



SMUD

Sacramento Municipal Utility District
Sacramento's First Choice for Energy

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AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

June 15, 2009
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01-AFC-19C

DATE June 15 2009

RECD. June 17 2009

Ms. Angelique Juarez-Garcia
Compliance Project Manager
California Energy Commission
1516 9th Street, MS-2000
Sacramento, CA 95814-5512

Subject: Cosumnes Power Plant (01-AFC-19C)
Countersigned CBO MOU for ZLD and OnePass Filter Addition

Dear Ms. Juarez-Garcia,

SMUD is pleased to transmit the attached, countersigned original of the Chief Building Official Memorandum of Understanding. We have kept one original for our files.

Please contact me at (916) 732-7101 if you have any questions or require further information. Chris Moffitt may be reached at (916) 732-6262.

Sincerely,

Kevin Hudson, P.E.
Senior Project Manager

Attachment

cc: Chris Moffitt

**MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN THE
CALIFORNIA ENERGY COMMISSION STAFF
AND
SACRAMENTO MUNICIPAL UTILITY DISTRICT FINANCING AUTHORITY
FOR DESIGN REVIEW, PLAN CHECK, AND
CONSTRUCTION INSPECTION OF THE
COSUMNES POWER PLANT PROJECT'S APPROVED ZERO LIQUID DISCHARGE
PETITION (01-AFC-19C)**

RECITALS:

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A. On September 13, 2001, the Sacramento Municipal Utility District (SMUD) filed an Application for Certification (AFC) with the California Energy Commission (Energy Commission) for approval to construct and operate the Cosumnes Power Plant (CPP) Project (Project). The 30 acre project site is located near Herald, CA in southeast Sacramento County. This Project was certified on September 9, 2003 (2003 Decision), and became operational on February 28, 2006.

B. The Sacramento Municipal Utility District Financing Authority (SFA) is a joint powers agency formed by SMUD and the Modesto Irrigation District, and is the current owner of the Project. On February 10, 2009, SFA submitted a Petition for Post Certification Project Modification (ZLD Petition) to the Energy Commission to modify the Project's description specified in the Energy Commission's 2003 Decision, to describe the new OnePass filter addition and zero liquid discharge system (ZLD) modification. These activities were necessitated by a change in water quality supplied to the CPP, as a result of the Freeport Regional Water Authority (FRWA) project. No additional Conditions of Certification were required and existing Conditions of Certification are adequate to protect environmental resources. The Energy Commission staff determined that this ZLD Petition would be processed as a Staff Approved Project Modification (SAPM). The SAPM was approved by the Energy Commission on April 16, 2009.

C. This MOU is unique to this specific Project and its related approved ZLD Petition. The Chief Building Official (CBO) selection for each project is at the discretion of the Energy Commission staff and management.

D. The Energy Commission must ensure that the Project is designed, constructed, and operated in conformity with the Energy Commission's 2003 Decision and subsequently approved petitions; the California Building Standards Code (CBSC), the local building codes adopted by the County of Sacramento, and applicable laws, ordinances, regulations, and standards (LORS) of the County of Sacramento to ensure health and safety. The Energy Commission 2003 Decision and subsequently approved petitions contain the Conditions of Certification for construction and operation of the Project.

E. The Energy Commission's 2003 Decision and subsequently approved petitions require that SFA submit engineering plans, calculations, specifications, and other project-related information to the CBO for the Project, for review and approval, prior to and during construction of the Project. The intent of this requirement is to provide an independent review of the Project's final design; and inspections of the project's construction, to ensure compliance with applicable engineering LORS, the local building codes, the CBSC, and the Facility Design, Geology, and Transmission System Engineering Conditions of Certification.

F. The design review, construction inspections and necessary approvals prior to and during construction will be provided by the SFA CBO. Energy Commission staff has determined that SFA will Self-CBO the approved SFA ZLD Petition. SFA is a qualified contractor experienced in providing industrial building official services, and will act as the Energy Commission's delegate CBO (Delegate CBO) to ensure independent review of the Project.

SFA AND ENERGY COMMISSION STAFF AGREE AS FOLLOWS:

1. The above recitals are incorporated into this MOU.
2. SFA shall act as the Energy Commission's Delegate CBO for enforcement of local building codes; the CBSC; the Facility Design, Geology and Transmission System Engineering Conditions of Certification; the Storm Water Pollution Prevention Plan and Erosion Control Plan (as directed by the Energy Commission's Compliance Project Manager (CPM)); and other engineering LORS applicable to the Project to ensure health and safety. SFA will also be responsible for the design review, plan check, and construction inspection of the foundation, anchorage, and connections for those building and non-building structures, process-related systems and equipment required for power and steam generation, and equipment located either inside or outside of buildings that are designated in Facility Design Condition of Certification GEN-2. Additions and deletions to GEN-2 will be made only with the CPM's approval. SFA, acting as the Delegate CBO for the Project, shall carry out these duties with all the rights and immunities afforded the Delegate CBO by the Codes. The ultimate responsibility for facility design, construction, and operational compliance remains with SFA.
3. Although SFA will function as the Energy Commission's CBO Delegate, the Energy Commission has the final authority and responsibility to ensure that the Project is built in accordance with the applicable engineering LORS, the Energy Commission's 2003 Decision, and subsequently approved petitions. The Energy Commission's legal authority to enforce the terms and conditions of its 2003 Decision, and subsequently approved petitions, is specified in California Public Resources Code section 25500, *et seq.* The Energy Commission may amend or revoke the certification for any facility and may impose a civil penalty upon the project owner for any significant failure to comply with the terms or conditions of an Energy Commission decision.
4. To ensure compliance with the Facility Design, Geology, and Transmission System Engineering Conditions of Certification, and the applicable engineering LORS, the

Delegate CBO is authorized to take any action allowed by the California Code of Regulations and law to ensure that the Energy Commission's interests are properly addressed and protected. If the Delegate CBO has issued, or is considering issuing, a stop-work order to ensure compliance, or to ensure that the Energy Commission's interests are protected, or for any other reason, the Delegate CBO shall seek the cooperation and assistance of the CPM appointed by the Energy Commission. The Delegate CBO shall notify the CPM in a timely manner, preferably prior to taking the action, so that the CPM is fully aware of the action taken or under consideration and its implication to the Project. For any action taken under emergency conditions, the CPM shall be notified within 24 hours of the action.

5. In the performance of this MOU, SFA, its employees and subcontractors shall act in an independent capacity and not as officers or employees of the State of California.
6. The CPM appointed by the Energy Commission shall have the right to approve the qualifications of SFA engineering and technical personnel and the scope of work they will perform. SFA shall notify the CPM if there is any change in personnel assigned to the Project team. Replacement personnel shall not work on the Project until they are approved by the CPM.
7. SFA may retain the services of one or more independent qualified subcontractor(s) to supplement SFA employees in the design review, plan check, and construction inspection of the Project. The subcontractor(s) will answer directly to, and be responsible to, the Delegate CBO. The Delegate CBO shall provide the qualifications and scope of work of the subcontractor(s) to the CPM for approval at least ten days prior to the subcontractor's expected start of work. The Delegate CBO will retain responsibility for the construction inspections required by sections 106.3.5 and 108 of the CBSC and for monitoring special inspections required by sections 1701, 1702 and 1703 of the CBSC.
8. SFA shall notify the CPM if there is any change in subcontractor(s) or subcontractor's personnel. Replacement subcontractor(s) or subcontractor's personnel shall not work on the Project until they are approved by the CPM.
9. SFA shall require that its subcontractors have not previously been employed directly by the project owner or its agents at any time during the 12 months prior to the start of this agreement. SFA shall also require that during the course of this agreement its subcontractors or its agents will not be directly, or indirectly, employed by the project owner or any entity of which it is a holding, subdivision, or subsidiary.
10. At the request of the CPM, the Delegate CBO, its subcontractor(s), and any special inspectors shall assist the CPM in any audits or inspections of the Project.
11. The Delegate CBO shall take all reasonable measures to accommodate SFA's design and construction schedule, including, but not limited to, adding staff to its workforce and/or retaining the services of additional independent qualified subcontractor(s).

12. The Delegate CBO shall review and approve the selection of dynamic analysis and/or alternative methods of analysis for the design of those major structures designated in Facility Design Condition of Certification GEN-2 to comply with section 1629.10.1 of the 2001 CBSC.
13. The Delegate CBO shall review and approve any of SFA's proposed special and continuous inspection reporting programs required by sections 1701, 1702, and 1703 of the 2001 CBSC, California Mechanical Code and other related codes, and shall approve the qualifications and experience of the proposed special inspectors. Where appropriate, subject to CPM approval, SFA may accept the results of inspections performed by SFA's special inspectors.
14. The CPM shall have the right to audit SFA and its subcontractors' performance to ensure that they are properly carrying out their duties and responsibilities and that SFA is implementing the Energy Commission 2003 Decision requirements and subsequently approved petitions for the design and construction of the Project.
15. SFA and subcontractor(s) may discuss all aspects of the Project with each other, the CPM, and SFA's construction contractors and engineers. The Delegate CBO and CPM shall have access to all associated construction records, construction and inspection procedures, test equipment, and test results related to the requirements of the Energy Commission 2003 Decision. It is the CPM's intention to provide reasonable notice of site visits and audits and to conduct such activities at reasonable times. Circumstances may dictate that site access may be required with little or no notice.
16. The Delegate CBO shall provide weekly reports on the status of construction of the Project to be posted to the project website (see below). The reports shall include: executive summary of current issues; general activities occurring at the project site; the completion percentage of overall construction; compliance issues with applicable LORS and applicable Conditions of Certification; issues of concern with or by SFA; status of interconnections; scheduled activities for the following week; and potential delays to the on-line date of the project. Many of the information requirements of the weekly status report may be satisfied by weekly updating fields on the project website.
17. The Delegate CBO shall create and maintain a password protected project website for the posting of the weekly reports and other project documents. Documents on the website will be posted in a Word compatible format or as .pdf files. The project website shall include the following information in an easily navigable format: all components of the weekly status report; a minimum of ten dated project photographs of current construction activities; list and status of submitted plans; status of field inspections; new subcontractors or key Delegate CBO personnel; and documents submitted for CPM review and/or approval. The CPM will be notified of new documents posted to the project website by e-mail with an active link to the document.
18. The Delegate CBO shall submit the results of all plan checks and construction inspections, including recommendations, to SFA and send a copy of all transmittal

letters to the CPM. The CPM shall conduct any technical audits and reviews, and present any recommendations, as expeditiously as possible. The Delegate CBO should proceed with reviews and approvals of all components designated in Facility Design Condition of Certification GEN-2 in accordance with any additions and deletions approved by the CPM, unless instructed otherwise by the CPM. Approved plans, specifications, calculations and marked-up as-builts shall be retained by the Delegate CBO for 90 days from the date of completion of construction of the Project, after which the Delegate CBO shall deliver them to the Project owner for long-term retention at the project site or other accessible location [2001 CBSC, section 106.4.2]. Electronic copies of the approved plans, specifications, calculations and marked-up as-builts and other relevant submittals shall be provided to the CPM, in the form of compact discs, within 90 days of completion of construction on the Project.

19. The Energy Commission, through the CPM, retains the final authority over all matters relating to interpretation of the Conditions of Certification.
20. All correspondence regarding this agreement, including invoices, payments, and notices, shall be directed to the following persons at the following addresses and telephone numbers:

DELEGATE CBO: Christopher Moffitt, P.E.
Supervisor, Engineering, Power Generation Department
Sacramento Municipal Utility District Financing Authority
6201 S Street, MS B355.
Sacramento, CA 95817
Phone: (916) 732-6262 Fax (916) 732-6583
E-mail: cmoffit@smud.org

ENERGY COMMISSION:

Angelique Juarez-Garcia
Compliance Project Manager
California Energy Commission
1516 9th Street, MS 2000
Sacramento, CA 95814
Phone: (916) 654-4048
E-mail: AJgarcia@energy.state.ca.us

Written correspondence shall be sent either by personal delivery (including overnight delivery service), by U.S. Mail, postage prepaid, fax, or e-mail; it shall be considered delivered when actually received.

21. This MOU shall be effective upon execution by all parties.
22. In the event of a conflict between this MOU and an Energy Commission's 2003 Decision granting an application for certification, the Energy Commission's 2003 Decision and subsequently approved petitions shall take precedence.

23. This MOU shall be interpreted and applied in accordance with California law. Any litigation concerning it shall be brought in the Sacramento County Superior Court.
24. This MOU sets forth the parties' entire understanding and supersedes all prior agreements and representations, written and oral, and may be modified only by a written document signed by SFA and the Energy Commission.

SFA has reviewed this MOU and understands its duties and responsibilities.

Signed by:

SACRAMENTO MUNICIPAL UTILITY DISTRICT FINANCING AUTHORITY

DATED: 6/15/09
BY:


James Shetler, Assistant General Manager
Energy Supply

CALIFORNIA ENERGY COMMISSION

DATED: 5/27/09
BY:


TERRENCE O'BRIEN, Deputy Director for the
Siting, Transmission and Environmental
Protection Division