, subject to prior termination
7 as otherwise provided for herein.

8

9 4.2 CCSF may reduce its Base Resource percentage or terminate this
10 Contract for any reason through June 30, 2024.

11

12 4.3 The date of initial service under this Contract is January 1, 2025.

13

14 5. **DEFINITION OF TERMS:**

15 As used herein, the following terms whether singular or plural, or used with or without
16 initial capitalization, shall have the following meanings:

17 5.1 "Ancillary Services" means those services that are necessary to support
18 the transmission of capacity and energy from resources to loads while
19 maintaining reliable operation of the transmission system in accordance with
20 Good Utility Practice.

21

22 5.2 "BANC" means the Balancing Authority of Northern California or its
23 successor.

24

25 5.3 "Base Resource" means CVP and Washoe Project power (capacity and
26 energy) output determined by WAPA to be available for Customers, including the
27 Environmental Attributes, only after meeting the requirements of Project Use and

28 ///

1 First Preference Customers, and any adjustments for maintenance, reserves,
2 system losses, and certain ancillary services.

3
4 5.4 “Base Resource Operating Capability” means that portion of the Maximum
5 Operating Capability that WAPA determines to be available to Customers in any
6 hour.

7
8 5.5 “CAISO” means the California Independent System Operator or its
9 successor.

10
11 5.6 “Capacity” means the electrical capability of a generator, transformer,
12 transmission circuit or other equipment.

13
14 5.7 “Central Valley Project (CVP)” means the multipurpose Federal water
15 development project extending from the Cascade Range in northern California to
16 the plains along the Kern River, south of the City of Bakersfield.

17
18 5.8 “Custom Product” means a combination of products and services which
19 may be made available by WAPA per Customer request.

20
21 5.9 “Customer” means an entity with a contract and receiving electric service
22 from WAPA’s Sierra Nevada Region.

23
24 5.10 “Energy” means capacity measured in terms of the work it is capable of
25 doing over a period of time; electric energy is usually measured in kilowatthours
26 or megawatthours.

27 ///

28 ///

1 5.11 “Environmental Attributes” means any and all credits, benefits, emissions
2 reductions, offsets, and allowances, howsoever entitled, attributable to the Base
3 Resource, and its avoided emission of pollutants.

4
5 5.12 “FERC” means the Federal Energy Regulatory Commission or its
6 successor.

7
8 5.13 “First Preference Customer” means a Preference Customer within a
9 county of origin (Trinity, Calaveras, and Tuolumne) as specified under the Trinity
10 River Division Act (69 Stat. 719) and the New Melones Project provisions of the
11 Flood Control Act of 1962 (76 Stat. 1173, 1191-1192).

12
13 5.14 “Full Load Service Customer” means a Customer that will have its entire
14 load at its delivery point(s) met by WAPA, and its Portfolio Manager functions for
15 those delivery point(s) performed by WAPA.

16
17 5.15 “Marketing Plan” means WAPA’s final 2025 Power Marketing Plan for the
18 Sierra Nevada Region.

19
20 5.16 “Maximum Operating Capability” means the maximum electrical capability
21 from CVP generation available to produce energy, capacity and/or provide
22 ancillary services in any one or more hours.

23
24 5.17 “Minimum Base Resource” means the amount of Base Resource energy
25 generated each hour as a result of CVP minimum water releases.

26
27 5.18 “NERC” means the North American Electric Reliability Corporation or its
28 successor.

1 5.19 “Operating Reserves” means the combination of spinning and non-
2 spinning reserves required to meet WECC, NERC, and operating requirements,
3 including those of the balancing authority area or WAPA’s sub-balancing
4 authority area.

5
6 5.20 “Portfolio Manager” means an entity responsible for determining balanced
7 hourly load and resource schedules for a Customer.

8
9 5.21 “Power” means capacity and energy.

10
11 5.22 “Preference” means the requirements of Reclamation Law that provide for
12 preference in the sale of Federal power be given to certain entities, such as
13 governments (state, Federal and Native American), municipalities and other
14 public corporations or agencies, and cooperatives and other nonprofit
15 organizations financed in whole or in part by loans made pursuant to the Rural
16 Electrification Act of 1936 (See, e.g., Reclamation Project Act of 1939, Section
17 9(c), 43 USC 485h(c)).

18
19 5.23 “Primary Marketing Area” means the area generally encompassing
20 northern and central California, extending from the Cascade Range to the
21 Tehachapi Mountains and west-central Nevada.

22
23 5.24 “Project Use” means power as defined by Reclamation Law and/or used to
24 operate CVP and Washoe Project facilities.

25
26 5.25 “Rate” means the monetary charge or the formula for computing such a
27 charge for any electric service provided by WAPA, including but not limited to
28 charges for capacity (or demand), energy, or transmission service; however, it

1 does not include leasing fees, service facility charges, or other types of facility
2 use charges. A Rate will be set forth in a Rate Schedule or in a contract.

3
4 5.26 "Rate Adjustment" means a change in an existing Rate or Rates, or the
5 establishment of a Rate or Rates for a new service. It does not include a change
6 in Rate Schedule provisions or in contract terms, other than changes in the price
7 per unit of service, nor does it include changes in the monetary charge pursuant
8 to a formula stated in a Rate Schedule or a contract.

9
10 5.27 "Rate Adjustment Procedures" means those procedures for Rate
11 Adjustments developed by WAPA, Department of Energy (DOE) or FERC which
12 include DOE Order 00-037.00B, DOE Order RA 6120-2, 10 CFR 903, and
13 18 CFR 300, as may be amended.

14
15 5.28 "Rate Effective Date" means the first date of the billing period to which a
16 Rate Schedule or Rate Schedule extension applies. WAPA will provide notice to
17 the Customers of the Rate Effective Date.

18
19 5.29 "Rate Schedule" means a document identified such as a "Rate Schedule,"
20 "Schedule of Rates," or "Schedule Rate" which designates the Rate or Rates
21 applicable to a class of service specified therein and may contain other terms
22 and conditions relating to the service. On the effective date of this Contract,
23 18 CFR 300.1(b)(6) provides FERC may not approve a WAPA Rate Schedule for
24 a period that exceeds five (5) years. The Rate Schedule shall include the Rate
25 Effective Date and the effective period of the Rate Schedule.

26 ///

27 ///

28 ///

1 5.30 “Regional Transmission Organization (RTO)” means an organization that
2 meets the minimum characteristics and performs the minimum functions
3 specified in FERC Order 2000, as that order may be amended or superseded.
4

5 5.31 “Regulation” means the service provided by generating units equipped
6 and operating with automatic generation control which will enable such units to
7 respond to direct control signals in an upward or downward direction to match, on
8 a real time basis, demand and resources, consistent with WECC, NERC, and the
9 balancing authority area operator’s criteria.
10

11 5.32 “Scheduling Coordinator” means an entity that is responsible for providing
12 hourly load and resource schedules to the balancing authority area operator or
13 WAPA’s sub-balancing authority area, in accordance with a FERC-approved tariff
14 or WAPA’s procedures and practices.
15

16 5.33 “Variable Resource Customer” means a Customer that is responsible for
17 managing its own energy portfolio.
18

19 5.34 “Washoe Project” means the Federal water project located in the
20 Lahontan Basin in west-central Nevada and east-central California.
21

22 5.35 “WECC” means the Western Electricity Coordinating Council or its
23 successor.
24

25 6. **BASE RESOURCE ESTIMATES AND AVAILABILITY FORECAST:**

26 6.1 At the beginning of each water year, WAPA will post to WAPA’s external
27 website a five-year forecast of Base Resource Operating Capability estimated to
28

///

1 be available, based on high, average, and low hydrological conditions. The
2 forecast will contain the following information:

3 6.1.1 Maximum Operating Capability of the CVP for each month;

4 6.1.2 Energy required for estimated Project Use loads, First Preference
5 Customers' loads, and ancillary service requirements.

6
7 6.2 Each month, WAPA will post to WAPA's external website a monthly Base
8 Resource forecast of Base Resource Operating Capability and energy estimated
9 to be available for each month on a rolling twelve-month basis, based on high,
10 average, and low hydrological conditions. The monthly forecast will contain the
11 following information:

12 6.2.1 Maximum Operating Capability of the CVP for each month;

13 6.2.2 Energy required for estimated Project Use loads, First Preference
14 Customers' loads, and ancillary service requirements.

15
16 6.3 WAPA shall make reasonable efforts, within its control, to ensure the
17 forecasted Base Resource will be available.

18
19 7. **ELECTRIC SERVICE FURNISHED BY WAPA:**

20 7.1 CCSF will be entitled to receive a percentage of the Base Resource as set
21 forth in Exhibit A.

22
23 7.2 The estimated amount of energy available to CCSF shall be determined
24 by multiplying its Base Resource percentage by the total amount of Base
25 Resource energy available during that period.

26
27 7.3 The minimum amount of energy CCSF will be required to schedule for
28 each hour shall be determined by multiplying its Base Resource percentage by

1 the Minimum Base Resource, unless otherwise agreed to by WAPA. However, if
2 CCSF does not have sufficient load to take its percentage of the Minimum Base
3 Resource, any excess energy shall be made available to WAPA for the
4 Exchange Program as described later in this Contract under Section 10 and
5 Exhibit B.

6
7 7.4 The maximum amount of energy CCSF may schedule in any hour shall be
8 determined by multiplying its Base Resource percentage by the Base Resource
9 Operating Capability. However, CCSF may schedule energy in excess of this
10 maximum, if approved by WAPA, to accommodate purchases or exchanges from
11 the Exchange Program.

12
13 7.5 CCSF will be entitled to the benefit of available regulation and operating
14 reserves from the CVP in proportion to its Base Resource percentage. The
15 method for calculating regulation and operating reserves is set forth in Exhibit C.

16
17 7.6 WAPA's obligation to provide CCSF's Base Resource is limited to the
18 actual CVP generation available on a real-time basis. WAPA shall have no
19 obligation to replace any Base Resource that is unavailable; for instance, Base
20 Resource that is unavailable due to scheduled maintenance, system
21 emergencies, forced outages, or other constraints. Any costs incurred by either
22 Party as a result of deviations between actual and scheduled Base Resource
23 energy shall be the responsibility of CCSF. WAPA will notify CCSF as soon as
24 reasonably practicable of any situation that will impact the availability of the Base
25 Resource, and will modify schedules accordingly, on a pro-rata basis.

26 ///

27 ///

28 ///

1 7.7 Due to the variable nature of the Base Resource, WAPA may provide a
2 Custom Product upon a Customer's request. Any Custom Product will be the
3 subject of a separate contractual arrangement.
4

5 8. **DELIVERY ARRANGEMENTS:**

6 8.1 WAPA will make CCSF's Base Resource available at the generator bus or
7 such other delivery point(s) on the CVP transmission system as the Parties will
8 mutually agree, as specified in Exhibit A. WAPA reserves Network Integration
9 Transmission Service for the delivery of Base Resource on the CVP transmission
10 system under its Open Access Transmission Tariff (OATT). The rates and terms
11 of this service shall be in accordance with WAPA's then-current rate schedule
12 and OATT.
13

14 8.2 If requested by WAPA, CCSF must provide written notification to WAPA
15 by July 1, 2024, demonstrating that it has arranged for delivery of its Base
16 Resource energy to its load. Such notification shall include both transmission
17 and distribution level arrangements, as applicable. WAPA shall have no
18 obligation to make Base Resource available to CCSF if delivery arrangements
19 are not in effect. However, CCSF shall not be relieved of its obligation to pay its
20 percentage share of the Base Resource during the time in which delivery
21 arrangements are not in effect.
22

23 9. **SCHEDULING PROCEDURES, BUSINESS PRACTICES AND PROTOCOLS:**

24 9.1 All energy furnished by WAPA to CCSF will be provided on a scheduled
25 basis. CCSF agrees to abide by the scheduling procedures, business practices
26 and protocols of the applicable balancing authority area or WAPA's sub-
27 balancing authority area, as set forth on WAPA's website. The Parties recognize
28 that the scheduling procedures, business practices and protocols may require

1 modification from time-to-time to reflect updated operating procedures that may
2 become applicable to the Parties. In such event, WAPA will make such changes
3 in accordance with Section 17 of this Contract.

4
5 9.2 Designation of Scheduling Coordinator (SC): If CCSF is required to have
6 a Scheduling Coordinator; CCSF shall notify WAPA of its designated Scheduling
7 Coordinator not less than ninety (90) days prior to the date of initial service under
8 this Contract. In the event that CCSF's Scheduling Coordinator arrangement
9 changes, CCSF shall notify WAPA in writing, not less than thirty (30) days prior
10 to the change, unless a shorter notification period is agreed to by WAPA.

11
12 **9.3 If WAPA is CCSF's Portfolio Manager, as set forth in a separate**
13 **Custom Product Contract, all scheduling activities and responsibilities will**
14 **be performed by WAPA on behalf of CCSF.** At such time as WAPA is no
15 longer CCSF's Portfolio Manager, then CCSF will be responsible for performance
16 of its duties under this Section 9.

17
18 9.4 WAPA will provide Customers with the opportunity to comment on
19 WAPA's maintenance and operations plans. WAPA will facilitate Customer
20 meetings with the Bureau of Reclamation regarding cost and operation planning.

21
22 9.5 In the event that CCSF does not abide by the protocols, business
23 practices and procedures and WAPA incurs costs as a result, CCSF is
24 responsible for and shall pay such costs.

25 ///

26 ///

27 ///

28 ///

1 10. **EXCHANGE PROGRAM:**

2 10.1 WAPA will establish and manage an Exchange Program to allow all
3 Customers to fully and efficiently use their Base Resource percentage. The
4 Exchange Program is a mechanism to:

5 10.1.1 Make available to WAPA, for provision to other Customers, any
6 Base Resource energy a Customer cannot use on a pre-scheduled basis
7 due to insufficient load; and

8 10.1.2 Help mitigate the costs incurred by a Customer for the power it is
9 obligated to pay for, but may not be able to use.

10
11 10.2 Under the Exchange Program, all Base Resource energy in excess of
12 CCSF's load will be retained by WAPA and offered by WAPA for sale to other
13 Customers. CCSF may purchase energy from the Exchange Program. While
14 WAPA's retention of excess Base Resource is mandatory, purchasing from the
15 Exchange Program is voluntary.

16
17 10.3 The Exchange Program procedures are set forth in Exhibit B. WAPA may
18 change the program and procedures of the Exchange Program in accordance
19 with Section 17 of this Contract.

20
21 10.4 WAPA will also offer a seasonal Exchange Program. Under the seasonal
22 Exchange Program, CCSF may elect to make available to WAPA that portion of
23 its Base Resource percentage that it is unable to use due to insufficient load.
24 CCSF, through WAPA, will be able to exchange its unusable Base Resource
25 percentage with other Customers. Any Customer may submit a request to
26 WAPA to exchange or purchase energy through the seasonal Exchange
27 Program. Details of a seasonal exchange will be developed with the Customer
28 upon request by that Customer.

1 10.5 Exchanges of the Base Resource between CCSF and others outside of
2 the WAPA-managed Exchange Programs, or other WAPA-managed programs,
3 are prohibited.
4

5 11. **INDEPENDENT SYSTEM OPERATOR OR REGIONAL TRANSMISSION**

6 **ORGANIZATION:**

7 11.1 WAPA is a sub-balancing authority area within BANC. WAPA operates in
8 conformance with its sub-balancing authority area and BANC's balancing
9 authority area protocols, business practices and procedures. In the event of
10 changes to any protocols, business practices and procedures, WAPA may make
11 any changes necessary to this Contract to conform to the operating and
12 scheduling protocols, business practices and procedures in accordance with
13 Section 17 of this Contract.
14

15 11.2 The Parties understand that, in the future, WAPA may also change its
16 operating configuration such as by: (1) joining an independent system operator or
17 RTO or (2) participating in future markets such as energy imbalance markets; or
18 (3) making system configurations to meet future operating requirements. In such
19 an event, if WAPA is required to conform to the protocols, business practices or
20 procedures, WAPA shall make changes to this Contract to conform to the terms
21 and conditions required by such events in accordance with Section 17 of this
22 Contract.
23

24 11.3 In the event that: 1) WAPA incurs costs from the balancing authority area,
25 WAPA's sub-balancing authority area, CAISO, an RTO, or a different balancing
26 authority area for serving CCSF's load; or 2) CCSF does not abide by the
27 protocols business practices, or procedures of the balancing authority area, an
28 RTO, or other balancing authority area operator that are applicable to WAPA and

1 WAPA incurs costs as a result, CCSF agrees to pay all such costs attributable to
2 CCSF.

3
4 12. **WAPA RATES:**

5 12.1 The Base Resource will be provided on a take-or-pay basis. CCSF will be
6 obligated to pay its Base Resource percentage share in accordance with the
7 Rate Schedule attached hereto, whether or not it takes or uses its full Base
8 Resource percentage.

9
10 12.2 CCSF shall pay for the electric service furnished hereunder in accordance
11 with the Rates, charges, and conditions set forth in the CVP Schedule of Rates
12 applicable to the Base Resource, effective January 1, 2025, or any superseding
13 Rate Schedule.

14
15 12.3 Rates applicable under this Contract shall be subject to change by WAPA
16 in accordance with appropriate Rate Adjustment Procedures. If, at any time,
17 WAPA announces that it has received approval of a Rate Schedule, or extension
18 of an existing Rate Schedule applicable to this Contract, or if a Rate Adjustment
19 Procedure is amended, WAPA will promptly notify CCSF thereof.

20
21 12.4 CCSF, by providing written notice to WAPA within ninety (90) days after
22 the Rate Effective Date of a Rate Schedule or Rate Schedule extension
23 applicable to this Contract, may elect to reduce its Base Resource percentage or
24 terminate this Contract. CCSF shall designate a Base Resource percentage
25 reduction or termination effective date that will be effective on the last day of the
26 billing month not later than two (2) years after the Rate Effective Date. If the
27 termination effective date is after the Rate Effective Date, the new or extended
28 Rates shall apply for service taken by CCSF until the termination effective date.

1 Once CCSF provides notice to terminate or reduce its Base Resource
2 percentage, WAPA will begin the process to reallocate the Base Resource to
3 other Preference Customers. CCSF may not revoke its notice to terminate or
4 reduce its Base Resource unless WAPA provides written consent.

5
6 12.5 Rates shall become effective under this Contract on the Rate Effective
7 Date stated in a Rate notice.
8

9 **13. INTEGRATED RESOURCE PLAN:**

10 13.1 In accordance with the Energy Policy Act of 1992, CCSF is required to
11 meet the requirements of WAPA's Energy Planning and Management Program
12 (EPAMP). To fulfill the requirements of EPAMP, CCSF must develop and submit
13 an integrated resource plan or alternative report, as applicable. Specific EPAMP
14 requirements are set forth in the Federal Register at (64 FR 62604) and may be
15 found on WAPA's website. Failure to comply with WAPA's EPAMP requirements
16 may result in penalties as specified therein. CCSF understands that WAPA may
17 re-evaluate its EPAMP requirements and change them from time-to-time as
18 appropriate. Such changes will be subject to a public process and publication in
19 the Federal Register.
20

21 13.2 Should the EPAMP requirements be eliminated, CCSF shall have no
22 responsibilities under Section 13.1.
23

24 **14. ADJUSTMENT OF BASE RESOURCE PERCENTAGE:**

25 14.1 Prior to the date of initial service, WAPA may adjust CCSF's Base
26 Resource percentage, as set forth in Exhibit A herein, if WAPA determines that
27 CCSF's Base Resource percentage is greater than its actual usage, as specified
28 in the Marketing Plan.

1 14.2 After the date of initial service, WAPA may adjust CCSF's Base Resource
2 percentage under any of the following conditions:

3 14.2.1 CCSF sells energy associated with its Base Resource percentage
4 to another entity for resale by that entity;

5 14.2.2 CCSF uses the energy associated with its Base Resource
6 percentage to serve loads outside of the Sierra Nevada Region's Primary
7 Marketing Area;

8 14.2.3 CCSF's annual energy associated with its Base Resource
9 percentage, is ten percent or more than its actual annual energy usage.
10

11 14.3 If WAPA determines that CCSF has met any of the conditions in
12 Section 14.2 above, WAPA will take the following steps:

13 14.3.1 Notify CCSF of the nature of the concern;

14 14.3.2 Analyze CCSF's usage of the energy associated with its Base
15 Resource percentage and determine if an adjustment is necessary on a
16 case-by-case basis, with due consideration of any circumstance that may
17 have temporarily altered CCSF's energy usage;

18 14.3.3 If an adjustment is determined to be necessary, provide a 90-day
19 written notice of such adjustment; and

20 14.3.4 Reduce or rescind CCSF's Base Resource percentage
21 permanently on the effective date specified in the notice.
22

23 15. **METERING AND POWER MEASUREMENT RESPONSIBILITIES:**

24 CCSF shall be responsible for electric power metering equipment requirements and
25 power measurement data associated with the use of WAPA power under this Contract
26 as follows:

27 15.1 Unless previously installed and furnished by WAPA, CCSF shall furnish,
28 install, operate, maintain, and replace, meters and associated metering

1 equipment required for deliveries of WAPA power scheduled to each delivery
2 point on the WAPA grid, the CAISO-controlled grid, a utility distribution company
3 grid, or other electrical system, as may be applicable. Such meters shall comply
4 with the all applicable meter requirements. For instance, meters on:

5 15.1.1 WAPA's system must meet WAPA's meter requirements;

6 15.1.2 CAISO's system must meet CAISO's meter requirements; and/or

7 15.1.3 Pacific Gas and Electric Company's (PG&E) system must meet
8 PG&E's meter requirements.

9
10 15.2 CCSF shall measure power deliveries and provide certified settlement-
11 quality metering data to WAPA as requested. It is generally contemplated that
12 WAPA will require this data on a monthly basis.

13
14 15.3 If WAPA previously installed and furnished a meter to CCSF, WAPA shall
15 be allowed unrestricted, unescorted access to its revenue meter equipment.
16 CCSF shall provide a minimum of three (3) keys or the combination to CCSF's
17 existing locks. Alternatively, WAPA may provide a WAPA-owned padlock(s).
18 Access shall include all gates and/or doors required to access the metering
19 equipment.

20
21 15.4 Upon request by CCSF, to evidence receipt of the Environmental
22 Attributes, WAPA shall timely provide meter data or other mutually agreed upon
23 data to CCSF measuring the amount of CVP energy that is generated and
24 delivered to CCSF. Upon mutual agreement of Customers, WAPA and
25 Reclamation, such meters shall be modified or replaced to meet appropriate
26 standards or requirements to convey CVP Environmental Attributes to
27 Customers.

28 ///

1 16. **CHANGES IN ORGANIZATIONAL STATUS:**

2 16.1 If CCSF changes its organizational status or otherwise changes its
3 obligation to supply electric power to Preference loads, WAPA reserves the right
4 to adjust WAPA's power sales obligations under this Contract or to terminate this
5 Contract, as WAPA deems appropriate. Changes in organizational status
6 include but are not limited to:

- 7 16.1.1 Merging with another entity;
- 8 16.1.2 Acquiring or being acquired by another entity;
- 9 16.1.3 Creating a new entity from an existing one;
- 10 16.1.4 Joining or withdrawing from a member-based power supply
11 organization; or
- 12 16.1.5 Adding or losing members from its membership organization.

13
14 16.2 For the purposes of this Section 16, a member is any Preference entity
15 that is included in a membership, which has the responsibility of supplying power
16 to the end-use consumer or Customer. Memberships include but are not limited
17 to:

- 18 16.2.1 Municipality;
- 19 16.2.2 Cooperative;
- 20 16.2.3 Joint powers authority; or
- 21 16.2.4 Governmental agency.

22
23 16.3 For purposes of this Section 16, participation in a State promulgated direct
24 access program shall not be deemed to be a change in a Customer's
25 organizational status or its obligation to supply electric power to Preference
26 loads.

27 ///

28 ///

1 16.4 Prior to making an organizational change, CCSF may request an opinion
2 from WAPA as to whether CCSF's proposed organizational change will result in
3 an adjustment of CCSF's Base Resource percentage or termination under this
4 Section 16. CCSF shall provide WAPA with all relevant documents and
5 information regarding the proposed organizational change. Based on the
6 documents and information furnished, WAPA will provide CCSF with an opinion.
7

8 16.5 In addition to the above, if the change in organizational status results in a
9 proposed transfer of the Contract, or any portion thereof, Section 37 of the
10 General Power Contract Provisions (GPCP), "Transfer of Interest in Contract,"
11 generally requires the Customer to obtain prior written approval from WAPA's
12 Administrator. Organizational changes that typically propose transfer of the
13 Contract, or a portion of the Contract, and require prior written approval from
14 WAPA include but are not limited to:

15 16.5.1 Merging with another entity;

16 16.5.2 Acquiring or being acquired by another entity;

17 16.5.3 Joining an entity; and

18 16.5.4 Creating a new entity.
19

20 17. **PROTOCOLS, BUSINESS PRACTICES AND PROCEDURES:**

21 WAPA reserves the right to make changes to protocols, business practices and
22 procedures, as needed. Prior to making any changes, WAPA will provide notice to
23 CCSF and provide CCSF with an opportunity to comment on such changes. WAPA will
24 consider any comments made by CCSF before making any changes, and shall provide
25 a written response to the comments. After a final decision is made by WAPA, if CCSF
26 is not satisfied with the decision, CCSF shall have thirty (30) days from the date of
27 WAPA's final decision to appeal the change to WAPA's Administrator. WAPA will not
28 implement a change that has been appealed until a final decision by the Administrator.

1 Notwithstanding the provisions within this Section 17, CCSF shall retain its right to
2 pursue other legal remedies available to it.

3

4 18. **ENFORCEABILITY:**

5 It is not the intent of the Parties that this Contract confer any rights on third parties to
6 enforce the provisions of this Contract except as required by law or express provision in
7 this Contract. Except as provided in this Section, this Contract may be enforced, or
8 caused to be enforced, only by WAPA or CCSF, or their successors or assigns.

9

10 19. **GENERAL POWER CONTRACT PROVISIONS:**

11 The GPCP, effective September 1, 2007, attached hereto, are hereby made a part of
12 this Contract, the same as if they had been expressly set forth herein; Except
13 Section 11 shall not be applicable to this Contract. In the event of a conflict between
14 the GPCP and the provisions in the body of this Contract, the Contract shall control.
15 The usage of the term "Contractor" in the GPCP shall mean CCSF. The usage of the
16 term "firm" in Articles 17 and 18 of the GPCP shall be deemed to be replaced with the
17 words "Base Resource."

18

19 20. **EXHIBITS MADE PART OF CONTRACT:**

20 Exhibit A (Base Resource Percentage and Point(s) of Delivery), Exhibit B (Exchange
21 Program), Exhibit C (Regulation and Reserves), and Exhibit D (Rate Schedule) existing
22 under this Contract may vary during the term hereof. Each of said exhibits shall
23 become a part of this Contract during the term fixed by its provisions. Exhibits A, B, C,
24 and D are attached hereto, and each shall be in force and effect in accordance with its
25 terms until respectively superseded by a subsequent exhibit.

26 ///

27 ///

28 ///

1 21. **EXECUTION BY COUNTERPARTS:**

2 This Contract may be executed in any number of counterparts and, upon execution and
3 delivery by each Party, the executed and delivered counterparts together shall have the
4 same force and effect as an original instrument as if all Parties had signed the same
5 instrument. Any signature page of this Contract may be detached by any counterpart of
6 the Contract without impairing the legal effect of any signatures thereon, and may be
7 attached to another counterpart of this Contract identical in form hereto, by having
8 attached to it one or more signature pages.

9

10 22. **ELECTRONIC SIGNATURES:**

11 The Parties agree that this Contract may be executed by handwritten signature or
12 digitally signed using Adobe Sign or Adobe E-Signature. An electronic or digital
13 signature is the same as a handwritten signature and shall be considered valid and
14 acceptable.

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed the day
2 and year first above written.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WESTERN AREA POWER ADMINISTRATION

ARUN SETHI Digitally signed by ARUN SETHI
Date: 2021.08.16 17:32:37 -07'00'
By: _____
Name: Arun K. Sethi
Title: Vice President of Power Marketing
for Sierra Nevada Region
Address: 114 Parkshore Drive
Folsom, CA 95630-4710

CITY AND COUNTY OF SAN FRANCISCO
HETCH HETCHY WATER AND POWER

Attest:
By: DocuSigned by:
Margarita Gutierrez
3AA5640935284BE...
Name: Margarita Gutierrez
Title: Deputy City Attorney

By: DocuSigned by:
Michael Carlin
360EAE264D5E47C...
Name: Michael Carlin
Title: Acting General Manager
Address: 525 Golden Gate Ave, 13th Fl
San Francisco, CA 94102

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO.: 23-0102

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) purchases low-cost electricity and other services from the federal government, through the Western Area Power Administration (WAPA), in order to provide electric service to Treasure Island and Yerba Buena Island (TI/YBI); and

WHEREAS, The Board of Supervisors, pursuant to Resolution 0056-01, authorized the General Manager of the SFPUC to execute a Full Load Service contract (FLS Contract) with the WAPA for electric service to TI/YBI effective January 1, 2005, for a period of five years and nine months until September 30, 2010; and

WHEREAS, Amendment No. 1 to the FLS Contract extending the term from September 30, 2010 to September 30, 2015, and increasing the contract amount by \$4,240,000 was approved by the Commission by Resolution No. 07-0178, and by the Board of Supervisors by Ordinance 0276-07; and

WHEREAS, Amendment No. 2 to the FLS Contract extending the term from September 30, 2015 to September 30, 2020 and increasing the contract amount by \$9,650,000 was approved by the Commission by Resolution No. 11-0153, and by the Board of Supervisors by Ordinance 256-11; and

WHEREAS, Under the FLS Contract, WAPA provides Portfolio Management Services and Supplemental Power Purchases to ensure that load at TI/YBI would be reliably served; and

WHEREAS, Amendment No. 3 to the FLS contract extending the term by four years and three months from September 30, 2020 to December 31, 2024 and increasing the contract amount by \$12,360,000 was approved by the Commission by Resolution No. 219-21, and by the Board of Supervisors by Ordinance 219-21; and

WHEREAS, Amendment No. 4 to the FLS contract and SC contract extends the term by five years from January 1, 2025 to December 31, 2029, and increases the contract amount by \$13,130,000 for a total not-to-exceed amount of \$41,500,000, subject to Board of Supervisors approval; and

WHEREAS, The FLS contract allows the City to continue providing low cost federal power for all the anticipated electric power needs to TI/YBI; and

WHEREAS, The cost of the extended FLS contract will be recovered through the electric utility rates at TI/YBI and paid for by the SFPUC's Power Enterprise; now, therefore, be it

RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is hereby authorized to execute Amendment No. 4 to the FLS contract and the SC contract with WAPA extending the term by five years to December 31, 2029, and increasing the previously authorized contract amount by \$13,130,000 for a total not to exceed amount of \$41,500,000, subject to the approval of the Board of Supervisors pursuant to Charter Section 9.118; and be it

FURTHER RESOLVED, That the General Manager of the San Francisco Public Utilities Commission is authorized to seek approval of Amendment No. 4 to the FLS contract and SC contract by the Board of Supervisors.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of May 9, 2023.


Secretary, Public Utilities Commission

From: [Oliveros Reyes, Jennifer](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Spitz, Jeremy \(PUC\)](#); [Aguilar, Jesica \(PUC\)](#)
Subject: Contract Amendments - Western Area Power Administration - Extending Term Through December 31, 2029 and Increasing Maximum Contract Amount to \$41,500,000; Waiver of Certain Municipal Code Requirements
Date: Friday, May 12, 2023 10:18:23 AM
Attachments: [image001.png](#)
[SC Contract 04-SNR-00724 Amendment 2.pdf](#)
[SC Contract 04-SNR-00724 Amendment 3.pdf](#)
[SC Contract 04-SNR-00724.pdf](#)
[SFPUC Resolution 23-0102.pdf](#)
[WAPA Leg Digest.doc](#)
[WAPA Ord. 2023.doc](#)
[WAPA Ord. 2023.pdf](#)
[20-SNR-02377.pdf](#)
[02770 CCSF FLS Contract Final.pdf](#)
[02771 CCSF SC Contract Final.pdf](#)
[FLS Contract 04-SNR-00723 Amendment 1.pdf](#)
[FLS Contract 04-SNR-00723 Amendment 2.pdf](#)
[FLS Contract 04-SNR-00723 Amendment 3.pdf](#)
[FLS Contract 04-SNR-00723.pdf](#)
[SC Contract 04-SNR-00724 Amendment 1.pdf](#)
[WAPA Ordinance.msg](#)

Hello BOS team,

Please see attached an ordinance approving the fourth amendments to two contracts between the San Francisco Public Utilities Commission (PUC) and the United States Department of Energy Western Area Power Administration, for delivery of low-cost power and scheduling coordinator services to Treasure Island and Yerba Buena Island through December 31, 2029 and increasing the maximum amount of the agreements to \$41,500,000; approving the City indemnifying and holding harmless the United States against claims arising from the City's activities under the contract; waiving Administrative Code requirements that a City contract contain a statement of guaranteed maximum costs and a statement regarding liability of claimants for submitting false claims; and waiving certain other Administrative Code and Environment Code requirements upon findings made by the PUC General Manager.

The following is a list of accompanying documents:

1. Proposed Ordinance (Word Doc Version)
2. Proposed Ordinance (PDF Version)
3. Legislative Digest (Word Doc Version)
4. City Attorney Approval (Email Attachment)
5. Draft Fourth Amendments in PDF
6. Executed copies of the original agreements, and executed copies of amendments 1-3 in PDF
7. SFPUC Resolution No.23-0102

Staff Contact: [Jeremy Spitz, Policy & Government Affairs] [jspitz@sfgwater.org]

Best,
Jenny