



**ENGINEERING, OPERATIONS, AND  
WATER RESOURCES  
COMMITTEE MEETING  
OF THE BOARD OF DIRECTORS  
INLAND EMPIRE UTILITIES AGENCY\*  
AGENCY HEADQUARTERS, CHINO, CALIFORNIA**

**WEDNESDAY, JANUARY 8, 2020  
9:45 A.M.**

**CALL TO ORDER**

**PUBLIC COMMENT**

Members of the public may address the Board on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) of Section 54954.2 of the Government Code. Those persons wishing to address the Board on any matter, whether or not it appears on the agenda, are requested to complete and submit to the Board Secretary a "Request to Speak" form which is available on the table in the Board Room. Comments will be limited to three minutes per speaker. Thank you.

**ADDITIONS TO THE AGENDA**

In accordance with Section 54954.2 of the Government Code (Brown Act), additions to the agenda require two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted.

**1. PRESENTATION**

**A. WATER USE EFFICIENCY UPDATE (POWERPOINT) – MAUREEN ERBEZNIK, CONSULTANT/MAUREEN ERBEZNIK & ASSOCIATES**

**2. ACTION ITEMS**

**A. MINUTES**

The Committee will be asked to approve the Engineering, Operations, and Water Resources Committee meeting minutes of December 11, 2019.

**B. GENERAL MANAGER APPROVAL PROCESS FOR THE REGIONAL PLANT NO. 5 EXPANSION PROJECT**

Staff recommends that the Committee/Board authorize the General Manager or his designee the authority to approve necessary purchases and change orders specifically associated to the Regional Plant No. 5 Expansion, subject to ratification by the Board of Directors at the next regularly scheduled meeting.

**C. PURCHASE COMBINATION (JET/VACUUM) SEWER CLEANING TRUCK REPLACEMENT**

Staff recommends that the Committee/Board:

1. Authorize the purchase of one 2020 GapVax, Model No. MC1510, combination jet/vacuum sewer cleaning vehicle for a not-to-exceed amount of \$600,000; and
2. Authorize the General Manager to execute the purchase.

**D. NRW MANHOLE AND COLLECTIONS SYSTEM CONSTRUCTION CONTRACT AWARD**

Staff recommends that the Committee/Board:

1. Award a construction contract for the NRW Manhole Upgrades and Collections System Upgrades, Project No's. EN20014 and EN20015, to Ferreira Construction in the amount of \$373,584; and
2. Authorize the General Manager to execute the contract, subject to non-substantive changes.

**E. SMALL SITE CONTROLLER UPGRADE PROGRAM CONTRACT AMENDMENT**

Staff recommends that the Committee/Board:

1. Authorize a contract amendment with Conserv Construction, Inc., for the Small Site Controller Upgrade Program, for an additional amount of \$400,000 and not-to-exceed amount of \$600,000; and
2. Authorize the General Manager to execute the contract amendment subject to non-substantive changes.

**F. ELECTRIC ENERGY SERVICE PROVIDER CONTRACT AWARD**

Staff recommends that the Committee/Board:

1. Award an Energy Service Provider contract to purchase electricity from Shell Energy North America (US), L.P., for one year, with the option to extend the contract for up to two-year increments, up to seven years; and
2. Authorize the General Manager to finalize and execute the electric Energy Service Provider contract, subject to non-substantive changes.

3. **INFORMATION ITEM**

A. **PLANNING & ENVIRONMENTAL RESOURCES UPDATE (ORAL)**

**RECEIVE AND FILE INFORMATION ITEM**

B. **ENGINEERING AND CONSTRUCTION MANAGEMENT PROJECT  
UPDATES (POWERPOINT)**

4. **GENERAL MANAGER'S COMMENTS**

5. **COMMITTEE MEMBER COMMENTS**

6. **COMMITTEE MEMBER REQUESTED FUTURE AGENDA ITEMS**

7. **ADJOURN**

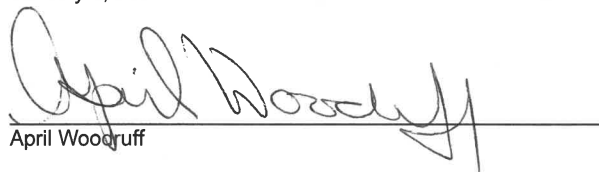
\*A Municipal Water District

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Board Secretary (909-993-1736), 48 hours prior to the scheduled meeting so that the Agency can make reasonable arrangements.

Proofed by: jh

**DECLARATION OF POSTING**

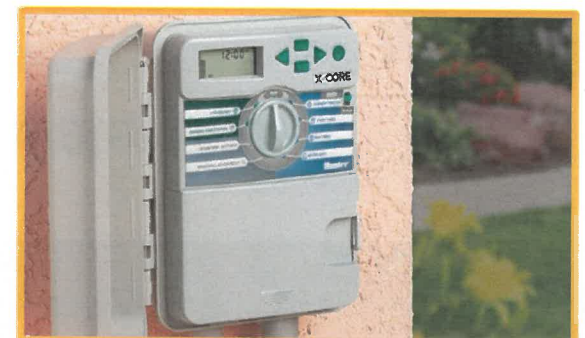
I, April Woodruff, Board Secretary of the Inland Empire Utilities Agency, A Municipal Water District, hereby certify that a copy of the agenda has been posted by 5:30 p.m. in the foyer at the Agency's main office, 6075 Kimball Ave., Building A, Chino, CA on Thursday, January 2, 2020.

  
April Woodruff

**PRESENTATION**  
**ITEM**  
**1A**

# Water Use Efficiency Update

## Board Meeting



# Focus on Outdoor Water Savings

- Landscape irrigation is up to 70% of residential water use
  - New outdoor programs
  - Pilot programs
  - Update current outdoor programs
  - Regional marketing



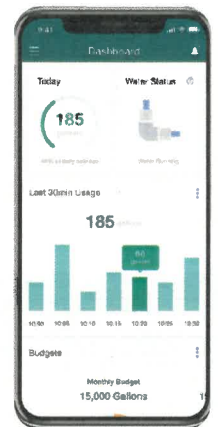
# New Water Use Efficiency Programs

- Residential Landscape Tune-Up
  - Evolved from SARCCUP Smartscape Residential Tune-Up Program (2019)
  - Issued Request for Proposal (January 2020)
  - New contract with qualified licensed landscape contractor (February 2020)
- School Program
  - Potential for school landscape Tune-Up program
  - Smart controller upgrade



# Water Use Efficiency Pilot Program

- Residential Leak Detection Pilot Program
  - Water Sensor and Mobile App
    - Real Time Water Management
    - Leak Alert Notifications
  - Test units installed
  - Launch 1<sup>st</sup> Quarter 2020
  - Discounted price for IEUA residential customers





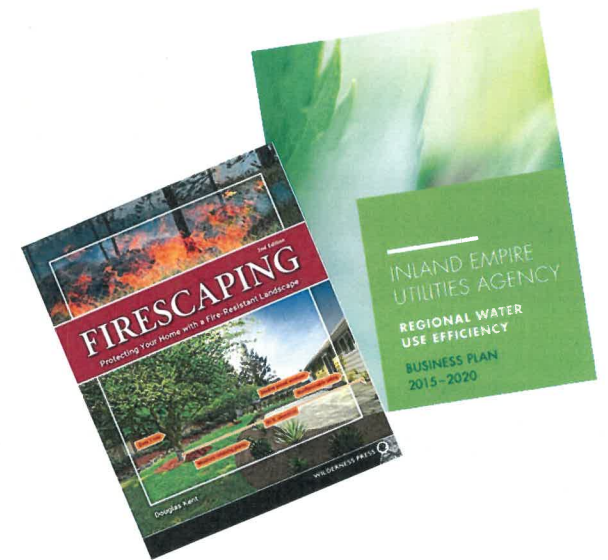
# Existing Water Use Efficiency Programs

- Turf Replacement Program
  - No Change to Rebate: \$3 per sq. ft.
    - MWD = \$2 per sq. ft.
    - IEUA = \$1 per sq. ft.
  - Max yard size
    - Residential = 5,000 sq. ft.
    - Commercial = 50,000 sq. ft.
- Controller Upgrade Program
  - Small size lot contract amendment
  - Large size lot extended to October 2020



# Updated Water Use Efficiency Programs

- Landscape Evaluation & Audit Program (LEAP) & Landscape Workshops
  - Landscaping techniques and native plants to protect properties from wildfires
  - Smart irrigation systems
- Water Use Efficiency Business Plan (2020)



# Regional Marketing

- Improve communications and outreach
  - Target customers with highest water savings opportunities
  - Consistent messaging for Member Agencies
  - Programs rebranding
  - Update marketing material



**ACTION  
ITEM  
2A**

Draft



**MINUTES  
ENGINEERING, OPERATIONS, AND WATER RESOURCES  
COMMITTEE MEETING  
INLAND EMPIRE UTILITIES AGENCY\*  
AGENCY HEADQUARTERS, CHINO, CA**

**WEDNESDAY, DECEMBER 11, 2019  
9:45 A.M.**

**COMMITTEE MEMBERS PRESENT**

Michael Camacho, Chair  
Kati Parker

**COMMITTEE MEMBERS ABSENT**

None

**STAFF PRESENT**

Shivaji Deshmukh, General Manager  
Kathy Besser, Executive Manager of External Affairs & Policy Development/AGM  
Christiana Daisy, Executive Manager of Engineering/AGM  
Randy Lee, Executive Manager of Operations/AGM  
Christina Valencia, Executive Manager of Finance & Administration/AGM  
Jerry Burke, Acting Manager of Engineering  
Pietro Cambiaso, Deputy Manager of Planning & Environmental Resources  
Jason Marseilles, Senior Engineer  
Ken Monfore, Deputy Manager of Maintenance  
Daniel Solorzano, Technology Specialist I  
Wilson To, Technology Specialist II  
Teresa Velarde, Manager of Internal Audit  
April Woodruff, Board Secretary/Office Manager

**OTHERS PRESENT**

None

The meeting was called to order at 9:28 a.m. There were no public comments received or additions to the agenda.

**ACTION ITEMS**

The Committee:

- ◆ Approved the Engineering, Operations, and Water Resources Committee meeting minutes of November 13, 2019.
- ◆ Recommended that the Board:
  1. Award an aggregate consultant contract for Project Management, Inspection, and Administrative Services to Butier Engineering, Carollo Engineers, GK & Associates, Michael Baker International, MWH Contractors, Project Partners,

Wallace & Associates, and Wood Environmental for a total aggregate not-to-exceed amount of \$10,000,000 over a five-year period with two, one-year options to extend; and

2. Authorize the General Manager to execute the single aggregate consultant contract, subject to non-substantive changes;

as a Consent Calendar Item on the December 18, 2019 Board meeting agenda.

◆ Recommended that the Board:

1. Find the RP-5 Expansion falls within the scope of the Facilities Master Plan programs included in the 2017 Programmatic Environmental Impact Report (PEIR); and
2. Find the PEIR adequately describes the activity for the purposes of California Environmental Quality Act (CEQA);

as a Consent Calendar Item on the December 18, 2019 Board meeting agenda.

◆ Recommended that the Board:

1. Adopt a finding pursuant to Public Contract Code 3400(c) that the use of Rockwell Allen Bradley motor control centers, electric drives, and control system hardware: 1) match existing components in use at IEUA facilities; 2) the components are only available from Rockwell;
2. Authorize their procurement as a sole source for future O&M and capital projects for a duration of five years; and
3. Authorize the General Manager to execute the standardization contract with Rockwell and Royal Industrial Solutions, subject to non-substantive changes;

as a Consent Calendar Item on the December 18, 2019 Board meeting agenda.

◆ Recommended that the Board:

1. Adopt the proposed 2019 Climate Change Action Plan;

as a Consent Calendar Item on the December 18, 2019 Board meeting agenda.

◆ Recommended that the Board:

1. Approve the janitorial services contract amendment with Priority Building Services, LLC, in the amount of \$200,000; and
2. Authorize the General Manager to execute the contract amendment;

as a Consent Calendar Item on the December 18, 2019 Board meeting agenda.

**INFORMATION ITEMS**

The following information items were presented or received and filed by the Committee:

- ◆ Operations Division Semi-Annual Update
- ◆ Planning & Environmental Resources Update
- ◆ Engineering and Construction Management Project Updates

**GENERAL MANAGER'S COMMENTS**

General Manager Shivaji Deshmukh stated that the sixth Rate Study workshop will take place on Monday, December 16 at 2pm. The workshop topic is to review and discuss the recycled water and recharge rates. General Manager Deshmukh stated that the Agency was on the Water Industry Trends - New Water Storage Contributions to a More Resilient Water System panel at the ACWA Conference and Director Elie served on the panel speaking about the Chino Basin Program (CBP).

**COMMITTEE MEMBER COMMENTS**

There were no Committee member comments.

**COMMITTEE MEMBER REQUESTED FUTURE AGENDA ITEMS**

There were no Committee member requests for future agenda items.

With no further business, Director Camacho adjourned the meeting at 10:09 a.m.

Respectfully submitted,

April Woodruff  
Board Secretary/Office Manager

\*A Municipal Water District

**APPROVED: JANUARY 8, 2020**

**ACTION  
ITEM  
2B**





**Date:** January 15, 2020

**To:** The Honorable Board of Directors

**From:** Shivaji Deshmukh, General Manager SSD

**Committee:** Engineering, Operations & Water Resources

01/08/20

Finance & Administration

01/08/20

**Executive Contact:** Christina Valencia, Executive Manager of Finance & Administration/AGM

**Subject:** General Manager Approval Process for the Regional Plant No. 5 Expansion Project

**Executive Summary:**

Pursuant to the Agency's Procurement Ordinance No. 108, the General Manager has authority to approve purchases and public works change orders for up to \$100,000. In addition, the General Manager has the authority to waive the formal solicitation process when there are compelling reasons (public safety, prevent loss of life, imminent danger, emergency procurement or other valid reason), provided the information is documented to the Board of Directors at the next regularly-scheduled meeting.

To mitigate potential schedule delays, maintain compliance with regulatory and contractual obligations, including potential financial penalties and in support of the Regional Plant No. 5 (RP-5) Expansion Project's success, staff is recommending the Board of Directors authorize the General Manager, or his designee, the authority to approve necessary purchases and change orders specifically associated to the RP-5 Expansion project. All procurements and change orders executed under this requested authorization will be brought back to the Board for ratification at the next regularly-scheduled meeting, consistent with the existing requirement.

In support of keeping the Board informed on the project's progress, staff will provide monthly updates through the Engineering, Operations, and Water Resources Committee meeting.

**Staff's Recommendation:**

Authorize the General Manager or his designee the authority to approve necessary purchases and change orders specifically associated to the Regional Plant No. 5 Expansion, subject to ratification by the Board of Directors at the next regularly scheduled meeting.

**Budget Impact** *Budgeted* (Y/N): N *Amendment* (Y/N): Y *Amount for Requested Approval:*

*Account/Project Name:*

*Fiscal Impact (explain if not budgeted):*

N/A

Full account coding (internal AP purposes only):

- - -  
- - -

Project No.:

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**Prior Board Action:**

N/A

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**Environmental Determination:**

Not Applicable

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**Business Goal:**

The extension of the authorization to the General Manager for purchases and change orders specifically associated to the RP-5 Expansion Project aligns with several Agency Business Goals, including Fiscal Responsibility, and Business Practices.

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**Attachments:**

**ACTION  
ITEM  
2C**



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**Date:** January 15, 2020

**To:** The Honorable Board of Directors

**From:** Shivaji Deshmukh, General Manager

**Committee:** Engineering, Operations & Water Resources

01/08/20

**Executive Contact:** Randy Lee, Executive Manager of Operations/AGM

**Subject:** Purchase Combination (Jet/Vacuum) Sewer Cleaning Truck Replacement

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**Executive Summary:**

In order to enhance the Agency's sewer cleaning vehicle fleet, Collection's staff requested a replacement combination jet/vacuum sewer cleaning vehicle (combination truck) during the Fiscal Year 2019/20 Budget preparation process.

The Agency currently owns two GapVax combination trucks; one purchased in 2006, and the other purchased in 2012. That equipment has been used extensively to maintain the Agency's collections systems and treatment plant facilities. Currently, the 2006 GapVax is showing signs of age resulting in costly repairs and considerable down-time. With the increased demand placed upon staff to routinely clean and maintain the sewer collection systems to comply with the Agency's Sanitary Sewer Management Plan (SSMP), it is imperative that staff utilize safe and reliable equipment. These vehicles are also required for emergencies in the field as well as at treatment plants and pump stations where dependability is paramount. In order to continue to provide this high level of service, staff recommends that the 14 year old GapVax be replaced. As a point of reference, the life expectancy of combination trucks used under these conditions is approximately 10 years.

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**Staff's Recommendation:**

1. Authorize the purchase of one 2020 GapVax, Model No. MC1510, combination jet/vacuum sewer cleaning vehicle for a not-to-exceed amount of \$600,000; and
2. Authorize the General Manager to execute the purchase.

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**Budget Impact** *Budgeted (Y/N): Y Amendment (Y/N): N Amount for Requested Approval: \$ 600,000*

*Account/Project Name:*

Project EP20005 GapVax Replacement

*Fiscal Impact (explain if not budgeted):*

**Prior Board Action:**

December 19, 2012: GapVax Model No. MC1510 purchase  
October 5, 2005: GapVax Model No. VHD64F200 purchase

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**Environmental Determination:**

Not Applicable

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**Business Goal:**

The purchase of the replacement combination jet/vac truck aligns with the Agency's environmental stewardship goal to enhance and promote environmental sustainability. The purchase of the replacement combination jet/vac truck also aligns with the Agency's goal of providing a reliable and cost-effective water supply.

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**Attachments:**

Attachment 1 - Purchase of Replacement Combination (Jet/Vacuum) Sewer Cleaning Truck PowerPoint Presentation

# Purchase of Combination (Jet/Vacuum) Sewer Cleaning Truck Replacement



# Agency Combination Jet/Vac Cleaning Trucks



2006 GapVax Combination Jet/Vac

- 3,000 psi
- 27" vacuum
- 14 years old



2012 GapVax Combination Jet/Vac

- 3,000 psi
- 27" vacuum
- 8 years old

# Limitations for 2006 Combination Truck

- California Air Resources Board (CARB)
- Passed 10-year Lifecycle
- High Maintenance Cost
  - Increased maintenance repairs to keep safe and operational





# Sourcewell

- Competitively bid through Sourcewell
  - National cooperative contract purchasing program
  - Formerly the National Joint Powers Alliance
  - Best overall supplier government pricing
- Recent purchases through Sourcewell
  - Terex Crane
  - Fleet Vehicle Purchases



# Summary

- Request purchase of replacement for the 2006 Combination Jet/Vac Truck with:
  - 2020 GapVax Combination Jet/Vac sewer cleaning truck
  - Able to reach and clean Agency's sewer pipelines, manholes, and deepest wetwells
  - Certified engine that meets CARB air quality regulations



## Recommendation

- Authorize the purchase of one 2020 GapVax, Model No. MC1510, combination jet/vacuum sewer cleaning vehicle for a not-to-exceed amount of \$600,000; and
- Authorize the General Manager to execute the purchase.

*The purchase of the replacement combination jet/vac truck aligns with the Agency's environmental stewardship goal to enhance and promote environmental sustainability.*

*The purchase of the replacement combination jet/vac truck also aligns with the Agency's goal of providing a reliable and cost-effective water supply.*

**ACTION  
ITEM  
2D**



**Date:** January 15, 2020

**To:** The Honorable Board of Directors

**From:** Shivaji Deshmukh, General Manager SM

**Committee:** Engineering, Operations & Water Resources

01/08/20

**Executive Contact:** Christiana Daisy, Executive Manager of Engineering/AGM

**Subject:** NRW Manhole and Collections System Construction Contract Award

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**Executive Summary:**

IEUA is responsible for operating and maintaining the mainline sewer collection and Non-Reclaimable Waste (NRW) systems throughout the cities of Fontana, Upland, Montclair, Rancho Cucamonga, Ontario, Chino, and Chino Hills as well as the unincorporated areas of San Bernardino County. IEUA's collection crews are routinely tasked with maintaining the existing systems, and in doing so, they are required to access numerous manholes that have been in service for many years. Many of the existing manholes are showing signs of deterioration and sulfide damage. To address the deterioration, IEUA implemented a manhole upgrade program that has spanned several fiscal years and it is anticipated to continue until all IEUA manholes have been inspected and upgraded, if required.

The intent of the project is to install 48 pre-purchased manhole frames and covers at various locations within the cities of Ontario, Rancho Cucamonga, Fontana, and Chino. All project design was completed in-house.

On November 26, 2019, IEUA received five construction bids from the "two-million and under" pre-qualified contractor list. Ferreira Construction Co. was deemed the lowest responsive bidder with a bid price of \$373,584, which was under the engineer's estimate of \$450,000.

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**Staff's Recommendation:**

1. Award a construction contract for the NRW Manhole Upgrades and Collections System Upgrades, Project No's. EN20014 and EN20015, to Ferreira Construction in the amount of \$373,584; and
2. Authorize the General Manager to execute the contract, subject to non-substantive changes.

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**Budget Impact** *Budgeted (Y/N): Y Amendment (Y/N): N Amount for Requested Approval:*

*Account/Project Name:*

EN20014/NRW Manhole Upgrades  
EN20015/Collections System Upgrades

*Fiscal Impact (explain if not budgeted):*

None.

**Prior Board Action:**

None.

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**Environmental Determination:**

Categorical Exemption

CEQA identifies certain categories of projects as exempt from more detailed environmental review because these categories have been deemed to have no potential for significant impact on the environment. This project qualifies for a Categorical Exemption Class 1 as defined in Section 15301(b) of the State CEQA Guidelines.

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**Business Goal:**

The NRW Manhole and Collections System Upgrades Projects are consistent with IEUA's Business Goal of Wastewater Management, specifically the Asset Management and Water Quality objectives, that IEUA will ensure that systems are well maintained, upgraded to meet evolving requirements, sustainably managed, and accommodate changes in regional water use to protect public health, the environment, and meet anticipated regulatory requirements.

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**Attachments:**

Attachment 1 - PowerPoint

Attachment 2 - Contract

# **Attachment 1**

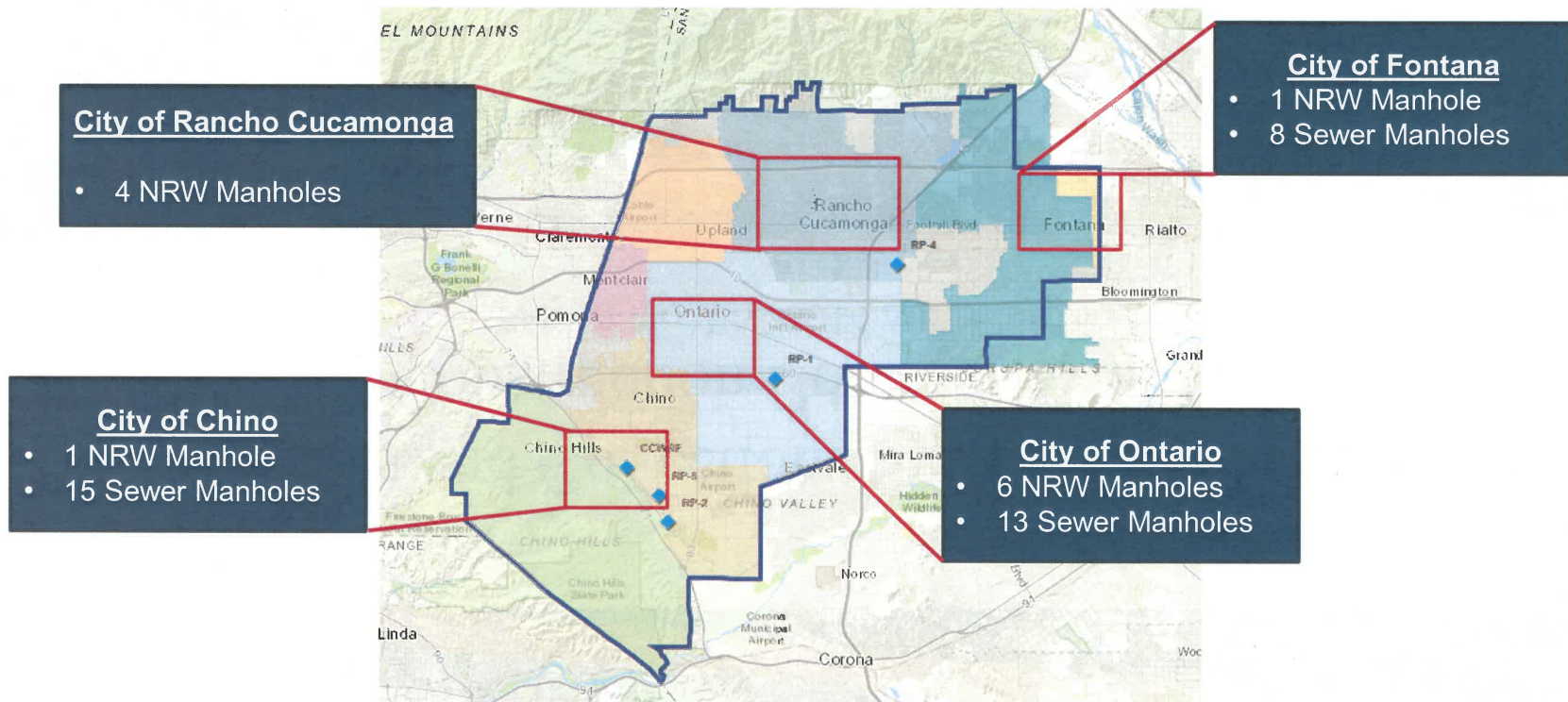
# NRW Manholes and Collections System Upgrades FY 19/20 Construction Contract Award

Project No. EN20014 & EN20015





# Project Locations



# Project Background/Scope

## EN20014: NRW Manhole Upgrades

- 12 manholes require frame and cover replacement

## EN20015: Collections System Upgrades

- 36 manholes require frame and cover replacement
- Four manholes will be lined

## Additive Work:

- Two manholes will have partial flumes removed



# Contractor Selection

On November 26, 2019, five bids were received:

Bidder's Name	Base Bid	Additive Work	Total
Ferreira Construction Co.	\$342,637	\$30,947	\$373,584
Trautwein Construction Inc.	\$422,034	\$10,000	\$432,034
W.A. Rasic Construction	\$427,000	\$54,400	\$482,225
Genesis Construction	\$477,825	\$112,000	\$589,825
Humphrey Constructors	\$584,000	\$30,000	\$614,000
<b>Engineer's Estimate</b>	<b>\$390,000</b>	<b>\$60,000</b>	<b>\$ 450,000</b>

# Project Budget and Schedule

Description	Estimated Cost
<b>Design Services</b>	<b>\$103,516</b>
Pre-purchased Frames & Covers	\$64,156
IEUA Design Services (Actuals)	\$39,360
<b>Construction Services</b>	<b>\$74,663</b>
IEUA Construction Services (20%)	\$74,663
<b>Construction</b>	<b>\$448,301</b>
Construction (This Action)	\$373,584
Contingency (20%)	\$74,717
<b>Total Project Cost:</b>	<b>\$626,480</b>
<b>Total Project Budget (EN20014 &amp; EN20015):</b>	<b>\$700,000</b>

Project Milestone	Date
<b>Construction</b>	
Construction Contract Award	January 2020
Construction Completion	June 2020

# Recommendation

- Award a construction contract for the NRW Manhole & Collections System Upgrades, Project No. EN20014 & EN20015, to Ferreira Construction Co., in the amount of \$373,584; and
- Authorize the General Manager to execute the contract, subject to non-substantive changes.

The NRW and Collection System Upgrades Projects are consistent with the *IEUA's Business Goal of Wastewater Management*, specifically the Asset Management and Water Quality objectives. IEUA will ensure that systems are well maintained, upgraded to meet evolving requirements, sustainably managed, and accommodate changes in regional water use to protect public health, the environment, and meet anticipated regulatory requirements.

# **Attachment 2**

## SECTION D - CONTRACT AND RELEVANT DOCUMENTS

### 1.0 CONTRACT

THIS CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Ferreira Construction Co., Inc. dba Ferreira Coastal Construction Co., hereinafter referred to as "Contractor," and Inland Empire Utilities Agency, a Municipal Water District, located in San Bernardino County, California, hereinafter referred to as "IEUA".

#### **WITNESSETH:**

That for and in consideration of the promises and agreements hereinafter made and exchanged, IEUA and the Contractor agree as follows:

1. Contractor agrees to perform and complete in a workmanlike manner, all work required under the bidding schedule of said IEUA's specifications entitled **NRW Manhole Upgrades FY 19/20 & Collection System Upgrades FY 19/20, Project Nos. EN20014/EN20015**, in accordance with the specifications and drawings, and to furnish at their own expense, all labor, materials, equipment, tools, and services necessary, except such materials, equipment, and services as may be stipulated in said specifications to be furnished by said IEUA, and to do everything required by this Contract and the said specifications and drawings.
2. For furnishing all said labor, materials, equipment, tools, and services, furnishing and removing all plant, temporary structures, tools and equipment, and doing everything required by this Contract and said specifications and drawings; also for all loss and damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties which may arise during the prosecution of the work until its acceptance by IEUA, and for all risks of every description connected with the work; also for all expenses resulting from the suspension or discontinuance of work, except as in the said specifications are expressly stipulated to be borne by IEUA; and for completing the work in accordance with the requirements of said specifications and drawings, IEUA will pay and said Contractor shall receive, in full compensation therefore, the price(s) set forth in this Contract.
3. That IEUA will pay the Contractor progress payments and the final payment, in accordance with the provisions of the contract documents, with warrants drawn on the appropriate fund or funds as required, at the prices bid in the Bidding and Contract Requirements, Section C - Bid Forms and accepted by IEUA, and set forth in this below.

Total Bid Price \$Three Hundred Seventy-Three Thousand, Five Hundred Eighty-Four Dollars and Zero Cents.

If this is not a lump sum bid and the contract price is dependent upon the quantities constructed, IEUA will pay and said Contractor shall receive, in full compensation for the work the prices named in the Bidding and Contract Requirements, Section C - Bid Forms.

4. IEUA hereby employs the Contractor to perform the work according to the terms of this Contract for the above-mentioned price(s), and agrees to pay the same at the time, in the manner, and upon the conditions stipulated in the said specifications; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.
5. The Notice Inviting Bids, Instructions to Bidders, Bid Forms, Information Required of Bidder, Performance Bond, Payment Bond, Contractors License Declaration, Specifications, Drawings, all General Conditions and all Special Conditions, and all addenda issued by IEUA with respect to the foregoing prior to the opening of bids, are hereby incorporated in and made part of this Contract, as if fully set forth.
6. The Contractor agrees to commence work under this Contract on or before the date to be specified in a written "Notice To Proceed" and to complete said work to the satisfaction of IEUA one hundred twenty (120) calendar days after award of the Contract. All work shall be completed before final payment is made.
7. Time is of the essence on this Contract.
8. Contractor agrees that in case the work is not completed before or upon the expiration of the contract time, damage will be sustained by IEUA, and that it is and will be impracticable to determine the actual damage which IEUA will sustain in the event and by reason of such delay, and it is therefore agreed that the Contractor shall pay to IEUA the amount of five hundred (\$500) dollars for each day of delay, which shall be the period between the expiration of the contract time and the date of final acceptance by IEUA, as liquidated damages and not as a penalty. It is further agreed that the amount stipulated for liquidated damages per day of delay is a reasonable estimate of the damages that would be sustained by IEUA, and the Contractor agrees to pay such liquidated damages as herein provided. In case the liquidated damages are not paid, the Contractor agrees that IEUA may deduct the amount thereof from any money due or that may become due to the Contractor by progress



payments or otherwise under the Contract, or if said amount is not sufficient, recover the total amount.

In addition to the liquidated damages, which may be imposed if the Contractor fails to complete the work within the time agreed upon, IEUA may also deduct from any sums due or to become due the Contractor, liquidated damages in accordance with the Bidding and Contract Requirements, Section B - Instruction to Bidders, Part 5.0 "Liquidated Damages", for any violation of the General Conditions, Section D - Contractor's Responsibilities, Part 8, "Law and Regulations"; Bidding and Contract Requirements Contract Section D - Contract and Relevant Documents, Part 1.0, Paragraphs 9 through 11; General Conditions, Section D - Contractor's Responsibilities, Part 4.0, "Labor, Materials and Equipment"; General Conditions Section D - Contractor's Responsibilities, Part 12.0, "Safety and Protection" or General Conditions Section H - Legal Responsibilities, Part 8.0, "Disturbance of the Peace".

9. That the Contractor will pay, and will require subcontractors to pay, employees on the work a salary or wage at least equal to the prevailing salary or wage established for such work as set forth in the wage determinations and wage standards applicable to this work, contained in or referenced in the contract documents.
10. That, in accordance with Section 1775 of the California Labor Code, Contractor shall forfeit to IEUA, as a penalty, not more than Fifty (\$50.00) Dollars for each day, or portion thereof, for each worker paid, either by the Contractor or any subcontractor, less than the prevailing rates as determined by the Director of the California Department of Industrial Relations for the work.
11. That, except as provided in Section 1815 of the California Labor Code, in the performance of the work not more than eight (8) hours shall constitute a day's work, and not more than forty (40) hours shall constitute a week's work; that the Contractor shall not require more than eight (8) hours of labor in a day nor more than forty hours of labor in a week from any person employed by the Contractor or any subcontractor; that the Contractor shall conform to Division 2, Part 7, Chapter 1, Article 3 (Section 1810, et seq.) of the California Labor Code; and that the Contractor shall forfeit to IEUA, as a penalty, the sum of Twenty-Five (\$25.00) Dollars for each worker employed in the execution of the work by Contractor or any subcontractor for each day during which any worker is required or permitted to labor more than eight (8) hours in violation of said Article 3.
12. That the Contractor shall carry Workers' Compensation Insurance and require all subcontractors to carry Workers' Compensation Insurance as required by the California Labor Code.

13. That the Contractor shall have furnished, prior to execution of the Contract, two bonds approved by IEUA, one in the amount of one hundred (100) percent of the contract price, to guarantee the faithful performance of the work, and one in the amount of one hundred (100) percent of the contract price to guarantee payment of all claims for labor and materials furnished.
14. The Contractor hereby agrees to protect, defend, indemnify and hold IEUA and its employees, agents, officers, directors, servants and volunteers free and harmless from any and all liability, claims, judgments, costs and demands, including demands arising from injuries or death of persons (including employees of IEUA and the Contractor) and damage to property, arising directly or indirectly out of the obligation herein undertaken or out of the operations conducted by the Contractor, its employees agents, representatives or subcontractors under or in connection with this Contract.

The Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands or suit at the sole expense of the Contractor.

IN WITNESS WHEREOF, The Contractor and the General Manager of Inland Empire Utilities Agency\*, thereunto duly authorized, have caused the names of said parties to be affixed hereto, each in duplicate, the day and year first above written.

Inland Empire Utilities Agency,\*  
San Bernardino County, California.

Contractor

By \_\_\_\_\_  
General Manager

By \_\_\_\_\_  
Title:

**ACTION  
ITEM  
2E**



**Date:** January 15, 2020

**To:** The Honorable Board of Directors

**From:** Shivaji Deshmukh, General Manager

**Committee:** Engineering, Operations & Water Resources

*SD*

01/08/20

**Executive Contact:** Christiana Daisy, Executive Manager of Engineering/AGM

**Subject:** Small Site Controller Upgrade Program Contract Amendment

**Executive Summary:**

The Residential Small Site Controller Upgrade Program upgrades existing landscape controllers on residential sites smaller than 10,000 square feet with weather-based irrigation controllers and requires participants to attend a training class as a pre-requisite.

A request for proposal (RFP) was posted on PlanetBids on June 24, 2019 for the Residential Small Site Controller Upgrade Program. An evaluation team comprised of Agency staff from the Planning and Environmental Resources department, along with representatives from the City of Chino Hills, Cucamonga Valley Water District, and Eastern Municipal Water District conducted a thorough review and evaluation of the three proposals received. The evaluation team agreed Conserv Construction, Inc. was the best qualified, and on August 26, 2019, the Inland Empire Utilities Agency (IEUA) entered into a contract agreement with Conserv Construction, Inc. for the Small Site Controller Upgrade Program, for a not-to-exceed amount of \$200,000.

Due to increased program activities above expectations, Conserv Construction, Inc. will soon reach the contract's not-to-exceed limit of \$200,000; therefore, staff's recommendation to amend the existing contract to continue the program implementation.

**Staff's Recommendation:**

1. Authorize a contract amendment with Conserv Construction, Inc. for the Small Site Controller Upgrade Program, for an additional amount of \$400,000 and not-to-exceed amount of \$600,000; and
2. Authorize the General Manager to execute the contract amendment subject to non-substantive changes.

**Budget Impact** *Budgeted (Y/N): Y Amendment (Y/N): Y Amount for Requested Approval: \$ 400,000*

**Account/Project Name:**

The amendment in the amount of \$400,000 will be funded by the Residential Small Site Controller Upgrades Projects under the Water Resources Fund.

**Fiscal Impact** *(explain if not budgeted):*

**Prior Board Action:**

On March 16, 2019, IEUA's Board of Directors awarded a contract to Conserv Construction, Inc. for a not-to-exceed amount of \$300,000 to implement the Residential Education, Survey, and Controller Upgrade Program.

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**Environmental Determination:**

Not Applicable

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**Business Goal:**

The Small Site Controller Upgrade Program is consistent with IEUA's Business Goal of increasing Water Reliability by promoting water use efficiency and education to enhance water supplies within the region in order to reduce dependence on imported water supplies.

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**Attachments:**

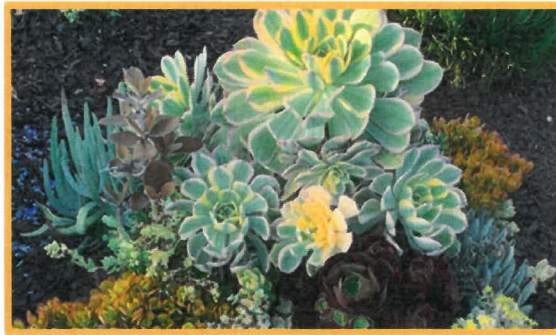
Attachment 1 - PowerPoint

Attachment 2 - Contract Amendment

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# Small Site Controller Upgrade Program Contract Amendment

## Board Meeting



# Background

- IEUA Residential Education, Survey, and Controller Upgrade Program
  - Residential program
  - Small landscape
  - Training
  - Landscape evaluation
  - Smart controller upgrades
  - Metropolitan Water District funding partnership
- IEUA Board Approval – March 2016
  - Conserv Construction, Inc. contract March 2016 – June 2019



# Contractor Selection

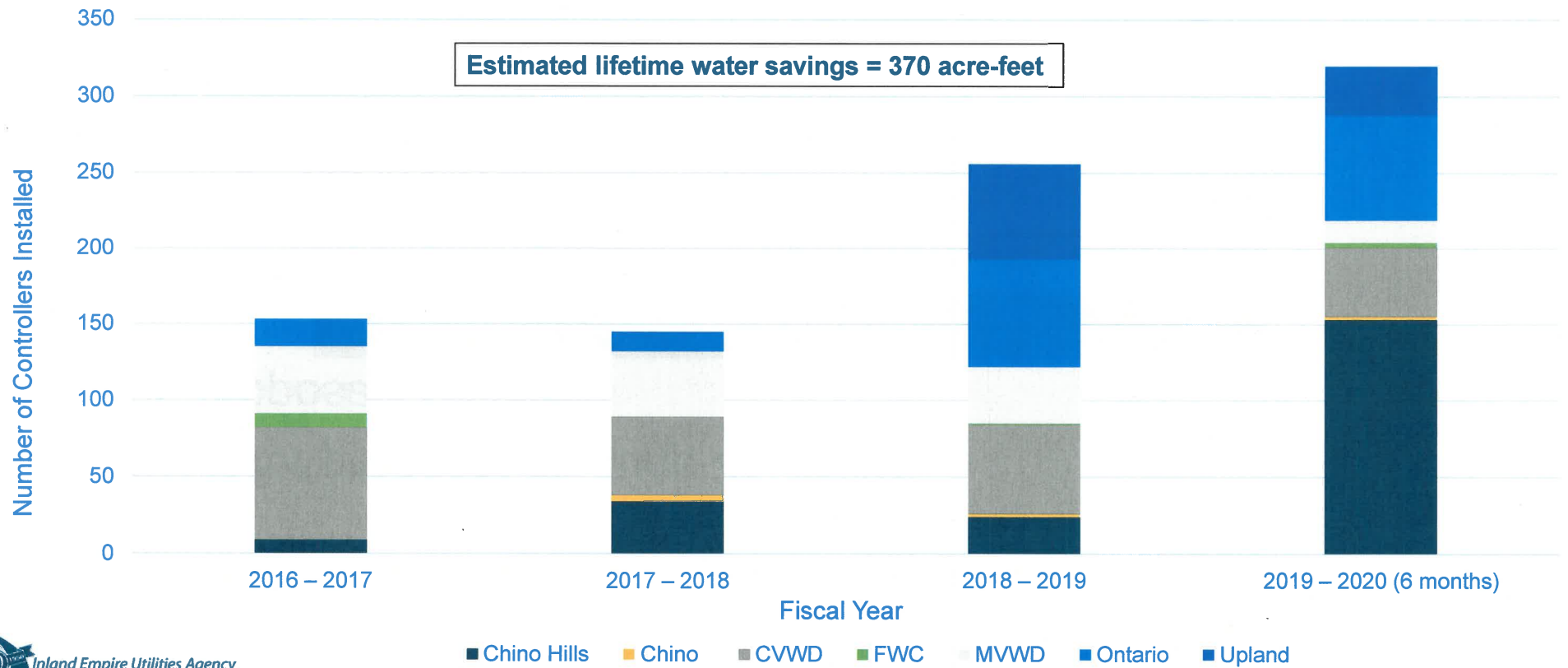
- Request for proposal on June 24, 2019
- Three proposals received

Contractors
Conserv Construction, Inc.
EcoTech Services, Inc.
WaterWise Consulting, Inc.

- New Contract with Conserv Construction, Inc. on August 21, 2019
  - Not-to-exceed \$200,000.



# Program Performance



## Recommendation

- Authorize a contract amendment with Conserv Construction, Inc. for the Small Site Controller Upgrade Program, for an additional amount of \$400,000 and not-to-exceed amount of \$600,000; and
- Authorize the General Manager to execute the contract amendment subject to non-substantive changes.

The Small Site Controller Upgrade Program is consistent with *IEUA's Business Goal* of increasing **Water Reliability** by promoting water use efficiency and education to enhance water supplies within the region in order to reduce dependence on imported water supplies.



**CONTRACT AMENDMENT NUMBER: 4600002791-002  
FOR  
SMALL CONTROLLER UPGRADE PROGRAM**

AMENDMENT NUMBER TWO is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency") and ConServ Construction, Inc., of Menifee, California (hereinafter referred to as "Consultant"), and shall revise the contract as follows:

**SECTION 5, TERM IS REVISED TO READ AS FOLLOWS:**

The term of this Contract shall extend from August 01, 2020 and terminate June 30, 2021 or upon completion of the small controller program, whichever occurs first, unless agreed upon by both parties, reduced to writing, and amended to this Contract. This Contract may be extended for one additional year.

**SECTION 6, PAYMENT, INVOICING, AND COMPENSATION IS REVISED TO READ AS FOLLOWS:**

As compensation for the satisfactory performance of the work required under amendment 4600002791-002, Agency shall pay Contractor, in accordance with the properly issued and approved invoices processed in accordance with the payment provision of Section 6 of Contract number 4600002791. This Amendment increases the value of the Contract by **\$400,000**

Execution of Contract Amendment Number 4600002791-002 increases the Contract's total **NOT-TO-EXCEED** value to **\$600,000**.

**ALL OTHER PROVISIONS OF THIS CONTRACT REMAIN UNCHANGED.**

WITNESSETH, that the parties hereto have mutually covenanted and agreed as per the above amendment item, and in doing so have caused this document to become incorporated into the Contract Documents.

**INLAND EMPIRE UTILITIES AGENCY:**  
(A Municipal Water District)

**CONSERV CONSTRUCTION, INC.:**

\_\_\_\_\_  
Shivaji Deshmukh (Date)  
General Manager

\_\_\_\_\_  
Steve Campbell (Date)  
President

**ACTION  
ITEM  
2F**



**Date:** January 15, 2020

**To:** The Honorable Board of Directors

**From:** Shivaji Deshmukh, General Manager

**Committee:** Engineering, Operations & Water Resources

01/08/20

**Executive Contact:** Christiana Daisy, Executive Manager of Engineering/AGM

**Subject:** Electric Energy Service Provider Contract Award

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**Executive Summary:**

IEUA currently participates in a program known as Direct Access (DA) that allows the purchase of electricity from an Energy Service Provider (ESP) instead of the local utility, Southern California Edison (SCE). Purchases of electricity through DA has consistently reduced overall IEUA costs by 10% and are an integral part of the IEUA Energy Management Plan. The Agency currently purchases electricity for the power needed at the Regional Water Recycling Plant No.1 (RP-1), Regional Water Recycling Plant No.2 (RP-2), and Carbon Canyon Water Recycling Facility (CCWRF) from Shell Energy North America (US), L.P. under a Master Energy Sales Agreement (MESA), which is set to expire on January 31, 2020.

Because of the current ESP contract expiration, IEUA posted a Request for Proposal (RFP) on October 8, 2019 on PlanetBids. In response, IEUA received two proposals on October 28, 2019. Staff recommends awarding the contract to Shell Energy North America (US), L.P. because of their competitive pricing, variety of products offered, long-standing history of retail experience and customer service, and strong business and financial support.

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**Staff's Recommendation:**

1. Award an Energy Service Provider contract to purchase electricity from Shell Energy North America (US), L.P. for one year, with the option to extend the contract for up to two year increments, up to 7 years; and
2. Authorize the General Manager to finalize and execute the electric Energy Service Provider contract, subject to non-substantive changes.

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**Budget Impact** *Budgeted* (Y/N): Y *Amendment* (Y/N): N *Amount for Requested Approval:*

*Account/Project Name:*

The cost associated with the proposed contract will be covered by the utilities budget for FY 2019/20 and 2020/21 under Wastewater Operations and Maintenance, and Recycled Water Programs. Staff will continue to monitor further developments in the energy market.

*Fiscal Impact (explain if not budgeted):*

Full account coding (internal AP purposes only):     -     -     -     Project No.:

**Prior Board Action:**

The Board approved the Shell Energy North America (US), L.P. agreements on April 15, 2015, March 19, 2014, April 17, 2013, February 16, 2011, and April 15, 2009.

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**Environmental Determination:**

Not Applicable

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**Business Goal:**

The electric Energy Service Provider contract meets IEUA's Energy Management Business Goal, by containing future energy costs, and providing for future rate stabilization.

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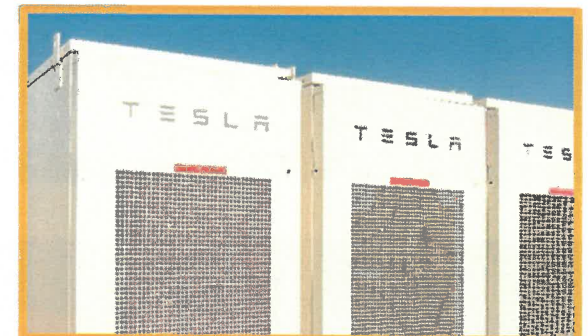
**Attachments:**

Attachment 1 - PowerPoint

Attachment 2 - Electric Energy Service Provider Contract

# Electric Energy Service Provider Contract Award

Board Meeting



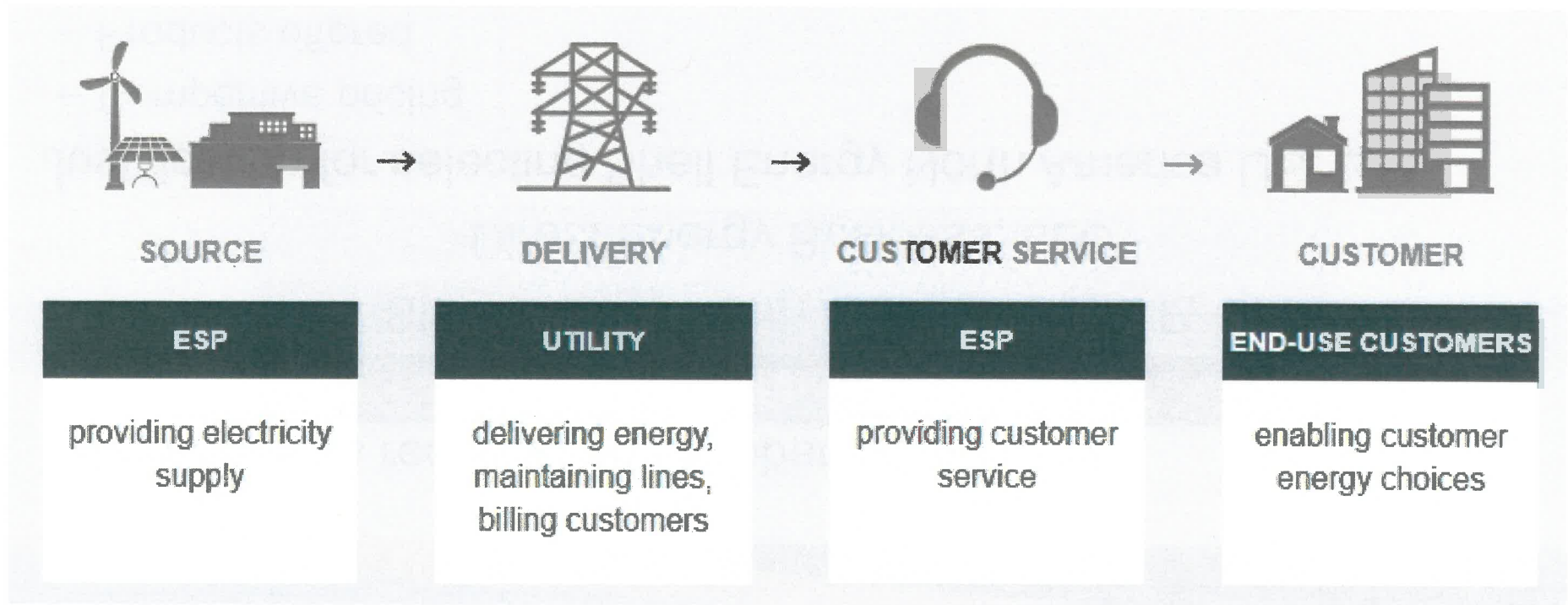
Pietro Cambiaso  
January 2020

# Electricity Procurement

Facility	Electricity Purchase Options	Rate Components	
		Transmission	Commodity
RP-1	Direct Access	Southern California Edison	Energy Service Provider
RP-2 Solids	Direct Access	Southern California Edison	Energy Service Provider
RP-4/IERCF	Bundled	Southern California Edison	Southern California Edison
RP-5	Bundled	Southern California Edison	Southern California Edison
CCWRF	Direct Access	Southern California Edison	Energy Service Provider
Pump Stations	Bundled	Southern California Edison	Southern California Edison



# Energy Service Provider (ESP)



# Energy Service Provider Selection

- Two proposals received on October 28, 2019

Energy Service Provider

Shell Energy North America US, L.P.

Direct Energy Business, LLC

- Justification for selecting Shell Energy North America US, L.P.
  - Competitive pricing
  - Products offered
  - Retail experience and customer service
  - Financial strength

## Recommendation

- Award an Energy Service Provider contract to purchase electricity from Shell Energy North America (US), L.P. for one year, with the option to extend the contract up to two year increments, up to 7 years; and
- Authorize the General Manager to finalize and execute the electric Energy Service Provider contract, subject to non-substantive changes.

The electric Energy Service Provider contract meets *Inland Empire Utilities Agency's Energy Management Business Goal*, by containing future energy costs, and providing for future rate stabilization.

**ENERGY SALES AGREEMENT**  
(California Retail Seller as ESP - with Credit Support Annex)

This Energy Sales Agreement ("**ESA**") dated \_\_\_\_\_, 201\_ ("**Effective Date**") is by and between Shell Energy North America (US), L.P., a Delaware limited partnership ("**Seller**") and Inland Empire Utilities Agency, a [STATE OF FORMATION] [TYPE OF ENTITY] ("**Buyer**"), each a "**Party**" and collectively the "**Parties**". **Annex B** contains additional definitions.

**Article 1. Transaction Terms and Conditions.**

**1.1 Governing Terms.** This ESA (including any exhibit, schedule, annex, written amendment or supplement hereto, Transaction and Confirm accepted or deemed accepted in accordance with §1.3) governs each Transaction, forms a single integrated agreement and constitutes the entire agreement between the Parties. If any terms of this ESA conflict with a Confirm the Confirm shall control. Any collateral or credit support agreement between the Parties shall be deemed part of this ESA and shall be incorporated herein by reference.

**1.2 Term.** This ESA commences on the Effective Date and unless earlier terminated under Arts. 5 or 10 remains in effect until either Party terminates on 30 days' prior written notice. Any such termination shall not release any obligation of either Party hereunder that by its terms survives any such termination. Unless terminated under Arts. 5 or 10, this ESA and any other documents executed hereunder shall remain in effect as to Transactions entered into prior to such termination's effective date until both Parties have fulfilled all obligations with respect to such Transactions.

**1.3 Transactions; Confirms.** (a) The Parties may agree to a transaction relating to the sale and purchase of Energy hereunder in a phone call (which may be recorded) in which an offer and acceptance constitute the Parties' agreement to a "**Transaction**" including at a minimum Delivery Term, Contract Price, Delivery Point, and Contract Quantity (collectively "**Economic Terms**"). Buyer acknowledges that in connection with an Energy purchase, it will also be obligated to pay Related Charges under Art. 4 in addition to the Contract Price. (b) Seller may confirm a Transaction by sending Buyer a Confirm by fax or other electronic means within 3 Business Days after the Transaction is entered into. The Confirm shall set forth the Transaction terms substantially in the form attached as **Annex C Confirm for Energy** and may be accepted or deemed accepted by both Parties. If Buyer objects to any term(s) of such Confirm, Buyer shall notify Seller in writing of such objections within 1 Business Day of Buyer's receipt thereof; but if Buyer fails to notify Seller within such period, Buyer shall be deemed to have accepted the terms as sent. Seller's failure to send a Confirm signed by Seller shall not invalidate a Transaction the Parties agreed to. A written Confirm is not necessary for Transactions with a term of less than 5 days.

**1.4 Direct Access.** Notwithstanding anything else set forth herein, §1.4 controls any conflicting provisions in this ESA, any Confirm or Transaction entered into hereunder. Buyer shall be solely responsible for obtaining and maintaining its status with the UDC as a direct access customer. Buyer's failure to obtain and/or maintain direct access status shall not excuse Buyer's performance hereunder. Buyer represents and warrants to Seller that it understands: (i) certain risks are inherent in each Transaction, including the risk that the State of California will suspend or terminate direct access or impose surcharges upon direct access participants; and (ii) the suspension or termination of direct access due to Buyer's failure to obtain or maintain its direct access customer status shall not excuse Buyer's performance or payment under any Transaction or this ESA; but Seller in its sole discretion may deem such termination, suspension or failure to obtain or maintain direct access status of Buyer an Event of Default under §5.1 and exercise its rights in connection therewith. Buyer shall provide data Seller deems necessary to submit a direct access service request to its UDC for approval to let Seller act as Buyer's ESP and will cooperate with Seller as necessary to let Seller act as Buyer's ESP with respect to its UDC, CAISO and any third parties to allow Seller to perform its obligations hereunder. Buyer shall promptly execute releases or authorizations Seller deems necessary to perform its obligations hereunder. Buyer shall obtain and maintain all equipment and services related to its facility necessary or required to enable Buyer to buy and receive Energy hereunder, including but not limited to UDC-approved interval meter(s), meter installation and maintenance services, meter data management services, and telemetry and communication channels and equipment required to remotely poll meters and serve customer demand. Buyer shall cause meter data to be provided to Seller at Buyer's expense. Seller shall not be responsible for and cannot control UDC's operations and

Seller has no liability whatsoever under this ESA or any Transactions hereunder for Buyer's failure to receive Energy from or through its UDC's distribution system. Seller does not assure continuity of service by UDC. Seller has no responsibility for quality of Energy scheduled to Buyer's facility or for damages caused by defective electric transmission or distribution facilities or negligent electric transmission, distribution, scheduling or use practices by CAISO, the UDC, any third party or Buyer. BUYER SHALL INDEMNIFY SELLER FROM AND AGAINST ANY AND ALL COSTS, LIABILITIES, CHARGES, FEES AND EXPENSES THE UDC IMPOSES ON BUYER RESULTING FROM BUYER'S PURCHASE OF PRODUCT FROM SELLER.

**1.5 Disclaimer of Warranties.** SELLER DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, AS TO ANY TRANSACTIONS AND PRODUCT DELIVERIES HEREUNDER, ANY OTHER MATTER RELATING TO THIS ESA, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNLESS SPECIFIED IN A TRANSACTION, SELLER SHALL BE UNDER NO OBLIGATION TO ACQUIRE PRODUCT FOR SALE TO BUYER FROM ANY PARTICULAR ENTITY, SOURCE, LOCATION OR GENERATING TECHNOLOGY. SELLER MAKES NO REPRESENTATION OR WARRANTY TO BUYER REGARDING ACQUISITION OF "RENEWABLE" OR "GREEN" ENERGY HEREUNDER AND TRANSACTIONS UNDER THIS ESA SHALL BE ASSUMED TO BE SUPPLIED BY "UNSPECIFIED SOURCES OF POWER" AS THAT TERM IS USED IN CALIFORNIA PUBLIC UTILITIES CODE §§398.1 ET. SEQ.

**Article 2. Obligations and Deliveries.**

**2.1 Parties' Obligations.** As Buyer's ESP Seller shall provide Buyer's full requirements hereunder for Buyer's facilities specified in the Transaction(s). For each Transaction Seller shall sell and cause to be scheduled, and Buyer shall buy and receive, the Contract Quantity of Energy at the Delivery Point, and Buyer shall pay Seller the Contract Price and all Related Charges. Seller shall be responsible for any costs or charges imposed on or associated with Energy or Energy delivery to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with Energy or its receipt at and from the Delivery Point and all Related Charges.

**2.2 Transmission/Scheduling.** The Parties shall be responsible for system losses and loss charges relating to transmission of Energy as follows: for Seller to the Delivery Point (which shall not be to Buyer's meter(s)); for Buyer at and from the Delivery Point.

**2.3 Force Majeure.** If Force Majeure prevents either Party from carrying out in whole or part its obligations under a Transaction and such Party ("**Claiming Party**") gives written notice and details of the Force Majeure to the other Party as soon as practicable, Claiming Party shall be excused from performance of its obligations with respect to such Transaction other than the obligation to make payments then due or becoming due with respect to performance before the Force Majeure. Claiming Party shall remedy the Force Majeure with all reasonable dispatch but no provision of this ESA shall require Seller to schedule or Buyer to receive, Energy at points other than the Delivery Point. The non-Claiming Party shall not be required to perform or resume performance of its obligations to Claiming Party corresponding to the obligations of Claiming Party excused by Force Majeure. Force Majeure shall not extend the term of a Transaction.

**Article 3. Remedies - Failure to Schedule/Receive.**

**3.1 Failure to Perform.** Seller's obligation to sell and schedule Energy to the Delivery Point and Buyer's obligation to buy and receive Energy at the Delivery Point shall be Firm unless otherwise agreed in a Confirm, and a Party's only nonperformance excuse shall be a Force Majeure. This Art. 3 sets out the Parties' rights as to an unexcused failure to schedule or accept the Energy in whole or in part.

**3.2 Seller Failure.** If Seller fails to schedule all or part of the Energy under a Transaction, and such failure is not excused by Buyer's failure to perform, or by Force Majeure, Seller shall pay Buyer on the date payment would otherwise be due in respect of the calendar month ("**Month**") in which the failure occurred an amount for such deficiency equal to (i) the positive difference, if any, obtained by subtracting the Contract Price from the

Replacement Price plus (ii) the amount, if any, of charges, fees or expenses that Transmitting Entity charges Buyer due to such non-delivery.

**3.3 Buyer Failure.** If Buyer fails to receive all or part of the Energy for a Transaction and such failure is not excused by Seller's failure to perform, or by Force Majeure, Buyer shall pay Seller on the date payment would otherwise be due in respect of the Month in which the failure occurred an amount for such deficiency equal to the positive difference, if any, of (i) an amount obtained by subtracting Sales Price from Contract Price, plus (ii) the amount of any charges, fees or expenses Transmitting Entity charges Seller, plus (iii) the amount of any Related Charges and any other costs or expenses incurred by Seller.

**3.4 Sole Remedy.** The remedy in this Art. 3 shall be aggrieved Party's sole and exclusive remedy for the other Party's failure to schedule or receive Energy as applicable and all other damages and remedies are waived.

#### **Article 4. Related Charges.**

**4.1 CAISO Imbalance Energy Charges.** If Buyer's Consumption is more or less than the Contract Quantity, Buyer shall be obligated to satisfy the shortfall or oversupply. Accordingly, Seller shall credit or charge Buyer the net amount of all CAISO imbalance energy charges or credits imposed on Seller for said shortfall or oversupply.

**4.2 CAISO Consumption Charges.** Seller shall also charge Buyer all Charges imposed on Seller by CAISO above the CAISO Imbalance Energy Charges described in §4.1 above. Such costs shall be allocated based on Buyer's Consumption.

**4.3 CAISO Charges.** Seller will pass through to Buyer without markup all CAISO Imbalance Energy Charges and CAISO Consumption Charges.

**4.4 Related Products, Buyer's Obligation.** The CPUC imposes requirements on Seller as result of Seller acting as an ESP hereunder to procure certain products such as RA, RPS and Storage. The CPUC or other governing body may in the future require Seller to procure additional products including those related to GHGI (collectively, "Related Products"). If during the Term of this ESA or any Transaction hereunder there are changes to the CPUC or other governing bodies requirements for Related Products, the Parties agree to negotiate to restore the original intent of any affected Transaction(s) between the Parties. Buyer acknowledges such Related Products are not required to be described on a Confirm relating to an Energy purchase, but are required to be purchased in connection with the Energy purchase.

**4.5 Related Products Charges: Allocation/Reconciliation.** To be negotiated and included, if applicable, as part of the terms of a Transaction governed by this ESA.

**4.6 Indemnity-Related Charges.** BUYER AGREES IT IS ENTIRELY LIABLE FOR AND SHALL INDEMNIFY SELLER AND ITS AFFILIATES FROM AND AGAINST ANY AND ALL SURCHARGES, FEES, COSTS, LIABILITIES, EXPENSES AND ANY CAISO CHARGES AND CHARGES RELATED TO PRODUCTS AS SET FORTH IN ART. 4 IMPOSED ON BUYER BY CAISO, CPUC, THE APPLICABLE UDC OR ANY OTHER STATE, LOCAL OR FEDERAL AGENCY, RESULTING FROM OR RELATING TO BUYER'S ENERGY PURCHASE FROM SELLER. THIS INDEMNITY SHALL SURVIVE TERMINATION OF THIS ESA AND TRANSACTIONS HEREUNDER.

#### **Article 5. Events of Default; Remedies.**

**5.1 Events of Default/Early Termination Date/Settlement Amounts.** If an Event of Default with respect to a Party ("Defaulting Party" or "DP") shall have occurred and be continuing, the other Party ("Non-Defaulting Party" or "NDP") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") on which to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each a "Terminated Transaction") between the Parties; (ii) withhold any payments due to DP under this ESA; and (iii) if Buyer is DP, Seller may elect to turn Buyer back to the applicable UDC for service under its tariff at the beginning of the next applicable billing cycle. NDP shall calculate in a commercially reasonable manner a Settlement Amount for each such Terminated Transaction as of the Early Termination Date.

**5.2 Termination Payment Calculation.** On establishing an Early Termination Date, NDP shall calculate, in a commercially reasonable manner, a

Settlement Amount for each such Terminated Transaction as of the Early Termination Date. Gains and Losses for each Terminated Transaction shall be determined by calculating in a commercially reasonable manner (which may include using or referring to NDP internal information or third party provided information) the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction. NDP's determination of Gains and Losses for each Terminated Transaction shall be comparable to that which would have been obtained by comparing the value of the remaining term, transaction quantities, and transaction prices under each Terminated Transaction had it not been terminated to the equivalent quantities and relevant market prices for the remaining term which are reasonably expected to be available in the market under a replacement contract for each Terminated Transaction. NDP shall not be required to enter into a replacement Transaction in order to determine the Settlement Amount. NDP shall aggregate all Settlement Amounts into a single amount by netting out (a) all Settlement Amounts due to DP, plus at NDP's election any PA then available to NDP under Art. 8, plus any or all other amounts due to DP under this ESA against (b) all Settlement Amounts due to NDP, plus any or all other amounts due to NDP under this ESA, so that all such amounts shall be netted out to a single liquidated amount ("Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from NDP as appropriate.

**5.3 Notice of Payment of Termination Payment.** As soon as practicable after liquidation, NDP shall notify DP of the Termination Payment amount and whether such amount is due to or due from NDP. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within 2 Business Days after such notice is effective and shall bear interest at the Interest Rate from the date due until paid.

**5.4 Disputes.** If DP disputes NDP's calculation of the Termination Payment in whole or in part, DP shall within 2 Business Days of receipt of such calculation, provide NDP a detailed written explanation of the basis for such dispute; but if the Termination Payment is due from DP, DP shall first transfer PA to NDP in an amount equal to the Termination Payment.

**5.5 Closeout Setoffs.** After calculation of a Termination Payment in accordance with §5.2, if DP would be owed the Termination Payment, NDP shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by DP or any of its Affiliates to NDP or any of its Affiliates under any other agreements, instruments or undertakings between the DP or any of its Affiliates, and NDP or any of its Affiliates, and/or (ii) to the extent the Transactions are not yet liquidated in accordance with §5.2, withhold payment of the Termination Payment to DP. The remedy in this section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

**Article 6. Payment and Netting.** For all Transactions hereunder Buyer shall pay Seller the Contract Price and all Related Charges, if any. Unless the Parties otherwise agree in a Transaction, the Month shall be the standard period for all payments hereunder. As soon as practicable after the end of each Month, Seller will render to Buyer an invoice for payment obligations, if any, incurred hereunder during the preceding Month, or any prior Month if Related Charges relate to prior Months. Unless the Parties otherwise agreed in a Transaction, Buyer shall by the later of (x) the 20th day of each Month or (y) 10 days after delivery of Seller's invoice, or if such day is not a Business Day, the next Business Day, render to Seller by wire transfer payment in immediately available funds of the amount due Seller for Energy purchased and all other amounts owed to Seller relating to or arising out of such purchases from Seller during the preceding Month, including Related Charges (as estimated per §4.6). Any amounts not paid by the due date will be deemed delinquent and accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. If Buyer in good faith disputes any part of any invoice it shall nevertheless pay the entire amount no later than the due date. If any amount disputed by Buyer is determined to be due to Buyer, it shall be paid within 2 Business Days of such determination. The Parties shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other for purchase and sale of Energy (including any estimated Related Charges) during the monthly billing

period hereunder, including any related damages calculated pursuant to Art. 3, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

**Article 7. Limitations.** FOR BREACH OF ANY PROVISION FOR WHICH THIS ESA PROVIDES AN EXPRESS REMEDY OR MEASURE OF DAMAGES, DP'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES HEREBY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, DP'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES IN TORT, FOR CONTRACT OR OTHERWISE. IF ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS AND ARE NOT PENALTIES.

**Article 8. Credit Matters.** See Credit Support Annex attached hereto.

**Article 9. Taxes.** As between the Parties Seller shall be responsible for all Taxes incurred up to the Delivery Point and Buyer shall be responsible for all Taxes incurred at and after the Delivery Point. Seller will recognize a sales tax exemption of Buyer upon receipt of proper documentation.

**Article 10. Change in Law/Regulation.** If either Party is regulated by a federal, state or local regulatory body and such body disallows all or a portion of costs incurred or yet to be incurred by such Party hereunder, such action shall neither excuse such Party from performance of any obligation hereunder nor give rise to any right of such Party to any refund or retroactive adjustment of the Contract Price or Related Charges. Notwithstanding the foregoing, if a Party's activities hereunder become subject to a change in regulation or law that renders this ESA illegal or unenforceable (including but not limited to Buyer's ability to pay the Contract Price to Seller due to any price cap, price mitigation efforts or other similar restrictions) then the Party affected by such change in law or regulation shall at such time have the right to terminate all, but not less than all, affected Transactions hereunder, and determine a Settlement Amount for each terminated Transaction as if the affected Party were the NDP, and aggregate and net all Settlement Amounts into a single liquidated payment. If direct access is suspended or terminated the provisions of Art. 5 shall apply rather than the provisions of this article and Seller shall calculate the Settlement Amounts and the Termination Payment.

**Article 11. Miscellaneous.**

11.1 Title/Risk of Loss. Title to and risk of loss related to Energy shall transfer from Seller to Buyer at the Delivery Point.

11.2 Indemnity. EACH PARTY SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY FROM AND AGAINST ANY CLAIMS ARISING FROM OR OUT OF ANY EVENT, CIRCUMSTANCE, ACT OR INCIDENT FIRST OCCURRING OR EXISTING DURING THE PERIOD WHEN CONTROL AND TITLE TO PRODUCT IS VESTED IN PARTY AS PROVIDED IN §11.1. EACH PARTY SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY AGAINST ANY TAXES FOR WHICH SUCH PARTY IS RESPONSIBLE UNDER ART. 9.

11.3 Assignment. Neither Party shall assign this ESA or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

11.4 Governing Law. THIS ESA SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CALIFORNIA LAWS REQUIRING THE APPLICATION OF THE LAWS OF ANOTHER STATE.

11.5 Forward Contract. Transactions (including but not limited to attendant Related Charges) hereunder constitute "forward contracts" within the meaning of the U.S. Bankruptcy Code and each Party is a "forward contract merchant" within the meaning of the U.S. Bankruptcy Code.

11.6 Confidentiality. Neither Party shall disclose the terms and conditions of a Transaction or any non-public financial statements disclosed by a Party hereunder to a third party (other than the Party's or the Party's Affiliates

employees, lenders, counsel, accountants, insurers or advisors who have a need to know such information and have agreed to keep such terms confidential) except to comply with any applicable law, regulation, or any exchange, control area, UDC or CAISO rule or in connection with any court or regulatory proceeding or to the extent such information is delivered to such third party for the sole purpose of calculating a published index; provided, however, each Party shall to the extent practicable use reasonable efforts to prevent or limit disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this confidentiality obligation. With respect to information provided in connection with a Transaction this obligation shall survive for a period of 1 year following the expiration or termination of such Transaction. With respect to financial statements provided in connection with this ESA, this obligation shall survive for a period of 3 years after the date such financial statements were provided to a Party.

11.7 General. Except as herein provided no amendment or modification to this ESA shall be enforceable unless reduced to writing and signed by both Parties. Waiver by a Party of any default by the other Party shall not be a waiver of any other default. (i) Seller is not a "utility" as such term is used in 11 U.S.C. §366; (ii) to waive and not to assert the applicability of 11 U.S.C. §366 in any bankruptcy proceeding involving such Party; and (iii) Seller is not a provider of last resort or UDC. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed including but not limited to any purchasing requirements of Buyer, whether statutory or otherwise. This ESA shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this ESA). Headings used herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this ESA. ALL INDEMNITY AND CONFIDENTIALITY OBLIGATIONS HEREIN SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS ESA IN ACCORDANCE WITH THEIR TERMS. This ESA shall be considered for all purposes as prepared through the Parties' joint efforts and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. This ESA may be executed in as many counterparts as are necessary and all executed counterparts together shall constitute one and the same Agreement. The electronic transmission of a signed original counterpart of this Agreement and transmission, or re-transmission, of an electronically-signed counterpart shall be deemed to be the same as delivery of a signed original counterpart of this ESA. At the request of either Party, the Parties will confirm an electronically signed or transmitted counterpart by signing an original counterpart for delivery between them by mail or courier service; provided, however, a Party's failure to so confirm such a counterpart shall not affect the validity and enforceability of this ESA.

11.8 Dodd Frank Treatment.

**Representations.** Unless Seller and Buyer specify otherwise in a Confirm, Seller and Buyer agree that all transactions entered between them under the ESA shall either be a forward contract within the meaning of the Commodity Exchange Act, as amended ("CEA"), and the regulations of the Commodity Futures Trading Commission ("CFTC") or qualify for the commodity trade option exemption under CFTC Regulation § 32.3. In accordance with this agreement, the Parties make the following representations:

**Forward Contract.** The Parties agree that as of the date any transaction is entered into between the Parties:

- (i) each Party represents to the other that it is a commercial market participant with respect to the specified commodity;
- (ii) each Party represents to the other that it intends to make or take physical delivery of the specified nonfinancial commodity; and
- (iii) to the extent a transaction has volumetric optionality, the holder of such optionality represents to the other Party (a) that such optionality is primarily intended to address physical factors (such as weather, environmental factors, customer demand, available production, transport, shipping, operational constraints, or other physical factors) or regulatory requirements that reasonably influence demand for, or the supply of, the specified nonfinancial commodity; and (b) that such optionality is not primarily intended to address price risk.

**Commodity Trade Option.** To the extent a transaction is, or is deemed to be, a commodity option, the Parties agree that as of the date the transaction is entered into between the Parties:

- (i) the seller of the option represents to the buyer of the option that in connection with the transaction, the seller of the option is either (a) an eligible contract participant as defined in section 1a(18) of the CEA and the regulations of the CFTC, or (b) a producer, processor, commercial user of or a merchant handling the commodity that is the subject of the transaction, or the products or byproducts thereof, and is offering or entering into the transaction solely for purposes related to its business as such;
- (ii) the buyer of the option represents to the seller of the option that in connection with the transaction the buyer of the option is a producer, processor, commercial user of or a merchant handling the commodity that is the subject of the transaction or the products or byproducts thereof and is offering or entering into the transaction solely for purposes related to its business as such; and
- (iii) each Party represents to the other that the option, if exercised, would result in the sale of an exempt commodity for immediate or deferred delivery.

**Buybacks and Sellbacks.** From time to time, the Parties may enter into one or more transactions for a deemed buyback or sellback of, or to otherwise adjust or offset, previously contracted for volumes and then subsequently net the transactions and volumes at issue. To the extent such transactions offset or cancel each other, the transactions shall be deemed integrated as one transaction for purposes of the foregoing representations.

**Deemed Acceptance.** Notwithstanding any contrary language in the ESA, to the extent that (i) a Confirm is issued for a particular transaction, (ii) such transaction includes Forward Contract or Commodity Trade Option language substantially similar to the foregoing, and (iii) such Confirm is deemed

accepted in accordance with the ESA, the Forward Contract or Commodity Trade Option language contained therein shall also be deemed accepted and the representations shall made by each Party as of the date of the Confirm without the necessity of an actual signature on such Confirm.

**11.9 Data Privacy.** The parties may provide each other with information related to an identified or identifiable individual ("Personal Data"), the processing and transfer of which will be done in accordance with applicable data protection law.

**11.10 Anti-Corruption.** Each Party represents, warrants and covenants to the other that: (i) it will comply with the Anti-Corruption Laws (as defined herein) with respect to all transactions under this Agreement; (ii) it has not made and will not make, offer, authorize, or accept any payment, gift, or other benefit, directly or indirectly (whether via its affiliates, agents, contractors or other third parties), to or from any government official or any other person for the purpose of facilitating or carrying out any transaction hereunder which would violate the Anti-Corruption Laws; (iii) it will promptly notify the other Party if it becomes aware of any violation of the Anti-Corruption Laws in connection with any transaction hereunder, subject to the preservation of legal privilege; and (iv) except as the other Party may agree in writing, all payments payable to a Party pursuant to this Agreement shall be made only to the account of such Party, and not to the account of any other person. "Anti-Corruption Laws" mean (a) the United States Foreign Corrupt Practices Act of 1977; (b) the United Kingdom Bribery Act 2010; and (c) all applicable laws that prohibit money laundering, or otherwise dealing in the proceeds of crime, or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to any government official or any other person, or tax evasion.

In witness whereof the Parties have executed this ESA effective as of the Effective Date.

Shell Energy North America (US), L.P.	Inland Empire Utilities Agency
By: [FORM – NOT FOR EXECUTION]	By: [FORM – NOT FOR EXECUTION]
Name:	Name:
Title:	Title:

- Attachments:
- Annex A Notices
  - Annex B Definitions
  - Annex C Form of Confirm
  - Annex D Credit Support Annex

**Annex A Notices**

All notices, requests, statements or payments shall be made as specified below. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, US mail, overnight courier service or fax. Notice by fax or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight US mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

Shell Energy North America (US), L.P.		Buyer	
<p>Correspondence &amp; Confirms                      Shell Energy North America (US), L.P.                      4445 East Gate Mall, Suite 100                      San Diego, California 92121                      Attn: Energy Contract Administrator                      Phone: 858-320-1500                      Fax: 713-767-5414</p>	<p>For Confirm issues                      Shell Energy                      Attn: Contracts N.A.                      Phone: 713-767-5400                      Fax : 713-767-5414                      Email: GX-SENA-HOUTHCC-ZZ-TRSENACConfirmationCoordinators@shell.com</p>	<p>Correspondence &amp; Confirms                      Inland Empire Utilities Agency                      PO Box 9020                      Chino Hills, CA 91709                      Attn: Contract Admin.                      Phone: 909-993-1679                      Fax: 909-993-1987</p>	<p>For Confirm issues                      Inland Empire Utilities Agency                      Attn: Contract Admin.                      Phone: 909-993-1679                      Fax: 909-993-1987                      Email: <a href="mailto:gdominguez@ieua.org">gdominguez@ieua.org</a>  <a href="mailto:pcambias@ieua.org">pcambias@ieua.org</a></p>
<p>Electronic Payments                      For Account of                      Shell Energy North America (US), L.P.                      Bank: Citibank                      ABA Routing #021000089                      Account #30603873</p>	<p>For accounting issues                      Shell Energy                      Attn: Power Accounting Dept.                      Phone: 713-230-3137                      Fax: 713-767-5414                      Email: GXTRSENACUSTOMERSUPPORTPOWER@shell.com</p>	<p>Electronic Payments                      For Account of                      _____                      Bank                      ABA Routing #                      Account #</p>	<p>For accounting issues                      Inland Empire Utilities Agency                      Attn: Sharyl Heath  <a href="mailto:APGroup@ieua.org">APGroup@ieua.org</a>                      Phone: 909-993-1914                      Fax: 909-606-7364</p>
<p>Invoices                      Shell Energy North America (US), L.P.                      1000 Main, Level 12                      Houston, Texas 77002                      Attn: Manager Energy Accounting                      Phone: 713-230-3825                      Fax: 713-265-3895                      Email: GXTRSENACUSTOMERSUPPORTPOWER@shell.com</p>		<p>Invoices                      Inland Empire Utilities Agency                      PO Box 9020                      Chino Hills, CA 91709                      Attn: Sharyl Heath  <a href="mailto:APGroup@ieua.org">APGroup@ieua.org</a>                      Phone: 909-993-1914                      Fax: 909-606-7364</p>	



## Annex B Definitions

**Affiliates** means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary voting power. Notwithstanding the foregoing with respect to Shell Energy, "Affiliates" shall mean Shell Energy and its subsidiaries for purposes of §5.5.

**Bankrupt** means a Party (i) makes an assignment or any general arrangement for benefit of creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) becomes unable to pay its debts as they fall due.

**Business Day** means any day the Federal Reserve member banks in New York City are open for business, from 8:00 a.m. to 5:00 p.m. PPT, but excluding the Friday after the U.S. Thanksgiving holiday.

**CAISO Charges** are defined in §4.1.

**Claims** means all third party claims or actions threatened or filed and whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this ESA.

**Confirm** means a confirmation setting forth the terms of an Energy Transaction substantially in the form of Annex C - Confirm for Energy.

**Consumption** means metered electric volumes which have been adjusted to account for the applicable distribution loss factor.

**Contract Price** means the price in \$U.S. to be paid by Buyer to Seller for the purchase of Energy, as set forth in a Transaction or a Confirm.

**Contract Quantity** means the quantity of Energy Seller sells Buyer, and Buyer buys from Seller, as set forth in a Transaction or a Confirm.

**Costs** means, with respect to the NDP, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys' fees and expenses incurred by the NDP in connection with the termination of a Transaction.

**CPUC** means the California Public Utilities Commission.

**Delivery Point** means the delivery point at which the Energy for a Transaction will be delivered and received as set forth in a Confirm.

**Delivery Term** means the delivery term for a Transaction as set forth in a Transaction or a Confirm.

**DP** means "Defaulting Party".

**Energy** means all aspects of energy the CPUC requires of a load serving entity to serve an end-use customer.

**ESA** means this Energy Sales Agreement.

**ESP** means the energy service provider, which is Shell Energy.

**Event of Default** means (i) a Party's failure to make, when due, any payment required hereunder, including with respect to Buyer, payment of any amount due, including the Contract Price and Related Charges, if such failure is not cured in 3 Business Days after such Party receives written notice of such failure; (ii) a Party becomes Bankrupt; (iii) Buyer's failure to provide PA within 3 Business Days after Seller's written request; or (iv) Buyer's failure to obtain and maintain direct access customer status, whether due to termination or suspension of direct access by the State of California or otherwise.

**Federal Funds Effective Rate** means the rate for a day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H.15(519) or any successor publication, published by the

Board of Governors of the Federal Reserve System) and shall be calculated based on the actual number of days elapsed and a 360-day year.

**Firm** means the Energy receipt and delivery obligations of each Party, as appropriate, are intended to be fully performed during the Delivery Term, and non-performance shall only be excused by an event of Force Majeure.

**Force Majeure** means an event or circumstance not anticipated on the date the Transaction was agreed to, which prevents a Party from performing its obligations under one or more Transactions, which is not in the reasonable control of, or the result of, the negligence, gross negligence or willful misconduct of the Party claiming Force Majeure, and which by the exercise of due diligence such Party is unable to overcome, avoid or cause to be avoided, and that results in a failure of scheduling of Energy through the transmission/distribution system to the Delivery Points. Force Majeure shall be limited to interruption of electric transmission service, and such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the applicable Transmitting Entity's tariff. Force Majeure shall not be based on (i) loss of Buyer's markets (including but not limited to any shutdown or slowdown in Buyer's facilities or operations); (ii) Buyer's inability for any reason to receive Energy at any Delivery Point or to use Energy at any of Buyer's facilities; (iii) Buyer's inability economically to use or resell the Energy purchased hereunder; (iv) loss or failure of Seller's supply; (v) Seller's ability to sell Energy at a price greater than the Contract Price; (vi) as to Buyer, the State of California's suspension or termination of direct access or (vii) Buyer's ability to buy the Energy at a price lower than the Contract Price; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

**Gains** means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, including termination of sales to Buyer by Seller of Related Products, determined in a commercially reasonable manner.

**GHGI** means Green House Gas Initiatives and includes load-based emissions caps (and/or credits) adopted by CPUC D06-02-032 as amended, or any subsequent law or regulation that may be imposed on Seller acting as a load-serving entity.

**Interest Rate** means for any date the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day published), plus 2% and (b) the maximum rate permitted by applicable law.

**LC** means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to Seller and provided at Buyer's expense to Seller.

**Losses** means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, including termination of sales to Buyer by Seller of Related Products, determined in a commercially reasonable manner.

**NDP** means the Non-Defaulting Party.

**PA** means Performance Assurance.

**RA** means Resource Adequacy and refers to requirements as a result of Seller acting as a load-serving entity imposed by CPUC D04-01-050, as amended from time-to-time by subsequent CPUC Decisions or any subsequent law or regulation.

**Related Charges** means, collectively, CAISO Charges and any charges associated with Related Products, and other similar charges.

**Replacement Price** means the price at which Buyer acting in a commercially reasonable manner buys at the Delivery Point a replacement for any Energy specified in a Transaction but not scheduled by Seller, plus (i) costs Buyer reasonably incurs Buyer to buy such substitute Energy and (ii) any additional transmission charges Buyer reasonably incurs to the Delivery Point; or

absent a sale, the market price at the Delivery Point for such Energy not scheduled as determined by Buyer in a commercially reasonable manner. If Buyer acting in a commercially reasonable manner is unable to buy replacement Energy for the non-delivered Energy, Replacement Price shall be the market price at the Delivery Point for such Energy as Buyer determines in a commercially reasonable manner. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation.

RPS means Renewables Portfolio Standard and refers to requirements imposed as a result of Seller acting as a load-serving entity by CPUC Decision 06-10-019, October 5, 2006 (as amended from time-to-time by subsequent CPUC Decisions), or any subsequent law or regulation.

Sales Price means the price at which Seller acting in a commercially reasonable manner resells at the Delivery Point any Energy not received by Buyer, deducting from such proceeds any (i) costs Seller reasonably incurs to resell such Energy and (ii) any additional transmission charges Seller reasonably incurs to schedule such Energy to the third party purchasers, or absent a sale, the market price at the Delivery Point for such Energy not received as Seller determines in a commercially reasonable manner. Seller shall not be required to use or change use of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability. Seller shall be considered to have resold such Energy if Seller enters into

one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to buy and receive Energy from another party at the Delivery Point.

Settlement Amount means with respect to a Transaction and the NDP, the Losses or Gains, Costs, (including Gains, Losses and Costs with respect to Related Products), expressed in U.S. Dollars, which such Party incurs as a result of the liquidation of a Terminated Transaction pursuant to Art. 5.

Storage means Energy storage and refers to requirements as a result of Seller acting as a load-serving entity imposed by CPUC D13-10-040, as amended from time-to-time by subsequent CPUC Decisions or any subsequent law or regulation.

Taxes means all ad valorem, property, occupation, utility, generation, gross receipts, sales, use, excise and other taxes, governmental charges, licenses, permits and assessments (other than taxes based on net income or net worth) in effect and at the rates in effect on the date a Transaction is entered into; provided that Taxes applicable to Seller shall not include any carbon taxes or similar environmental taxes.

Transmitting Entity means entity(ies) (excluding Parties) transmitting Energy to or from Delivery Point(s) in a Transaction.

UDC means Buyer's applicable investor owned utility distribution company.

**Annex C  
Form of Confirm**

 **Shell Energy North America (US), L.P.**

Shell Energy Deal No. _____	Buyer Deal No. _____
Shell Energy North America (US), L.P.	[Buyer Name]
Attn: _____	Attn: _____
Phone: - - - ; Fax: - - -	Phone: - - - ; Fax: - - -

\_\_\_\_\_, 20\_\_

**CONFIRM**

This Confirm confirms the agreement reached on \_\_\_\_\_, 20\_\_ between \_\_\_\_\_ ("Buyer") and Shell Energy North America (US), L.P. ("Seller") pursuant to and in accordance with the Energy Sales Agreement dated \_\_\_\_\_, 20\_\_ ("ESA") between Buyer and Seller, and constitutes part of and is subject to all of the terms and provisions of such ESA. Terms used but not defined herein shall have the meanings ascribed to them in the ESA. Buyer and Seller hereby agree to the sale of Energy by Seller to Buyer under the terms and conditions as follows:

- Buyer's Facilities: \_\_\_\_\_
- Contract Quantity: \_\_\_\_\_
- Contract Price: \_\_\_\_\_
- Delivery Term: \_\_\_\_\_
- Delivery Point: \_\_\_\_\_
- Other: \_\_\_\_\_

This Confirm sets forth the terms of the Transaction into which the Parties have entered and together with the ESA shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of Energy. Please have this confirmation executed by an authorized representative or officer of your company and return via facsimile to (713) 767-5414. If no objection to this Confirmation has been received by Shell Energy by facsimile transmission by 5:00 p.m., Houston, Texas time, one (1) Business Day after delivery of this Confirmation to the other Party by facsimile, then this Confirmation (i) shall be binding and enforceable against Counterparty and Shell Energy and (ii) shall be the final expression of all the terms hereof, regardless whether excuted by the other Party.

Shell Energy North America (US), L.P.	[Buyer]
By: [FORM – NOT FOR EXECUTION]	By: [FORM – NOT FOR EXECUTION]
Name: _____	Name: _____
Title: _____	Title: _____

**Annex D**

**CREDIT SUPPORT ANNEX  
To Energy Sales Agreement ("ESA") Between**

Shell Energy North America (US), L.P. ("Seller") and Inland Empire Utilities Agency ("Buyer")

1. Credit Terms. Defined terms used in this Credit Support Addendum ("CSA") and not defined in the ESA shall have the meaning set forth in §7 herein. Other terms capitalized but not defined herein shall have the meaning ascribed to them in the ESA.

(a)(1) Security Threshold for Seller means on any date of determination the lower of (i) the amount set forth in the following table based on the lowest applicable Credit Rating for Seller or (ii) \$0 if a MAC or an Event of Default has occurred and is continuing with respect to Seller.

Shell Energy's Credit Rating & Security Threshold		
Moody's	S&P	Amount
Baa1 or above	BBB+ or above	\$40,000,000
Baa2	BBB	\$25,000,000
Baa3	BBB-	\$10,000,000
Baa3 (Credit Watch)	BBB- (Credit Watch)	\$0
Below Baa3	Below BBB-	\$0

(a)(2) Security Threshold for Buyer means on any date of determination the lowest of (i) the amount of any dollar limit contained in a guaranty provided by Buyer's Credit Support Provider under this CSA, if applicable; (ii) \$0 if a MAC or an Event of Default has occurred and is continuing with respect to Buyer or its Credit Support Provider, as applicable; or (iii) one million dollars (\$1,000,000).

Material Adverse Change ("MAC") means (i) with respect to Seller, the Credit Rating of Seller falls below BBB- by S&P or Baa3 by Moody's, or neither of the foregoing rating agencies provides a Credit Rating for Seller; or (ii) with respect to Buyer, in the reasonable opinion of Seller, (x) a material adverse change has occurred in the business, financial condition or operations of Buyer or its Credit Support Provider, as applicable; or (y) the ability of Buyer or its Credit Support Provider, as applicable, to meet its obligations under the ESA and/or a guaranty provided hereunder has become materially impaired; or (iii) a default has occurred with respect to indebtedness for borrowed money of a Party or its Credit Support Provider, as applicable, that accelerates such indebtedness in an aggregate amount in excess of its "Cross Default Threshold", defined herein for Seller \$50,000,000; and for Buyer or its Credit Support Provider, as applicable, \$5,000,000. (c) Guaranties. (i) Seller Guaranty. Not Applicable. (ii) Buyer Guaranty. Not Applicable.

2. Credit Requirements. If at any time, and from time to time, during the term of the ESA, the Contract Exposure for a Party ("Providing Party") exceeds such Party's Security Threshold, then the other Party ("Requesting Party") may ask Providing Party to provide PA in an amount equal to the amount by which its Contract Exposure exceeds its Security Threshold. On any Business Day (but no more frequently than weekly with respect to LCs and daily with respect to cash), Providing Party at its sole cost may ask that the amount of PA be reduced based upon a decrease in the Contract Exposure as calculated on such Business Day. Any PA being provided or returned shall be delivered within 1 Business Day of the date of receipt of such request if such request is received before the Notification Time, and within 2 Business Days of the date of receipt of such request if such request was received after the Notification Time. The amount of PA being provided by Providing Party shall be rounded upwards to the next multiple of \$100,000, and the amount of PA being returned by Requesting Party shall be rounded down to the next multiple of \$100,000. If an Independent Amount is specified for a Party, such Party will be required to transfer additional PA equal to the amount of such Independent Amount to the other Party. The Independent Amount shall not be reduced for so long as there are any outstanding obligations between the Parties under the ESA. The Independent Amount shall be held and maintained in accordance with this CSA as PA. Interest on PA in the form of cash shall accrue to Providing Party at the Interest Rate and shall be calculated for the actual number of days elapsed and on the basis of a year of 360 days. After receipt of an invoice from Providing Party on or after the first Business Day of the Month following the Month in which the interest has accrued, interest shall be paid for a Month on the later of (i) the 5th Business Day of the next Month, or (ii) the 3rd Business Day after receipt of invoice.

(02) SENA (021913)

3. Grant of Security Interest; Remedies. To secure its obligations under the ESA and to the extent it delivers PA hereunder as Providing Party, each Party hereby grants to Requesting Party, as secured party, a present and continuing security interest in, lien on and right of setoff against, all PA in the form of cash, and any and all proceeds resulting therefrom, held by or on behalf of Requesting Party. Providing Party agrees to take such further action as Requesting Party may reasonably require in order to perfect, maintain, and protect Requesting Party's security interest in the PA. On the occurrence and continuance of an Event of Default as to Providing Party, Requesting Party may (i) exercise any of the rights and remedies of a secured party under applicable law for all PA; (ii) exercise its right of setoff against any and all PA; (iii) draw on any LC issued for its benefit, and (iv) liquidate all PA then held by Requesting Party free from any claim or right of any nature whatsoever of Providing Party. Requesting Party shall either (i) apply the proceeds of the PA realized upon exercise of such rights or remedies to reduce Providing Party's obligations under the ESA, in such order as Requesting Party elects, and Providing Party shall remain liable for any amounts owing to Requesting Party after such application (subject to Requesting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full), or (ii) hold such proceeds as PA for Providing Party's obligations under the ESA.

4. Use of Cash. (a) Notwithstanding the provisions of applicable law, if no Event of Default has occurred and is continuing with respect to Requesting Party and no Early Termination Date has occurred or been designated as a result of an Event of Default with respect to Requesting Party, then Requesting Party shall have the right to sell, pledge, assign, invest, commingle or otherwise dispose of or use in its business any cash that it holds as PA hereunder, free from any claim or right of any nature whatsoever of Providing Party, including any equity or right of redemption by Providing Party; provided, however, if a Party must hold PA in a segregated account under §4(b), then this §4(a) will not apply with respect to such Party. If Requesting Party has elected to sell, pledge, assign, invest, use, commingle or otherwise dispose of such cash, Requesting Party shall be deemed to be holding such PA for the purpose of exercising (i) any right to request or obligation to return PA under the ESA or (ii) its rights or remedies as a secured party hereunder. (b) If Requesting Party or its Credit Support Provider, as applicable, does not have a Credit Rating of at least BBB by S&P or Baa2 by Moody's, Requesting Party shall place cash provided by Providing Party in a segregated, interest-bearing account on deposit with a Qualified Institution.

5. Credit Events Of Default. The following events ("Credit Events") shall be additional Events of Default under Art. 5 of the ESA and Non-Defaulting Party shall have the right to exercise any of the remedies provided for under Art. 5 of the ESA upon the occurrence of a Credit Event as provided herein:

- (i) the failure of Defaulting Party to establish, maintain, extend or increase PA when required pursuant to this CSA; or
- (ii) the failure of Defaulting Party's Credit Support Provider, if any, to perform any covenant set forth in any guaranty agreement delivered pursuant to this CSA; or
- (iii) the failure of Defaulting Party or its Credit Support Provider, as applicable, to timely provide financial information as required in this CSA, and such failure is not remedied within 30 Days after written notice of such failure is given to Defaulting Party; or
- (iv) the occurrence of a LC Default; or
- (v) the occurrence of a Merger Event.

6. Financial Information. Upon request a Party or its Credit Support Provider, as applicable, shall deliver to the other Party (i) within 120 Days following the end of its fiscal year, a copy of the audited consolidated financial statements for such fiscal year certified by independent certified public accountants, and (ii) within 90 Days after the end of each of the first three fiscal quarters of its fiscal year, a copy of the quarterly unaudited consolidated financial statements for such fiscal quarter. In all cases the

statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles, international financial reporting standards or such other principles then in effect.

**7. Definitions.** The following definitions apply to this CSA:

**Bankrupt** means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

**Contract Exposure** means the net amount (i) determined under Art. 5 of the ESA that would be payable from Providing Party to Requesting Party, as if an Early Termination Date had been declared under Art. 5 of the ESA (notwithstanding whether or not an Event of Default has occurred) and all transactions had been terminated; (ii) plus the net amount of all other payments owed but not yet paid between the Parties, whether or not such amounts are then due, for performance already provided pursuant to any and all transactions conducted under the ESA; (iii) less the amount of any PA then held by Requesting Party; provided, however, that any PA posted by Providing Party for its Independent Amount shall not be taken into account in the calculation of the Contract Exposure.

**Credit Rating** means (i) as to a Party or its Credit Support Provider, as applicable, the lower of its long-term senior unsecured debt rating (not supported by third party credit enhancement) or its issuer rating by the specified rating agency, and (ii) as to a financial institution, the lower of its long-term senior unsecured debt rating (not supported by third party credit enhancement) or its deposit rating by the specified rating agency.

**Credit Support Provider** means a third party providing a guaranty or PA for a Party pursuant to this CSA. Buyer's Credit Support Provider is none.

**Credit Watch** means the S&P or Moody's ratings outlook, i.e., "Watch Negative", "Possible Downgrade" "Review for Downgrade", "Review for Possible Downgrade" or other similar terminology.

**Defaulting Party** or **DP** has the meaning set forth in Art. 5 of the ESA.

**Independent Amount** means (i) with respect to Seller \$0 and (ii) with respect to Buyer \$0.

**Interest Rate** means the interest rate to be paid by Requesting Party calculated at the Federal Funds Effective Rate - the rate for that day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

**LC** or **Letter of Credit** means one or more irrevocable, transferable standby letters of credit issued by a Qualified Institution.

**LC Default** means with respect to an outstanding LC that is held by Requesting Party, the occurrence of any of the following events: (i) Providing Party fails to extend or replace such LC delivered as PA hereunder at least 20 Business Days prior to its expiration, or (ii) the LC delivered hereunder shall expire, terminate or otherwise fail to remain in full force and effect for any reason, or (iii) the Qualified Institution that issued such LC hereunder fails to meet the requirements of a Qualified Institution as specified herein or fails to comply with or perform its obligations under such LC and such failure is not remedied within 5 Business Days, or (iv) the Qualified Institution that issued such LC shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such LC, or (v) the Qualified Institution that issued such LC shall become Bankrupt. Upon the occurrence of a LC Default, Providing Party agrees to transfer to Requesting Party either a substitute LC or other PA, in each case on or before the 2<sup>nd</sup> Business Day after receipt by Providing Party of written notice from Requesting Party.

**Merger Event** means, with respect to a Party or other entity, that such Party or other entity consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity, and (i) the resulting, surviving or transferee entity fails, at the time of such consolidation, amalgamation, merger or transfer, to assume each and all of the obligations of such Party or other entity hereunder or under any guaranty or LC or other PA, either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party, or (ii) the benefits of any guaranty, LC, or other PA or credit support provided pursuant to the ESA fail, at any time following such consolidation, amalgamation, merger or transfer, to extend to the performance by such Party or such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the Credit Rating of the resulting, surviving or transferee entity is not equal to or higher than that of such Party or other entity, or is not at least BBB- by S&P and Baa3 by Moody's, immediately prior to such consolidation, amalgamation, merger, or transfer.

**Moody's** means Moody's Investors Service, Inc., or its successor.

**Non-Defaulting Party** or **NDP** has the meaning set forth in Art. 5 of the ESA.

**Notification Time** means 1:00 p.m. eastern prevailing time on a Business Day.

**Party** means a party to the ESA, collectively referred to as **Parties**.

**PA** or **Performance Assurance** means collateral in the form of cash, Letters of Credit, or other security acceptable to Requesting Party.

**Qualified Institution** means (i) the U.S. office of a commercial bank or trust company (that is not an affiliate of either Party) organized under the laws of the U.S. (or any state or a political subdivision thereof), or (ii) the U.S. branch of a foreign bank (that is not an affiliate of either Party), in each case having assets of at least \$10,000,000,000 and having Credit Ratings of at least A3 by Moody's and at least A- by S & P.

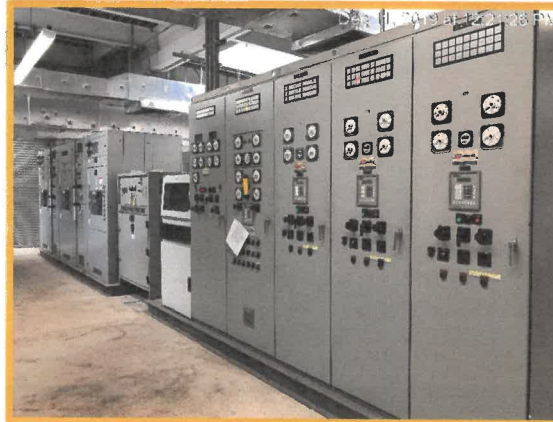
**S&P** means Standard & Poor's Ratings Services (a division of McGraw-Hill, Inc.) or its successor.

**8. Successors.** Unless Seller agrees otherwise, if Buyer assigns the ESA by as provided therein, this CSA shall not be applicable to any such assignee, and assignee will be required to meet Seller's reasonable credit requirements for extension of unsecured credit before further deliveries of energy are made, including execution of a replacement CSA.

<b>Shell Energy North America (US), L.P.</b>	<b>Inland Empire Utilities Agency</b>
By: <b>DRAFT - NOT FOR EXECUTION</b>	By: <b>DRAFT - FORM – NOT FOR EXECUTION</b>
Name:	Name:
Title:	Title:

**INFORMATION  
ITEM  
3B**

# Engineering and Construction Management Project Updates

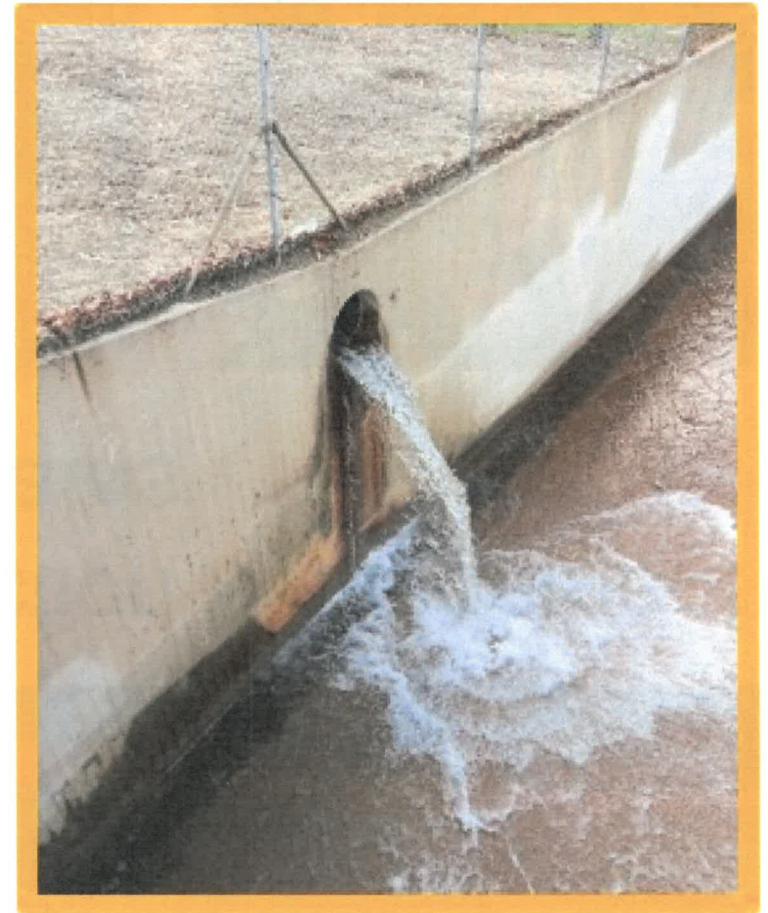


# Orchard Recycled Water Turnout Improvements

Project Goal: Reduce Noise and Repair Leaks

**Total Project Budget: \$477 K**  
**Project Completion: November 2020**  
**Design Percent Complete: 99%**

Phase	Consultant/ Contractor	Current Contract	Amendments/ Change Orders
Design (Current)	Lee & Ro/ESA	\$45 K	7.8%
Construction	TBD	\$0	0%





# RP-1 Digester 6 and 7 Roof Repairs

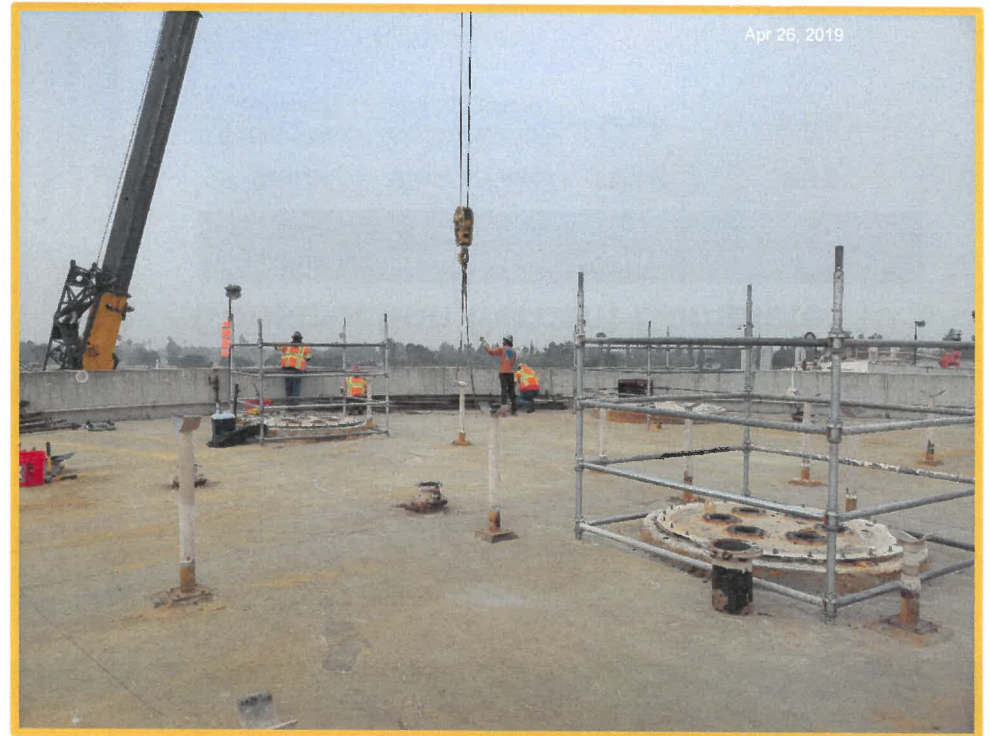
Project Goal: Enhance Digester Performance

**Total Project Budget: \$7 M**

**Project Completion: November 2021**

**Construction Percent Complete: 50%**

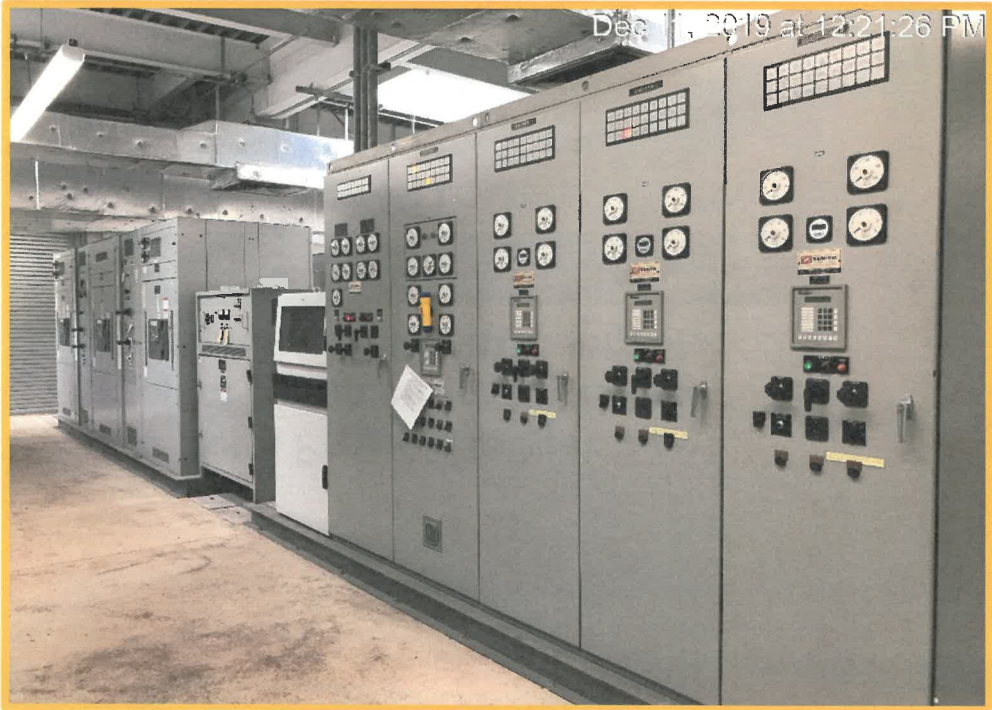
Phase	Consultant/ Contractor	Current Contract	Amendments/ Change Orders
Design	GHD	\$384 K	194%
Construction Cleaning/Service	Synagro-WWT	\$1.75 M	8.6%
Construction/Repairs (Current)	WA Rasic	\$1.78 M	9.8%



Digester 6 Gas Pipe Removal

# RP-1 12 kV Switchgear and Generator Control Upgrades

Project Goal: Increase Reliability



RP-1 Emergency Generator Control Panels

**Total Project Budget: \$5.8 M**  
**Project Completion: April 2020**  
**Construction Percent Complete: 10%**

Phase	Consultant/ Contractor	Current Contract	Amendments/ Change Orders
Design	Black & Veatch	\$331 K	395%
Construction (Current)	Big Sky Electric (Design/Build)	\$4.4 M	0.47%

# RP-1 Plant 2 Sludge Piping Repair

Project Goal: Repair facility assets

**Total Project Budget: \$140 K**  
**Project Completion: April 2020**  
**Percent Design Complete: 100%**

Phase	Consultant/ Contractor	Current Contract	Amendments/ Change Orders
Design	\$0	\$0	0%
Construction (Current)	AToM Engineering	\$107 K	0%



Failed Sludge Pipe 2

# IERCF Duct Work Phase II

Project Goal: Increase Efficiency



**Total Project Budget: \$400 K**  
**Project Completion: January 2020**  
**Construction Percent Complete: 100%**

Phase	Consultant/ Contractor	Current Contract	Amendments/ Change Orders
Design	Design/Build	N/A	N/A
Construction (Current)	Baghouse Industrial	\$296 K	5.4%