

- 1. Discussion on the need of a future resource**
- 2. Discussion on the future losses of coal generation**
- 3. The cost exposure commitment for Payson city**
- 4. Subscription levels of the project**
- 5. The DOE award: we are supposed to have it in place by Oct 15, 2020 if not it is a deal breaker.**
- 6. The Development Cost reimbursement Agreement (DRCA) and the Engineering, Procurement, and Construction and Development Agreement (EPC DA) are in place.**

Brian Stevenson

From: Jackie Coombs <jackie@uamps.com>
Sent: Friday, October 2, 2020 1:24 PM
To: CFPP Project
Cc: Doug Hunter; Mason Baker; Laura Whitworth; Scott Fox; Michael Squires; Mark Gendron; Kelton Andersen; Marshall Empey; Nathan Hardy
Subject: Lack of Generation Planning

*****Email sent on behalf of Doug Hunter**

Dear CFPP Participants,

It may seem odd that only UAMPS and IPA are currently planning new generation to replace retiring coal plants, but as we look deeper into the motivations of entities such as UAMPS and IPA as compared to investor owned and other community owned utilities the reason for not making investments in new dispatchable generation such as the CFPP becomes clear.

For UAMPS the answer is simple, we have relied on coal fired generation assets to provide capacity and energy for 40% of our load needs. For other utilities, it seems a projection of the status quo is the plan for the future. If you look at the PacifiCorp and Idaho Power Integrated Resource Plans (IRP) you can see the heavy reliance on solar, wind and demand response in the near term but in post 2028 years both utilities plan on adding almost a 1,000 MW each of new natural gas fired generation. In the PacifiCorp IRP they are also relying on the three Hunter coal fired units remaining online with no date for termination. If you look at the potential for climate legislation these plans seem foolish at best and contrived at worst to support the addition, in the near term, of inordinate amounts of renewable resources.

Another part of the answer is that utilities know that these 'projected retirements,' could be ignored, thus extending their lives given future scenarios. So, these utilities lack motivation to start planning now.

Investor owned utilities serve the majority of the electric load in the West. They are all regulated by a State Utility Commission. The State Utility Commissions are focused too narrowly on near term retail rates. An Investor Owned Utility (IOU) proposing a new project will require a filing for rate recovery, which will increase near and long-term rates, as the only way to recover their investment for the new project. This filing will be subject to an IRP hearing and challenged by renewable developers as to price not to capacity, that is, it is difficult to justify the investment in new capacity when compared to low priced renewables. This pricing comparison is short-sighted as renewable generation does not offer the same benefits to the grid as a resource like the CFPP. Further, this process is lengthy and expensive such that the IOUs are hesitant to plan for the future until there is an emergency requiring new capacity. At the same time, IOUs are further disincentivized by their commissions to invest in new capacity when many commissions allow IOUs to simply pass through market power costs, even when those costs can spike in capacity shortfall scenarios as we saw this August.^[1]

In today's market, there is surplus capacity thus the current marginal cost based bilateral market. Most of the West is within the reach of the CAISO Energy Imbalance Market (EIM). The concept of the CAISO EIM is to use transmission lines to take advantage of the over generation aspects of renewables, that is, this generation is in

excess of the nearby load and can be exported to where it is needed. When the sun is shining in California the solar generation is greater than the load so they can send the surplus to PacifiCorp who will back down coal generation then, dependent upon the price asked for the surplus solar, the entire grid benefits. A key assumption to the EIM is that there are generation resources ready to service the load when the solar quits producing. These generation assets are the coal plants. Natural gas generation is used to transcend the ramp rate of the coal plants. As coal plants shut down the ability to accommodate this surplus solar generation will evaporate and market prices will increase. Further to the point of market prices, we saw huge spikes in market prices this August when solar generation tapered off in the evening when load increases. These price spikes happened in a western grid that still has a very sizeable amount of coal generation.

Looking to the Northwest, there are historical reasons why this region has to date not begun serious investment in planning new resources while forecasting a 6,000 MW need in new generation by 2030. Uniquely, the Northwest IOUs and community owed utilities have the Bonneville Power Administration (BPA) as a contractual safety net for future capacity and energy needs. BPA does not have the authority, without an act of Congress, to develop new generation. The Bureau of Reclamation (BOR) and the Army Corp of Engineers (ACE) built the existing hydro system and BPA markets the output in the Northwest. Neither, BOR or ACE are planning any new generation.

The conclusion from the last two paragraphs is that, utilities are relying on a regulated market, namely the CAISO to maintain reliability and resiliency on the grid or on a historical power supplier (BPA) to develop capacity to meet future needs. Neither the CAISO or BPA have the authority to develop, license or operate generation, today or in the future.

To top this all off, the general public is being feed a naïve line from the environmental movement and the renewable generation developers that all we need is solar plus batteries, to serve the Western load. The storage option is not a practical solution as compared to developing the CFPP and the vulnerability of relying too heavily on a single resource such as solar can be evidenced in the recent drop in solar generation due to fires sweeping across California.^[2] To be clear, UAMPS believes in solar playing a role moving forward but it is a part of a balanced portfolio that will include the CFPP.

I believe that the timeline to develop, license and construct a new generation resource takes five to ten years. Back in 2000, after the Enron debacle, UAMPS took five years to bring on the Nebo project, which was based upon 'off-the-shelf technology' with simple licensing requirements. In the future, given carbon legislation, this off-the-shelf technology will not be available. Those utilities that wait to start planning for replacement power, based upon historical planning horizons, may be too late to avoid outage scenarios or extremely high-power market prices.

Planning in the electric industry, given the long lead times, is a responsibility of utilities. Those that are not realistically planning future dispatchable generation will suffer the consequences of high prices and unplanned outages. The EIM will rely more upon demand management (outages) and solar curtailment to balance the grid.

UAMPS is realistically looking to the future, as is IPA. Neither of us should be criticized for understanding the long lead time it takes to put on a new generation resource. And taking the inherent risks associated with such planning. Based on my forty years of experience in the industry, the time to invest in developing new resources like the CFPP to replace retiring coal assets is now.

- ^[1] For more on the cause of the rolling blackouts in California please see the following article:
<https://www.spglobal.com/platts/en/market-insights/latest-news/electric-power/082020-california-power-shortages-stem-from-lack-of-firm-generation-capacity-experts>.
- ^[2] For more on the topic of how California wildfires have affected solar generation, please see
<https://www.eia.gov/todayinenergy/detail.php?id=45336>.

Jackie Coombs

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<https://www.eia.gov/todayinenergy/detail.php?id=45336>.

Brian Stevenson

From: Jackie Coombs <jackie@uamps.com>
Sent: Wednesday, September 30, 2020 10:15 AM
To: CFPP Project
Cc: Doug Hunter; Mason Baker; Kelton Andersen; Laura Whitworth; Scott Fox; Marshall Empey; Mark Gendron
Subject: CFPP Project - Three Considerations
Importance: High

****This email was sent on behalf of Doug Hunter**

As part of your decision-making process, I would encourage you to evaluate the following three considerations.

1) The “cost exposure” you seem to be concerned with is one that you control. The only scenario that puts you at risk of paying for a failed project is a termination of the DCRA for convenience. If there are cost overruns or schedule delays, if DOE appropriations do not materialize or interest rates rise the Economic Competitiveness Test will be impacted. If the ECT is greater than \$55/MWh in 2020 dollars then you have no obligation for costs incurred. The current UAMPS out of pocket cost through the next off ramp, 16 months from now, is \$13.2 million. This is a reduction of 34% from the previous out of pocket projection of \$20.9 million. Of course, the \$13.2 million is not entirely consumed until January 2022. Every month, UAMPS will be reporting financials, thus monitoring the out of pocket amount. The PMC may cancel the CFPP at any time for basically any reason. The out of pocket cost level can be monitored against Participant’s concerns. UAMPS controls a termination for convenience which is the only outcome that would expose the Participants to cost recovery.

2) The future power market is uncertain. This assessment is based upon the amount of generation retirement by 2035 and the lack of planned replacement capacity. These retirements could accelerate given the high likelihood of National climate legislation. You need to assess your needs as to the CFPP. The CFPP is set up to allow you to subscribe now to what you believe you will need from the CFPP and to reserve additional capacity without obligation for the part of your future power portfolio that you may hope to take from either the market or other available resources. If not the CFPP then what? Power for sale in the market may be nonexistent, due to generation retirement. Solar will be available during the day but not at night and peak load times when pricing, if there are available generation, will be higher priced. There are very few alternatives beside the CFPP. Those in the Intermountain Power Project will have the hydrogen/methane fired generation system. This is planned to be 30% hydrogen & 70% methane until 2045. This mixture reduces emissions by 10% as compared to a 100% methane fired generation. The technology has not been demonstrated at commercial size generation for 100% hydrogen fired generation. IPP hopes to solve this by 2045 at a cost in excess of the CFPP’s \$55/MWh.

3) The CFPP is structured for success. We have developed a comprehensive cost model for the development, construction and operation phases. We have project cost estimates for all aspects of each phase. The contracts between you and UAMPS, NuScale and UAMPS, Fluor and UAMPS, and DOE and UAMPS are all negotiated. We have developed month by month cash flows for all aspects of the CFPP. We will know each month if we are on budget or not. Most importantly we have an Economic Competitive Test to ensure that CFPP achieves a projected costs of \$55/MWh. If the projected CFPP costs result in an output cost greater than \$55/MWh, then UAMPS gets 100% of its out of pocket cost reimbursed. The CFPP will be receiving a revised project cost estimate at the end of 2021 along with an Economic Competitive Test run. UAMPS will be monitoring this Economic Competitive Test run with current information such as budget to actual cost on a monthly basis so we will have a bead on the impact of the Class 3 Project Cost Estimate.

Additional subscription is really dependent upon the three considerations discussed above. If the current Participants don't believe the CFPP will be a reality, how do you expect others to think? Continued reductions in Entitlement Share are a negative signal for additional subscription. The prospective Participants are developing their own future power needs in light of other options but in the Northwest, there is a projected capacity shortfall of 6,000 MW. Given the detailed contractual and conceptual aspects of the CFPP, new Participants, as well as you, can be assured of obligations and rights. Subscription will be monitored monthly by the PMC, and if progress is not made to the satisfaction of the Participants then no doubt the PMC will terminate the CFPP. The reality is that the new DOE Award is a game changer. It would be a shame not to proceed forward with CFPP development through the Class 3 Project Cost Estimates, while aggressively marketing additional subscription and monitoring new subscription on a monthly basis to see that additional subscription is achieved to the PMC's satisfaction.

In conclusion, I would have you reconsider withdrawal or reduction of your current Entitlement Share. There is no fool proof way to reduce your cost exposure given the large number of Participants attempting to do the same thing. The CFPP is now defined, has the DOE award and 100% reimbursement from NuScale. All of these contractual structures will allow the PMC to manage the CFPP to the lowest risk exposure for the Participants.

Your governing bodies depend upon you to analyze and make a recommendation. Given the next off ramp is in January of 2022, the \$1.4 billion DOE award, the NuScale 100% reimbursement on economics and your need for the CFPP, you should be recommending staying at your current subscription level, which requires no action by your governing body, while monitoring the subscription process. You can make a unilateral decision in January of 2022 or the PMC can terminate the CFPP at any point in the next 16 months.

We can discuss this further on Thursday morning.

Jackie Coombs

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Brian Stevenson

From: Brian Stevenson
Sent: Thursday, September 24, 2020 12:12 PM
To: Jackie Coombs
Subject: Money commitment for 1 phase

Jackie as I stated earlier we will commit to 5 MVA or 465,000 in the 1st phase of licensing

Sent via the Samsung Galaxy S20 5G, an AT&T 5G smartphone

Brian Stevenson

From: Jackie Coombs <jackie@uamps.com>
Sent: Thursday, September 24, 2020 5:07 PM
To: Brian Stevenson
Subject: RE: Money commitment for 1 phase

Thank you Brian

Jackie Coombs
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From: Brian Stevenson <brians@payson.org>
Sent: Thursday, September 24, 2020 12:12 PM
To: Jackie Coombs <jackie@uamps.com>
Subject: Money commitment for 1 phase

Jackie as I stated earlier we will commit to 5 MVA or 465,000 in the 1st phase of licensing

Sent via the Samsung Galaxy S20 5G, an AT&T 5G smartphone

Brian Stevenson

From: Jackie Coombs <jackie@uamps.com>
Sent: Thursday, September 17, 2020 12:44 PM
Cc: Doug Hunter; Mason Baker; Kelton Andersen; Laura Whitworth
Subject: CFPP Project Follow-up

SENT ON BEHALF OF DOUG HUNTER

Dear CFPP Participants,

In conjunction with Bear Prairie's email yesterday, I would like you to consider a broader look at what might be your allocation in CFPP. I fully understand the concern over a termination for convenience and the impact that it is perceived to have on your budgets. I would like to note that a number of you have UAMPS Margin accounts that would cover most if not all of this low probability outcome. If the project is not meeting expectations, we will see an Economic Competitive Test failure and receive 100% of our cost reimbursed. I am suggesting that you look at your total needs in the operational period of 2030 – 2070.

The Power Sales Contracts provide for a no cost reservation for capacity in the CFPP. Specifically, Article III, "Entitlement Share", Section 301(c) states;

"During the Licensing Period and for so long as less than all of the Project Capability has been sold pursuant to the Power Sales Contracts and any Excess Power Sales Agreements, the Participant may, by notice to UAMPS and upon the approval of the Project Management Committee, elect to increase its Entitlement Share by any amount, subject to (i) the limitation set forth in subsection (b) above, and (ii) such standards and procedures as may be established by the Project Management Committee. Any such increase in the Participant's Entitlement Share shall be effective at the beginning of the second phase of the Licensing Period or the Construction Period, as applicable."

Using this section a Participant may increase their Entitlement Share at any time provided that there is still unsubscribed kilowatts in the CFPP and such increase does not increase their total Entitlement Share above 20%. The PMC must establish standards for the increase. Such increase will not be effective in the Period it is declared. The Participant's Development Cost Share would not increase nor would their voting rights. A Participant that declares an increase could also declare a decrease before the effective Period begins. Thus, reducing their Entitlement Share back to the current Period amount. This provides a safe harbor for a capacity reservation for a Participant.

This is not a JUMP like situation. JUMP required ownership today in order to enter into the lease with DOE. A Section 301(c) capacity amount is nothing more than an option to increase their Entitlement Share in the future. It will not increase a Participant's Development Cost Share in the current Period.

This is not a hack to make the project look subscribed. Any prospective Participant would have to be advised of the Development Cost Share associated with their subscription which will only include those Participants with a Development Cost Share. It should be noted that once, a prospective Participant becomes a Participant, they would be able to invoke Section 301(c) as well.

The amounts associated with 301(c) would not be used to spark a rush for project capacity on the concept of a capacity scarcity, rather it would be used to provide an indicator of what is available. I assume that the Participants are investigating other potential future power resources, which may or may not materialize. Case in

point is the BPA 2028 contract renewal. Another example is the IPP natural gas/hydrogen generation system. And of course, Participants may likely increase their percent of renewables. This reservation could be used to hedge on the future as well as uncertain future load growth. You may work with Kelton Andersen to look at your load projections and resource portfolio.

In short, I would ask you to look at your needs as well as your concern over an unlikely probability that UAMPS would cancel the CFPP for convenience. I would recommend you retain your current Entitlement Share and then place prospective energy needs into a 301(c) reservation account.

Let me know if you would like to discuss this in more depth.

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Brian Stevenson

From: Laura Whitworth <Laura@uamps.com>
Sent: Wednesday, September 16, 2020 11:54 AM
To: Adam Long; Allen Johnson; Allison Leavitt; April Hill; Bear Prairie; Mayor; Blaine Haacke; Bob Westervelt; Brad Gamett; Brad Kearn; Brian Anderson; Brian Stevenson; Briant Farnsworth; Bruce Rigby; Casey Anderson; Chase Morgan; Chris Hogge; Clark Crook; Clay Fitch; Cory Daniels; Dan Ellsworth; Dave Burnett; Dave Imlay; Dave Steele; David Martin; David Wood; Doug Smith; Doug Welton; Dwight Day; Emily Brandt; Eric Larsen; Greg Bellon; Holly Daines; Isaac Jones; Jack Taylor; Jason Norlen; Jason Walker; Jeremy Franklin; Jeremy Redd; Joel Eves; Josey Parsons; Karen Rollings; Ken Dizes; Ken Tedford; Kent J Kummer; LaVarr Webb; Les Williams; Mark Barton; Mark Montgomery; Matt Draper; Michael Holt; Neil Shumway; Pat Holley; Philo Shelton; Ray Loveless; Rebecca Casper; Richard L.C. Virtue; Rick Hansen; Robert Erquiaga; Rodney Whatcott; Shane Ward; Steve Cummins; Ted Olson; Todd Robinson; Ty Bailey; Tyler Vincent; Yuqi Zhao
Cc: Doug Hunter; Mason Baker; Jackie Coombs
Subject: CFPP Subscription Estimates

Importance: High

****This email has been sent on behalf of Bear Prairie**

CFPP Project Committee Members,

We have talked about the need to understand where everyone is at as it pertains to subscription levels for the next phase of the project. The project is getting to crunch time to figure out subscription levels and more importantly funding support levels to understand if there is enough financial support / interest to enter into this newly created interim budget phase. In short we need to get to \$13.24 million dollars to continue working on developing out the project.

I know Doug has requested that everyone have a 20% increase in dollar spend authorized but I also think that it might be easier to see where utilities are landing and have a discussion on what the figures are coming in at. The reality is every utility has different resources, different resource needs and different perspectives on this project. The thing I appreciate the most about UAMPS is their project based structure which allows individual utilities to choose their project participation and at the end of the day if those that want to pursue a resource cannot or will not fund that effort it cannot/does not get put on the backs of the larger UAMPS membership. I can sense the frustration during the recent PMC meeting and I think the best way to manage this is going to be through mutual respect and understanding. We do though need to understand where everyone is at on this so we can engage in dialogue on if we are on track to get the \$13.24 million of support needed and if not the best next move for the project.

I request that everyone email Jackie Coombs the following information by next Tuesday so we can put it together into a spreadsheet to gauge subscription/next phase funding and discuss during a workshop next Thursday, September 24th. In discussing with UAMPS staff, I suggest cancelling tomorrow's workshop. I realize these are guesstimates because all of our governing boards make these final decisions so we realize nothing is set in stone but a best guess at this point.

For these values assume the DOE Award comes through by October 15th as planned.

Email Jackie the following values:

- Potential Low Case subscription MW and Dollar spend Cap towards the \$13.24M.

- Expected subscription MW and Dollar spend Cap towards the \$13.24M.
- Potential High Case subscription MW and Dollar spend Cap towards the \$13.24M. (This can indicate if we do not have the needed amounts under expected but do meet it in high case then we would go to our councils for an authorization towards this higher value)

For some utilities these values could all be the same number. For others if going to zero could be an outcome of your council decision put in zero. We recognize, everyone has the option of zero but we are looking for the likely bookends from each utility.

Hopefully this makes sense. Feel free to contact myself or UAMPS staff if you have any questions or concerns with this.

Thanks, Bear.

Laura Whitworth
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laura@uamps.com



To: CFPP Participants

From: Mason Baker, UAMPS General Counsel

RE: Executive Summary Memorandum of Development Cost Reimbursement Agreement and the Engineering, Procurement, Construction and Development Agreement

Date: September 9, 2020

Introduction

This memorandum will summarize the key provisions in the two key development agreements, the Development Cost Reimbursement Agreement (DCRA) and the Engineering, Procurement, and Construction and Development Agreement (EPC DA), for the Carbon Free Power Project (CFPP) and provides an executive level commercial analysis of how these provisions may impact the CFPP Participants. The DCRA is between UAMPS and NuScale and provides for the process of running the Economic Competitiveness Test (ECT) to ensure the lifecycle costs for the CFPP are staying underneath a predetermined \$/MWh and if not UAMPS can seek to terminate further development and receive reimbursement from NuScale for CFPP development costs. Under the EPC DA, the primary scope of work will be for Fluor to provide revisions and updates to its construction cost estimate for the CFPP. Task Orders will be issued by UAMPS to Fluor under the EPC DA to perform these Project Cost Estimate (PCE) revisions. Capitalized terms not defined in this memorandum have the meanings as defined in the DCRA and the EPC DA.

Development Cost Reimbursement Agreement

Whereas Section

This section provides a comprehensive overview of how the CFPP is being developed amongst UAMPS, NuScale, Fluor, and in addition the U.S. Department of Energy's support for the CFPP through cost sharing support and providing a site for the CFPP to be located at the Idaho National Laboratory. It is also worth noting to items denoted in this section: (1) the fact that the current DOE cooperative agreement for the CFPP will remain in place for several months after the New Multi-year Award is awarded to UAMPS and (2) that there will be an ECT completed prior to approval/execution of the DCRA which will establish the Price Target has been achieved based on the latest version of the Project LCOE.

Article 1—Agreement Scope

- (a) This section identifies that the Cost Share Option Award and the Subaward as between UAMPS and NuScale will continue to be in effect for the limited purpose of winding up the current DOE Cooperative Agreement.
- (b) This section describes the overarching scope of this agreement which is to ensure the forecasted pricing for the CFPP remains below the Price Target by utilizing updates

to the Project Cost Estimates into the LCOE model in order to run the ECT and UAMPS' corresponding termination rights for ECT Failures.

Article 2-- Reimbursement, Credit Support, Funding Obligations and Condition Precedent.

- (a) This section requires UAMPS to demonstrate that it has obtained sufficient subscription and budgetary approvals by the Participants to move forward with funding after a decision to submit the Combined Operating License Application (COLA) to the Nuclear Regulatory Commission through the next ECT, which is to be the Class 1 Project Cost Estimate.
- (b) This section provides that NuScale must have credit support to ensure its reimbursement obligations under the DCRA. This credit support obligation commences once NuScale's reimbursement obligation exceeds \$10 Million and applies to both NuScale's reimbursement obligation for an ECT Failure (§ 5(a)) and UAMPS' Termination of NuScale for Cause (§5(d)).
- (c) This section requires NuScale to continue making efforts to obtain additional investors beyond the current majority owner in Fluor and minority owners (Sargent and Lundy and Doosan) and keep UAMPS informed of these efforts. Likewise, UAMPS is to continue its efforts to acquire additional subscribers in the CFPP and will keep NuScale informed of these efforts.

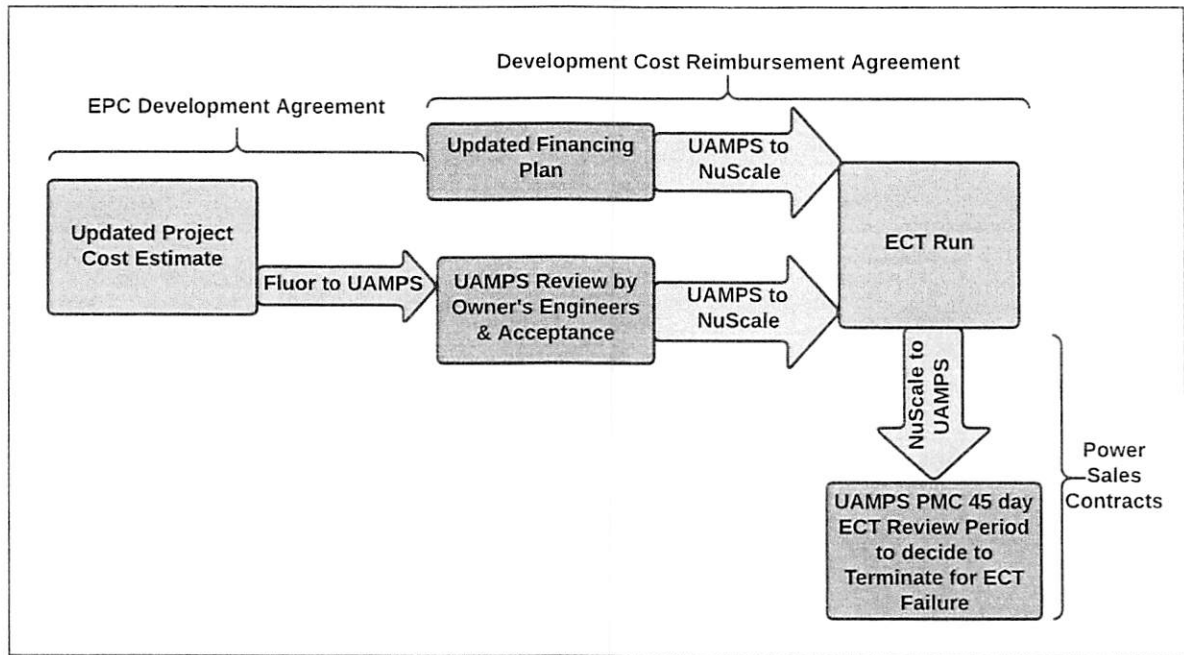
Article 3—Economic Model. Financing Plan and ECT Failure.

The introductory provisions to Article 3 describes the key aspects of running the ECT, that is, (1) the model inputs are contained in Exhibit C of the DCRA; (2) UAMPS' desire to move forward with the CFPP will be predicated on updates to the Project LCOE that are comparable to an LCOE Result of \$55/MWh or less in 2020 dollars that is based on a Commercial Operation Date (COD) for the first NuScale Power Module (NPM) in 2029; and (3) the potential to adjust the Price Target which will be discussed below in the summary for §3(h). This introductory provision also defines the scope of the "Project LCOE" that analyzes the levelized cost of electricity delivered at the bus bar and includes all of the Project's capital costs, interest during construction, operation and maintenance costs, and other costs identified in Exhibit C (e.g., decommissioning costs). In summary, the Project LCOE will model the costs to license, construct, operate, decommission and associated financing costs the for the CFPP over an approximate nine (9) year licensing and construction period, a forty-year operational period, and concluding with a decommissioning period. The introductory provisions also set forth the parameters for an ECT Failure. An ECT Failure will occur whenever the ECT Result from running the Project LCOE is greater than \$55/MWh, meaning that the update to the Project LCOE has generated a result greater than \$55/MWh (unless the Price Target has been adjusted pursuant to §3(h)).

- (a) **ECT Mechanics.** This provision outlines the mechanics of running ECTs during the term of the DCRA; specifically, ECTs are to be run as quickly as possible after achieving certain milestone events (e.g., delivery of PCEs). UAMPS has its owner's engineers review the revised PCEs that are delivered by Fluor under the EPC DA and, after such review and acceptance by UAMPS, then UAMPS provides the PCE to NuScale so those inputs can be updated in the Project LCOE. At the same time, UAMPS also is to provide

an update to its Financing Plan, which will be supported by UAMPS' financial advisor (PFM) to account for any changes in UAMPS Financing Plan to account for current market conditions. Below is flow chart illustrating the sequence of these ECT mechanics and how these actions occur via which CFPP Development Agreement.

Table 1



- (b) **ECT Runs.** This provision outlines in more detail when ECTs are contemplated to run, that is, upon completion of certain predetermined milestone events. These milestone events include: (1) delivery of the Class 3, 2, and 1 PCEs; (2) at the end of the calendar year (beginning in 2021); (3) issuance of NuScale's NRC Design Certification; (4) NuScale's submittal of its Standard Design Approval application to the NRC (providing for the uprate of the NPMs from 50 MW to 60 MW); (5) when the COLA is ready to be submitted by UAMPS to the NRC; (6) whenever a warranty item under Fluor's scope in delivery of the PCEs results in an increase to a PCE; and (7) whenever there has been an event that is expected to have a material effect on the Project LCOE, including an event for which NuScale is to provide notice to UAMPS under §3(g)(ii), discussed in more detail below. By having these predetermined milestone events for which ECT runs will be run along with the understanding that certain events may warrant running an ECT, UAMPS Participants will be able to consistently monitor the Project LCOE for the CFPP and have recourse, reimbursement for an ECT Failure, should the Price Target be exceeded. In addition to the ECT runs contemplated in the DCRA, UAMPS intends to provide monthly updates on the Project LCOE to the Project Management Committee (PMC).
- (c) **Revised Project Plan(s).** This provision accounts for the process assuming the Project moves forward after running the ECT and specifically identifies the potential need to revise the Initial Project Plan for the CFPP which would become a Revised Project Plan.

The Initial Project Plan is the critical document by which UAMPS, Fluor, and NuScale coordinate on all the work scopes necessary to successfully develop the CFPP. This document is also commercially relevant to this Agreement as it sets forth work and corresponding expenditures that NuScale will be responsible for should there be an ECT Failure and UAMPS terminates the CFPP triggering NuScale's reimbursement obligation. This section also provides for UAMPS causing Fluor to produce a new PCE to be consistent with the Revised Project Plan as agreed to by UAMPS, NuScale, and Fluor and run a new ECT based on the new PCE. For example, a Revised Project Plan may adjust certain expenditures, which, in turn, may increase the capitalized interest for the CFPP and such increase could result in an ECT Failure when inputted into the Economic Model.

- (d) **Revising Table B-1.** Related to the immediately previous provision regarding a Revised Project Plan, UAMPS and NuScale will need to equitably adjust the reimbursement caps and percentages in Table B-1 in Exhibit B, which contains the reimbursement amounts to be provided by NuScale for an ECT Failure. As noted in this section, adjustments to Table B-1 will not be allowed for increases in UAMPS Owner's Costs, as UAMPS staff negotiated this point at NuScale's request in exchange for having certain other inputs in the Economic Model more conservatively set in UAMPS favor for the purposes of running future ECTs. If NuScale fails to agree to equitable adjustments to the reimbursement caps and percentages, UAMPS will have the right to terminate further development of the CFPP and seek reimbursement as such an event will be treated as an ECT Failure.
- (e) **Risk Informed Model.** This provision provides for NuScale, Fluor, and UAMPS to conduct a risk informed model utilizing the Economic Model to identify "Key Risk Items," which will be memorialized in a memorandum with the ECT along with a plan to mitigate these Key Risk Items during the proceeding development of the CFPP.
- (f) **Class 1 PCE/COL Issuance→ FNTF.** This provision describes the process by which UAMPS issues Final Notice To Proceed (FNTF) to construction, which will occur after the Class 1 PCE has been delivered by Fluor and the COL has been issued by the NRC to UAMPS to move forward with constructing and operating the CFPP. ECT runs will occur at both occurrences, the Class 1 PCE and COL issuance. Assuming successful ECT runs, UAMPS and Fluor will have sixty (60) days to negotiate final EPC Terms, and, if such negotiations are not successful then UAMPS may terminate further development based on such an event being treated as an ECT Failure. See Table 2 below identifying the ECT Failure reimbursement amounts for certain key ECT runs.

Table 2

Milestone Event for ECT Run	Total Project Costs	Net Development Costs (Net of DOE Cost Share)	Reimbursement % for ECT Failure based on Phase¹
Class 3 PCE	\$59M	\$12M	100%
Class 2 PCE	\$123M	\$25M	100%
Class 1 PCE	\$509M	\$102M	20%
COL Issuance	\$993M	\$199M	20%

- (g) **Best Available Information.** NuScale is required to provide UAMPS with the “Best Available Information” related to the CFPP on an open book basis, so such information can be reviewed by UAMPS’ owner’s engineers. Best Available Information is information that could change the Project LCOE by \$1/MWh or more. UAMPS has a corresponding obligation to NuScale to provide updated information as it relates to UAMPS Financing Plan that similarly could change the Project LCOE by \$1/MWh or more.
- (h) **Adjusting the Price Target.** This provision comes into play when UAMPS makes owner caused changes, such as delaying starting COLA work beyond October 2020 or if UAMPS makes other owner caused changes that require updating the PCE. An example of such an owner caused change could be UAMPS electing to utilize different, more costly steam turbines than what Fluor had identified at the Class 3 PCE or UAMPS electing to install ten (10) NPMs as opposed to twelve (12) NPMs. In either case, NuScale would likely request to equitable adjust (increase) the Price Target.

Article 4—Term.

The DCRA is to remain in place from the Effective Date, noting that the New Multi-year Award from DOE is a condition precedent for the DCRA becoming effective, until the earlier of FNTF to construction (after COL issuance, running the last ECT, and UAMPS and Fluor negotiating final EPC pricing) or if this Agreement is replaced by a successor agreement. If the latter case occurs, the reimbursement provisions set forth in the DCRA would be carried forward into the successor agreement. The key point here is that the DCRA will serve as the contractual reimbursement vehicle to ensure the Price Target is achieved throughout the development period of the CFPP until FNTF is made by the UAMPS Participants.

¹ For reimbursement percentages, the DCRA is broken down into three phases. Phase 1 is from the Effective Date until the later of the COLA Submission and Delivery of Class 2 PCE. Phase 2 is from the later of the COLA Submission and Delivery of Class 2 until Delivery of the Class 1 PCE. Phase 3 is from Delivery of PCE1 until FNTF after COL issuance.

Article 5—Termination.

The termination provision of this Agreement is very detailed and accounts for the various scenarios by which either UAMPS or NuScale may terminate the DCRA and the resulting consequences.

- (a) **UAMPS Termination for Failure of the ECT.** This provision corresponds to Article 3 and specifically UAMPS' rights to terminate further development of the CFPP due to an ECT Failure (exceedance of the Price Target based on an ECT run) and recover the portion of Net Development Costs as set forth in Table B-1. The definition of Net Development Costs covers all task orders issued to Fluor under the EPC Development Agreement, which will include both revising the PCE for the CFPP and developing the COLA with NuScale acting as a major subcontractor to complete the COLA development scope. Additionally, Net Development Costs covers all the costs identified in the Initial Project Plan or a Revised Project Plan net of any DOE cost sharing. In sum, the ECT reimbursement obligation applies to the total project costs to develop the CFPP net of DOE cost sharing and any ineligible expenses UAMPS may incur which should be minimal. See again Table 2 for reimbursement percentages and amounts for certain key ECT runs. NuScale is to make the reimbursement payment if less than \$10 Million within sixty (60) days of NuScale's receipt of UAMPS written notice of termination and within one hundred and twenty (120) days if the reimbursement amount is more than \$10 Million. It should be noted that Fluor will provide the parental guarantee to ensure NuScale's reimbursement obligation under this section consistent with Article 2(b).
- (b) **UAMPS Conveyance of CFPP Project Assets.** If UAMPS exercises its right to terminate further development of the CFPP pursuant to an ECT Failure as described in Article 3(a), NuScale has the option within sixty days after receiving UAMPS' notice of termination to have UAMPS convey the Project Assets to NuScale. If NuScale is then successful in developing the assets which is measured by achieving commercial operation, UAMPS is entitled to seventy (70) percent of its remaining out-of-pocket and internal development costs for the CFPP that is in excess of any NuScale reimbursement payment due to an ECT Failure to be paid sixty (60) days after COD. Alternatively, if NuScale sells the Project Assets to a third party, then such sale shall contain the same reimbursement condition to UAMPS (70% of UAMPS remaining out-of-pocket expenses and internal development costs) upon achieving COD.
- (c) **UAMPS Termination for its Convenience.** This provision provides for the traditional right of UAMPS, as project owner, to terminate further development by providing written notice and paying for the winding up of development costs that have been previously authorized to NuScale via the DCRA or Fluor through the EPC Development Agreement. Similar to §5b above, NuScale has the same right to have UAMPS convey the Project Assets to NuScale and likewise the same reimbursement rights apply should NuScale or a third party be successful in further developing the Project to commercial operation. UAMPS could elect to utilize this provision should the PMC decide to terminate the CFPP on the basis of insufficient subscription by the Class 3 PCE and ECT run.
- (d) **UAMPS Termination of NuScale for Cause.** There are several events of default by NuScale identified for which UAMPS may terminate for cause and receive

reimbursement for 100% of its Net Development Costs, irrespective of ECT Failure reimbursement percentage that may be applicable. These events of default are:

1. Failure of NuScale to Receive its Design Certification from the NRC by January 31, 2023²;
2. Failure of NuScale to have the NRC accept its Standard Design Approval application as complete for docketing purposes by May 31, 2023;
3. Failure of NuScale to obtain NRC's approval of its Standard Design Approval one year after the NRC has published acceptance of the Standard Design Approval application;
4. NuScale experiences a Bankruptcy Event (e.g., voluntary or involuntary);
5. NuScale fails to demonstrate or maintain the required credit support set forth in Article 2 of the DCRA;
6. A material breach of NuScale under the DCRA or any other agreement between UAMPS and NuScale and such breach has not been cured within thirty (30) days of UAMPS' notice of such breach.

The reimbursement terms by NuScale are the same as for ECT Failure reimbursement payment; NuScale is to pay within sixty (60) days for a reimbursement amount less than \$10 Million and one hundred and twenty (120) days if the reimbursement amount is above \$10 Million. It should be noted that if the basis for UAMPS terminating NuScale for cause is NuScale's failure to receive Design Certification Approval, Standard Design Approval application acceptance, or Standard Design Approval and such failure is not due to a change in Laws or Codes and is solely due to a Force Majeure Event, NuScale's reimbursement will be as if there has been an ECT Failure. It should be noted that the current schedule has the Design Certification approval and Standard Design Approval application being submitted while the reimbursement percentage for an ECT Failure is at 100% of Net Development Costs.

(e) NuScale Termination of UAMPS for Cause. There are several events of default by UAMPS that are identified and allow for NuScale to terminate the DCRA for cause. These events of default by UAMPS are:

1. UAMPS experiences a Bankruptcy Event;
2. UAMPS fails to obtain NRC acceptance for docketing its COLA by March 31, 2024 (more than a year after COLA submittal in most recent development schedule);
3. UAMPS materially breaches any of its representations, warranties, or covenants under the DCRA and such breach is not cured within thirty (30) days of written notice by NuScale;
4. UAMPS fails to develop and fund the CFPP in accordance with the Revised Project Plan or DOE terminates the New Multi-year Award.

² It should be noted that January 21, 2023 should be viewed as an "outside date" that would be extremely unlikely and for which UAMPS termination for caused would be warranted. NuScale's receipt of its Design Certification is anticipated to occur in August 2021 as set forth in the milestone schedule contained in Exhibit B. Further, the NRC completed its Final Safety Evaluation Report for the NuScale design on August 28, 2020—a significant milestone on NRC's review of the safety of the NuScale design providing support for Design Certification issuance to NuScale by the NRC in August 2021.

Such termination would be treated the same as UAMPS terminating for its convenience (§5(c)) with the potential for a future reimbursement if NuScale or a third party successfully develops the Project Assets.

- (f) **Termination for Mutual Convenience.** Both UAMPS and NuScale may elect to terminate the DCRA, in which case each party will bear its own costs and the parties will seek to dispose of the Project Assets as quickly as possible and share equally in those proceeds. This provision also contemplates that the parties will terminate this Agreement for mutual convenience should UAMPS and NuScale fail to enter into binding Owner-supplied term sheet by January 31, 2021 or an EPC Term Sheet between UAMPS and Fluor by January 31, 2021. It should be noted that the Project LCOE will be updated to incorporate the pricing structure set forth in these two term sheets. Having these term sheets negotiated in a binding form as quickly as possible (January 31, 2021) is in the best interest of UAMPS, so we can understand that these terms are consistent with our view on how Fluor and NuScale will successfully procure, construct, and commission the CFPP in a manner that appropriately apportions risk amongst the parties.

An executive summary of the following Articles in the DCRA is not provided in this memorandum. UAMPS staff welcomes any questions regarding these sections.

Article 6—Force Majeure.

Article 7—Limitation of Liability.

Article 8—Indemnification.

Article 9—Miscellaneous (Confidentiality, DOE Loan Guarantee, Export Control, Assignment; Governing Law, Dispute Resolution, Litigation, etc.).

Exhibit A—Definitions.

Exhibit B—DCRA Caps and Milestones. This is the key exhibit and its Table B-1 that is utilized for the purposes of calculating ECT Failure reimbursement amounts to be paid by NuScale to UAMPS. As discussed in relation to §3(d), Table B-1 may be amended to account for changes via a Revised Project Plan that is agreed to by the Parties. This exhibit also contains the schedule for achieving certain key milestone events (e.g., delivery of PCEs and NRC milestone events).

Exhibit C—Price Target, Economic Model, Financing Plan and Economic Competitiveness Test Guidelines. This exhibit memorializes the key inputs that go into the Economic Model; certain inputs are identified and will be updated through revisions to the PCEs or UAMPS' Financing Plan while others the parties have agreed to fix (e.g., Owner's Costs, production tax credit values, etc.). A significant positive change based on recent negotiations is NuScale's acceptance of interest rate exposure that will be accounted for in UAMPS' revisions to its Financing Plan that will account for the latest interest rate assumptions for the CFPP based on current market conditions and the composition of UAMPS credit based on the Participants. DOE appropriations risk is also addressed in Exhibit C, whereby UAMPS and NuScale have agreed

that UAMPS will have the obligation to fund CFPP development if there is a DOE appropriations shortfall and then this shortfall will be accounted for in the next run of the ECT. What this means is that there may be an ECT Failure caused by such shortfall, in which case UAMPS could seek reimbursement for such ECT Failure from NuScale. It should also be noted that the most significant risk exposure for the CFPP exists over the next three years leading up to the delivery of the Class 2 PCE and most importantly should there be an ECT Failure during this period of time due an appropriations shortfall then the reimbursement percentage is set at 100%.

Engineering, Procurement, and Construction Development Agreement

Whereas Section

The Whereas section closely tracks the Whereas from the DCRA and more directly identifies Fluor's role to serve as a Contractor under the New Multi-year Award from DOE to revise the PCE and Operations Cost Estimates (OCE) as well as developing UAMPS' COLA.

Article 1—Scope and Compensation. UAMPS is to issue Task Orders to Fluor under the Development Agreement to revise the PCE for the CFPP and develop the COLA; such Task Orders are to be consistent with the Initial Project Plan or any Revised Project Plan. A form of the Task Orders to be issued under this Agreement is set forth in Exhibit D. It should be noted that the Initial Project Plan and any Revised Project Plan is agreed to by UAMPS, NuScale, and Fluor and is contained as Exhibit A to this Agreement. When issuing Task Orders special provisions will be agreed to in order to ensure the costs incurred in performing the work is reimbursable by DOE under the New Multi-year Award.

Article 2—Funding.

- (a) UAMPS must represent and warrant that it has sufficient funding required for any Task Order it issues and provide evidence of such funding that is reasonably satisfactory to Fluor.
- (b) Likewise, Fluor must represent and warrant that prior to accepting any Task Order issued by UAMPS that it has the funding or credit support necessary to carry out and complete the work under the Task Order.

Article 3—PCEs and OCEs. This provision sets forth the proposition that Fluor will provide revision to the PCEs and OCEs, so those revisions can be incorporated into the Project LCOE under the DCRA. As discussed previously in this memorandum, UAMPS will review, with the support of its owner's engineers, and accept these revisions and provide these revised inputs to NuScale so the revisions can be incorporated into the Project LCOE for the purposes of an ECT run. This provision also sets forth the process for UAMPS issuing FNTP to Fluor after the Class 1 PCE and the COL has been issued from the NRC to UAMPS. If the ECT run at the issuance of the COL passes, the final EPC pricing will be based on the pricing contained in the Class 1 PCE or any update thereto. If there is an ECT Failure at this time, UAMPS and Fluor will have sixty (60) days to negotiate a price to move forward into construction. It is contemplated that UAMPS will issue FNTP withing ninety (90) days after the last ECT run in the DCRA. The Class 1 PCE is contemplated to be issued well in advance of COL issuance, which will allow the CFPP

Participants visibility into the final pricing well before the final ECT run after COL issuance. Consequently, the ninety (90) day period to issue FNTTP should not be problematic for obtaining CFPP Participant governing body approvals prior to UAMPS issuing FNTTP as the EPC pricing will be well understood and can be communicated to the CFPP Participant governing bodies. UAMPS would not contemplate issuing FNTTP until the final ECT run after UAMPS has received its NRC license to ensure its issuance and to account for any adjustments that may need to be addressed as part of issuing FNTTP to Fluor.

Article 4—Insurance. [No summary provided.]

Article 5—Indemnification. [No summary provided.]

Article 6—Information. Section (b) of this article requires Fluor provide UAMPS with the Best Available Information related to the Project in the context of performing work under a Task Order, utilizing the same definition as contained in the DCRA. As discussed in the DCRA, Fluor's provision of Best Available Information may be the basis for running an ECT run, if there is not another ECT run contemplated close in time.

Article 7—Quality. Given the work contemplated to be performed by Fluor under this Agreement, Fluor and its subcontractors must perform the work consistent with NRC quality assurance requirements, which entails significant documentation associated with the work so that it can be later inspected by the NRC during a quality assurance audit.

Article 8—Term.

- (a) The Development Agreement is contemplated to remain in effect until the Parties execute a final EPC Contract.
- (b) Similar to the DCRA, it is acknowledged here that Fluor and UAMPS intend to negotiate a binding EPC Term Sheet by January 31, 2021, and if the parties fail to do so then UAMPS will have the right to terminate for its convenience.

Article 9—Suspension; Termination.

- (a) **UAMPS Termination for its Convenience.** UAMPS has the right at any time during the course of the Agreement to terminate for its convenience and in doing so will be responsible for costs incurred and authorized under a Task Order up to the date of termination, including demobilization costs. This provision also provides that any termination of the DCRA will be treated as a termination for convenience under this Agreement.
- (b) **UAMPS Termination of Contractor for Cause.** UAMPS has the ability to suspend or terminate this Agreement should any of the following events occur: (1) Fluor experiences a Bankruptcy Event, or (2) Fluor materially breaches any of its representations, warranties, or covenants under this Agreement. UAMPS reserves the right to seek recover of any direct damages associated with Fluor's breach of the Agreement and this remedy will be incremental to any remedy afforded to UAMPS under the DCRA

(reimbursement for an ECT Failure based on Fluor's breach under the EPC Development Agreement).

- (c) **Contractor Suspension and Termination of UAMPS for Cause.** This provision sets forth a two-step process for Fluor terminating UAMPS for cause. First, a Credit Event must occur which is deemed to occur if: (1) UAMPS experiences a Bankruptcy Event; (2) UAMPS fails to demonstrate and maintain funding for a Task Order; or (3) fails to make undisputed payments within twenty (20) days after receiving notice from Fluor that such payments are overdue. Following a Credit Event, Fluor has the right to suspend performance until UAMPS has secured financing to Fluor's reasonable satisfaction or has cured the payment defaults. Step two in this process allows Fluor to terminate the Agreement if Fluor has suspended its performance for more than sixty (60) days due to a Credit Event.
- (d) **UAMPS Suspension.** UAMPS has the ability to suspend Fluor's performance of issued Task Orders provided that UAMPS is responsible for the reasonable costs associated with such a suspension including those costs of Fluor's vendor or suppliers. However, UAMPS' ability to suspend is limited to no more than one year or in the aggregate five hundred and forty (540) days over the course of the Agreement. If the suspension period transpires by UAMPS, Fluor will have the option to terminate the Agreement.
- (e) **Termination for Mutual Convenience.** Both Parties may elect to terminate the Agreement, and, similar to UAMPS terminating for its convenience, UAMPS will be responsible for costs incurred and authorized under a Task Order up to the date of termination, including demobilization costs.

Article 10—Project Plan. This section provides for the creation of the Initial Project Plan, which will set forth how Fluor, UAMPS, and NuScale intend to develop the CFPP. This Initial Project Plan corresponds to the spending and schedule set forth in Exhibit B of the DCRA. Any changes will be memorialized in a Revised Project Plan that will become the new Exhibit D to this Agreement and a corresponding revision to Exhibit B in the DCRA. The process for revising the Project Plan and the consequence for failing to do so mirror the provisions in the DCRA.

Articles 11-21 [No Summary Provided.]

Exhibit A—Definitions.

Exhibit B—Form of Task Order.

Exhibit C—Compensation and Payment Reimbursable Cost Task Orders.

Exhibit D—Initial Project Plan [This Exhibit is undergoing some further modifications and will be provided ASAP and discussed with the Project Management Committee before approval is sought.]

Conclusion

Recent negotiations on the DCRA have been very favorable to the CFPP Participants. The most notable change is the increase of the reimbursement percentage to 100% for an ECT Failure through completion of the COLA and delivery of Class 2 PCE and completion of an ECT for these two milestone events. UAMPS staff and its owner's engineer view the delivery of the Class 2 PCE and a successful passage of the ECT as a critical derisking event for the purposes of achieving the requisite cost certainty to proceed forward with more significant expenditures. The level of accuracy of the PCEs is reflected in the definitions (Exhibit A) of the DCRA and is identified below:

- Class 4: A PCE that is estimated to be accurate to within -30% to +50%
- Class 3: A PCE that is estimated to be accurate to within -20% to +30%
- Class 2: A PCE that is estimated to be accurate to within -15% to +20%
- Class 1: A PCE that is estimated to be accurate to within -10% to +15%

It is important to note the level of refinement in the PCEs that occurs within the period of time during which UAMPS has 100% reimbursement for an ECT Failure, also noting the incremental increase in the estimation accuracy from Class 2 to Class 1. This incremental increase justifies the position in taking more risk after delivery of the Class 2 PCE, while still remaining some level of reimbursement through the terms of the DCRA all the way through FNTF to construction.

The DCRA also provides UAMPS with safeguards should NuScale experience NRC regulatory issues or going-concern issues, in which case UAMPS will be entitled to a 100% reimbursement irrespective of when such an event arises and this reimbursement obligation will be backstopped through a satisfactory credit support mechanism (e.g., a parental guarantee or some other form of credit support satisfactory to UAMPS).

In summary, the DCRA when coupled with the New Multi-year Award from DOE and EPC Development Agreement provide a robust development framework by which the Participants can move forward with derisking the CFPP to develop cost certainty to justify more substantial financial commitments upon demonstrating the CFPP's cost feasibility based on delivery of PCEs and updates to the Financing Plan. As always, UAMPS encourages the Participants to reach out with any questions or comments they may have in regard to this memorandum or the agreements.