

*In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to NCPA, based on an analysis of existing laws, regulations, rulings and court decisions and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Issue One 2010 Series A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”). In the further opinion of Bond Counsel, interest on the Issue One 2010 Series A Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Bond Counsel is also of the opinion that interest on the Issue One 2010 Series Bonds is exempt from State of California personal income taxes. Bond Counsel observes that interest on the 2010 Series B Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel expresses no opinion regarding any other federal or state tax consequences relating to the ownership or disposition of, or the accrual or receipt of interest on, the Issue One 2010 Series Bonds. See “TAX MATTERS” herein.*

**\$254,955,000**

**NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER REVENUE BONDS, ISSUE ONE**

**\$78,330,000**  
**2010 SERIES A**  
**(Tax-Exempt)**

**\$176,625,000**  
**2010 SERIES B**  
**(Federally Taxable – Direct Payment**  
**Build America Bonds)**

**Dated: Date of Delivery****Due: June 1, as shown on the inside cover**

***This cover page contains certain information for general reference only. It is not intended to be a summary of the security or terms of the Issue One 2010 Series Bonds. Investors are advised to read the entire Official Statement to obtain information essential to the making of an informed investment decision. Capitalized terms used on this cover page not otherwise defined will have the meanings set forth herein.***

The Issue One 2010 Series Bonds will be issued by Northern California Power Agency pursuant to an Indenture of Trust, dated as of June 1, 2010, between NCPA and U.S. Banc National Association for the purpose of financing the Indenture Group A Participants' share of the Costs of Construction of the Lodi Energy Center, a 280 MW combined cycle power plant, natural gas-fueled electric generation station to be constructed in Lodi, California and related purposes. See “PLAN OF FINANCE” and “ESTIMATED SOURCES AND USES OF FUNDS” herein.

The Issue One 2010 Series Bonds will be issued as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York. DTC will act as securities depository for the Issue One 2010 Series Bonds. Individual purchases of the Issue One 2010 Series Bonds will be made in book-entry form only. Interest on the Issue One 2010 Series Bonds will be payable on each June 1 and December 1, beginning on December 1, 2010. Principal will be payable on June 1 of the years set forth on the inside cover page hereof. The Issue One 2010 Series Bonds will be delivered in denominations of \$5,000 and any integral multiple thereof. Principal, premium, if any, and interest on the Issue One 2010 Series Bonds will be payable by the Trustee to DTC, which is obligated in turn to remit such principal of, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the Issue One 2010 Series Bonds. See “APPENDIX D – BOOK-ENTRY ONLY SYSTEM” hereto.

**The Issue One 2010 Series Bonds are subject to redemption prior to maturity as described herein.**

THE ISSUE ONE 2010 SERIES BONDS WILL BE SPECIAL, LIMITED OBLIGATIONS OF NCPA PAYABLE SOLELY FROM AMOUNTS AVAILABLE FROM THE TRUST ESTATE, AND SECURED SOLELY BY A PLEDGE OF THE TRUST ESTATE, CONSISTING PRIMARILY OF PAYMENTS FROM THE INDENTURE GROUP A PARTICIPANTS AND THE FUNDS HELD BY THE TRUSTEE UNDER THE INDENTURE. THE ISSUE ONE 2010 SERIES BONDS WILL NOT CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF NCPA. THE ISSUE ONE 2010 SERIES BONDS ARE NOT DEBTS, LIABILITIES OR OBLIGATIONS OF THE STATE OF CALIFORNIA, ANY PUBLIC AGENCY THEREOF (OTHER THAN THE SPECIAL LIMITED OBLIGATIONS OF NCPA), ANY MEMBER OF NCPA, ANY INDENTURE GROUP A PARTICIPANT OR ANY OTHER PARTICIPANT, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF ANY OF THE FOREGOING (INCLUDING NCPA) IS PLEDGED FOR THE PAYMENT OF THE ISSUE ONE 2010 SERIES BONDS. NCPA HAS NO TAXING POWER.

The Indenture Group A Participants are eleven of the thirteen California public entities that have purchased the capacity and energy of the Lodi Energy Center from NCPA pursuant to the Power Sales Agreement and that are the only Participants obligated to make payments with respect to the Issue One 2010 Series Bonds. These eleven California public entities are: the Cities of Azusa, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Santa Clara, and Ukiah, together with the Plumas-Sierra Rural Electric Cooperative, the Power and Water Resources Pooling Authority, and the San Francisco Bay Area Rapid Transit District. See “PLAN OF FINANCE” and “POWER SALES AGREEMENT” herein.

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**MATURITY SCHEDULE**  
(see inside cover)

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The Issue One 2010 Series Bonds are offered when, as and if issued and delivered to the Underwriters, subject to the approval of legality by Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Bond Counsel to NCPA, and certain other conditions. Certain legal matters will be passed upon for NCPA by Meyers, Nave, Ribac, Silver & Wilson, Sacramento, California, General Counsel to NCPA, by Spiegel & McDiarmid LLP, Washington, D.C., Washington Counsel to NCPA and by Orrick, Herrington & Sutcliffe LLP, Disclosure Counsel to NCPA. Certain legal matters will be passed upon for the Underwriters by Chapman and Cutler LLP, Salt Lake City, Utah, Counsel to the Underwriters. It is expected that the Issue One 2010 Series Bonds in definitive form will be available for delivery through the facilities of DTC in New York, New York, by Fast Automated Securities Transfer (FAST) on or about June 24, 2010.

**Citi**  
**Morgan Stanley**

**Goldman, Sachs & Co.**  
**De La Rosa & Co.**

**J.P. Morgan**  
**Stone & Youngberg**

Dated: June 17, 2010

**\$78,330,000**  
**Northern California Power Agency**  
**Lodi Energy Center Revenue Bonds, Issue One**  
**2010 Series A**  
*(Tax-Exempt)*

**MATURITY SCHEDULE**

Maturity Date (June 1)	Principal Amount	Interest Rate	Yield	CUSIP No. <sup>†</sup>
2013	\$4,540,000	3.000%	1.950%	664845 DR2
2014	4,675,000	4.000	2.370	664845 DS0
2015	4,865,000	5.000	2.770	664845 DT8
2016	5,110,000	5.000	3.220	664845 DU5
2017	5,365,000	5.000	3.590	664845 DV3
2018	5,630,000	5.000	3.880	664845 DW1
2019	5,915,000	5.000	4.090	664845 DX9
2020	6,210,000	5.000	4.240	664845 DY7

\$36,020,000 5.000% Term Bonds due June 1, 2025 - Yield 4.750%<sup>C</sup> CUSIP No.<sup>†</sup> 664845 DZ4

<sup>C</sup> – Priced to par call on June 1, 2020

**\$176,625,000**  
**Northern California Power Agency**  
**Lodi Energy Center Revenue Bonds, Issue One**  
**2010 Series B**  
*(Federally Taxable – Direct Payment*  
*Build America Bonds)*

**MATURITY SCHEDULE**

\$176,625,000 7.311% Term Bonds due June 1, 2040 - Yield 7.311% CUSIP No.<sup>†</sup> 664845 DQ4

<sup>†</sup> Copyright 2010, American Bankers Association. CUSIP<sup>®</sup> is a registered trademark of the American Bankers Association. The CUSIP data herein is provided by the CUSIP Service Bureau, managed on behalf of the American Bankers Association by Standard & Poor's. The CUSIP numbers are not intended to create a database and do not serve in any way as a substitute for CUSIP service. CUSIP numbers have been assigned by an independent company not affiliated with the Agency and are provided solely for convenience and reference. The CUSIP numbers for a specific maturity are subject to change after the issuance of the Issue One 2010 Series Bonds. Neither the Agency nor the Underwriters take responsibility for the accuracy of the CUSIP numbers.



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No dealer, broker, salesperson or any other person has been authorized by NCPA, the Indenture Group A Participants or the Underwriters to give any information or to make any representation, other than the information and representations contained herein, in connection with the offering of the Issue One 2010 Series Bonds and, if given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor will there be any sale of, the Issue One 2010 Series Bonds in any jurisdiction in which it is unlawful to make such offer, solicitation or sale. This Official Statement is not to be construed as a contract with the purchasers of the Issue One 2010 Series Bonds.

Statements contained in this Official Statement that include estimates, forecasts or matters of opinion are intended solely as such and are not to be construed as representations of fact. The information set forth herein has been furnished by NCPA, the Indenture Group A Participants or other sources which are believed to be reliable. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the matters described herein since the date hereof. This Official Statement, including any supplement or amendment hereto, is intended to be deposited with one or more repositories.

U.S. Bank National Association accepts its duties as Trustee for the Issue One 2010 Series Bonds. Notwithstanding the foregoing, however, the Trustee has not reviewed this Official Statement and makes no representations as to the information contained herein, including, but not limited to, any representations as to the financial feasibility of NCPA or the Participants, the Lodi Energy Center or any related activities.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

IN CONNECTION WITH THE OFFERING OF THE ISSUE ONE 2010 SERIES BONDS THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE ISSUE ONE 2010 SERIES BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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CAUTIONARY STATEMENTS REGARDING  
FORWARD-LOOKING STATEMENTS IN  
THIS OFFICIAL STATEMENT

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements.” Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “budget” or other similar words. Such forward-looking statements include, but are not limited to, certain statements contained in the information under the captions “THE LODI ENERGY CENTER,” “RATE REGULATION,” “DEVELOPMENTS IN THE ENERGY MARKETS,” “OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY” and “LITIGATION – California Energy Market Refund Dispute and Related Litigation” in this Official Statement and in the description of each Indenture Group A Significant Share Participant’s operations set forth in APPENDIX B hereto. Forward-looking statements in this Official Statement are subject to risks and uncertainties,

including particularly those relating to the successful completion of construction of the Lodi Energy Center within NCPA's budgeted Costs of Construction, natural gas costs and availability, wholesale and retail electric energy and capacity prices, federal and state legislation and regulations, competition and industry restructuring, and the economies of the service areas of the Indenture Group A Participants.

The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. NCPA does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.

NCPA maintains a website. However, the information presented therein is not part of this Official Statement and should not be relied upon in making investment decisions with respect to the Issue One 2010 Series Bonds.

**NORTHERN CALIFORNIA POWER AGENCY**  
**651 Commerce Drive**  
**Roseville, California 95678**  
**Telephone: (916) 781-3636**

**NCPA Commissioners and Members**

Larry Hansen, Chairman .....	Councilmember, Lodi	Mary Stegall.....	Councilmember, Redding
Michael Siminski .....	Mayor, Lompoc	Joe Kornder.....	Councilmember, Santa Clara
Yiaway Yeh.....	Councilmember, Palo Alto	John Hillstrom ..	Board Member, Truckee Donner
Vacant .....	Port of Oakland		Public Utility District
Douglas Crane.....	Councilmember, Ukiah	Daniel Kenney .....	Vice President,
Roger Frith .....	Mayor, Biggs		Board of Directors, Plumas-Sierra Rural
Larry Weis.....	General Manager,		Electric Cooperative, (Associate Member)
	Turlock Irrigation District	Carol Garcia.....	Councilmember, Roseville
John McCahan.....	Commissioner,	Owen Stiles.....	Energy Commissioner, Gridley
	Public Utilities Board, City of Alameda	Frank Schultz.....	Energy Manager, San Francisco
Gary Plass, Vice Chairman .....	Councilmember,		Bay Area Rapid Transit District
	Healdsburg		

**Management**

General Manager..... James H. Pope

Assistant General Manager, Finance and Administrative Services;

Chief Financial Officer ..... Donna I. Stevener

Assistant General Manager, Legislative & Regulatory.....Jane Dunn Cirrincione

Assistant General Manager, Business Development.....Donald Dame

Assistant General Manager, Power Management .....David Dockham

Assistant General Manager, Generation Services..... Ken Speer

Human Resources Manager .....Lynn Bianchi-Rossi

**Special Services**

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**Auditor**  
Moss Adams LLP  
Portland, Oregon

**Trustee**  
U.S. Bank National  
Association  
New York, New York

**Financial Advisor**  
Public Financial  
Management, Inc.  
San Francisco, California

**Lodi Energy Center**  
**Generation Entitlement Share Percentages (“GES”)**

<i>Participant</i>	<i>Generation Entitlement Share Percentage</i>
California Department of Water Resources *	33.5000%
City of Azusa	2.7857
City of Biggs	0.2679
City of Gridley	1.9643
City of Healdsburg	1.6428
City of Lodi	9.5000
City of Lompoc	2.0357
City of Santa Clara	25.7500
City of Ukiah	1.7857
Modesto Irrigation District *	10.7143
Plumas-Sierra Rural Electric Cooperative	0.7857
Power and Water Resources Pooling Authority	2.6679
San Francisco Bay Area Rapid Transit District	6.6000
Total	100.0000%

\* Not in Indenture Group A and not obligated to make payments in connection with the Issue One 2010 Series Bonds.

**Issue One Indenture Group A**  
**Indenture Cost Share Percentages (“ICS”)**

<i>Indenture Group A Participant</i>	<i>Indenture Cost Share Percentage</i>
City of Azusa	4.9936%
City of Biggs	0.4802
City of Gridley	3.5212
City of Healdsburg	2.9448
City of Lodi	17.0295
City of Lompoc	3.6491
City of Santa Clara	46.1588
City of Ukiah	3.2010
Plumas-Sierra Rural Electric Cooperative	1.4084
Power and Water Resources Pooling Authority	4.7824
San Francisco Bay Area Rapid Transit District	11.8310
Total	100.0000%



## SUMMARY STATEMENT

This Summary Statement is subject in all respects to more complete information contained in this Official Statement and should not be considered a complete statement of the facts material to making an investment decision. The offering of the Issue One 2010 Series Bonds to potential investors is made only by means of the entire Official Statement. Certain terms used herein are defined in APPENDIX A to this Official Statement.

<p><b>NCPA .....</b></p>	<p>Northern California Power Agency is a joint exercise of powers agency formed under the Act and the Joint Powers Agreement now among Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Oakland (acting through its Board of Port Commissioners), Palo Alto, Redding, Roseville, Santa Clara, Ukiah, TID, Truckee Donner, and BART as members, and Plumas-Sierra, as an associate member (herein collectively referred to as the “Members”). NCPA has successfully completed the construction of and operates a number of electric generating facilities, including a large hydroelectric project, a geothermal project and two natural gas-fueled units. See “NORTHERN CALIFORNIA POWER AGENCY” and “OTHER NCPA PROJECTS.”</p>
<p><b>Lodi Energy Center .....</b></p>	<p>The Lodi Energy Center consists of a 280 MW combined cycle, natural-gas-fueled electric generation station and related facilities to be located in Lodi, California. The material permits and governmental approvals required in connection with the acquisition and construction of the Lodi Energy Center have been obtained and the major components of the Lodi Energy Center have been ordered. NCPA expects to commence construction of the Lodi Energy Center in the Summer of 2010 with commercial operation expected in the Summer of 2012.</p> <p>The Lodi Energy Center uses modern generation and emissions control to minimize the environmental impact of the facility while producing energy in an efficient and cost-effective manner. NCPA expects that the facility will be among the most competitive of the natural gas-fired plants in the region.</p> <p>The Lodi Energy Center has a designed heat rate of 6,804 Btu/kWh at 94 degrees F. This low heat rate means that this plant is very efficient and utilizes less natural gas than most gas-fired plants to generate energy. NCPA also believes that based on an historical evaluation of the market, the Lodi Energy Center will operate approximately 80% of the time. See “LODI ENERGY CENTER.”</p>
<p><b>Operation of the Lodi Energy Center.....</b></p>	<p>NCPA is to operate and maintain the Lodi Energy Center in accordance with the Power Sales Agreement and the Project Management and Operations Agreement among NCPA and the Participants.</p>

<b>The Power Sales Agreement .....</b>	<p>Pursuant to the Power Sales Agreement, NCPA has agreed to construct and operate the Lodi Energy Center and has sold all of the capacity and energy of the Lodi Energy Center to the thirteen Participants in accordance with their respective generation entitlement shares (“GES”). Each Participant has agreed to provide for its share of the Costs of Construction of the Lodi Energy Center and all Capital Improvements and to pay its share of the Operation and Maintenance Expenses based on its GES. See “POWER SALES AGREEMENT.”</p> <p>The Power Sales Agreement also provides for the application of Project Revenues received by NCPA in connection with the Lodi Energy Center. See “SECURITY AND SOURCES OF PAYMENT – Application of Project Revenues.”</p>
<b>Participants.....</b>	<p>The thirteen California public entities that are Lodi Energy Center Participants and their respective GES are set forth on page (ii) of this Official Statement, which GES is subject to adjustment as provided in the Power Sales Agreement. See “THE INDENTURE GROUP A PARTICIPANTS.”</p>
<b>Plan of Finance.....</b>	<p>The Power Sales Agreement divides the Participants into three Indenture Groups: Group A (identified on page (ii) of this Official Statement), Group B (the California Department of Water Resources) and Group C (the Modesto Irrigation District). NCPA is to issue bonds for all Costs of Construction allocated to the Indenture Group A Participants (the Issue One 2010 Series Bonds) and the current estimate of such cost allocated to CDWR. Modesto is to pay its share of the current estimate of the Costs of Construction with a Capital Contribution funded with proceeds of a financing by Modesto. See “PLAN OF FINANCE.”</p>
<b>Participant’s Indenture Cost Share.....</b>	<p>Each Participant in each Indenture Group is responsible for the payment of amounts due under bonds, notes and other evidences of indebtedness issued by NCPA with respect to such Indenture Group based on such Participant’s indenture cost share within such Indenture Group (such Participant’s “ICS”). The ICS of each Indenture Group A Participant specified in the Power Sales Agreement is set forth on page (ii) of this Official Statement and is subject to adjustment as provided in the Power Sales Agreement. The obligations of each Indenture Group are independent and no Participant in an Indenture Group is liable for any ICS payments with respect to obligations of another Indenture Group. See “PLAN OF FINANCE – Indenture Groups Under Power Sales Agreement.”</p>

<b>Participant's Obligations under Power Sales Agreement.....</b>	<p>Each Participant's payment obligation under the Power Sales Agreement is a special obligation payable only from the Enterprise Revenues of such Participant's Enterprise payable, except for Capital Contributions, as an operating expense of such Enterprise. See "POWER SALES AGREEMENT – Payments an Operating Expense of Enterprise."</p> <p>Each Participant's payment obligation under the Power Sales Agreement from its Enterprise Revenues is absolute and unconditional, is required to be made whether or not any capacity or energy is made available from the Lodi Energy Center, and, except for credits available under the Power Sales Agreement, is a net payment obligation not subject to reduction by offset, counterclaim or otherwise. See "POWER SALES AGREEMENT – Unconditional Payment Obligation."</p>
<b>Indenture Group A GES Step-Up .....</b>	<p>Upon a Payment Default by an Indenture Group A Participant, to the extent such Participant's GES is not voluntarily transferred in a GES Lay-Off, such GES will be allocated among the Non-Defaulting Indenture Group A Participants as a GES Step-Up, subject to a 35% maximum increase. A GES Step-Up by an Indenture Group A Participant will result in a corresponding increase in such Participant's ICS. The acquisition of the GES of a Defaulting Participant in a GES Lay-Off or GES Step-Up does not relieve the Defaulting Participant of its payment obligations with respect to its GES or ICS except to the extent of payments received. See "POWER SALES AGREEMENT – Increase in Non-Defaulting Indenture Group A Participants' Original GES."</p>
<b>OandM Step-Up .....</b>	<p>In the event of a Payment Default by a Participant that results in a deficiency in the amount available to pay Operation and Maintenance Expenses, the amounts payable by the Non-Defaulting Participants for Operation and Maintenance Expenses shall ratably increase beyond such Participants' GES to cure such deficiency. See "POWER SALES AGREEMENT – Increase in Non-Defaulting Participants' OandM Payments."</p>

<b>Security and Sources of Payment for Bonds .....</b>	<p>The Issue One 2010 Series Bonds will be special, limited obligations of NCPA. The Issue One 2010 Series Bonds will be payable solely from amounts available from the Trust Estate, and secured solely by a pledge of the Trust Estate. Amounts available from the Trust Estate will consist primarily of the amounts paid by the Indenture Group A Participants pursuant to the Power Sales Agreement (after the payment of the Indenture Group A Participants' share of the Operation and Maintenance Expenses and reserves therefor) and the amounts held by the Trustee under the Indenture. No Participants other than the Indenture Group A Participants are obligated to make any payments with respect to the Issue One 2010 Series Bonds.</p> <p><b>The Issue One 2010 Series Bonds will not constitute debts, liabilities or obligations of the State of California, any public agency thereof (other than special, limited obligations of NCPA), any Member of NCPA or any Participant and neither the faith and credit nor the taxing power of any of the foregoing (including NCPA) is pledged for the payment of the Issue One 2010 Series Bonds. NCPA has no taxing power.</b></p> <p>See "SECURITY AND SOURCES OF PAYMENT."</p>
<b>Issue One 2010 Series Debt Service Reserve Account .....</b>	<p>An amount from the proceeds of the Issue One 2010 Series Bonds equal to the Debt Service Reserve Requirement will be deposited in the Issue One 2010 Series Debt Service Reserve Account to be applied to make up any deficiency in amounts in the Issue One 2010 Series A Debt Service Account or the Issue One 2010 Series B Debt Service Account. See "SECURITY AND SOURCES OF PAYMENT – Issue One 2010 Series Debt Service Reserve Account."</p>
<b>Subsidy Contingency Fund .....</b>	<p>An amount from the proceeds of the Issue One 2010 Series B Bonds equal to the Subsidy Contingency Requirement will be deposited in the Subsidy Contingency Fund to be applied to make up any deficiency in amounts in the Issue One 2010 Series B Debt Service Account if the expected amount of the Subsidy with respect to the Issue One 2010 Series B Bonds is not received by any Interest Payment Date. See "SECURITY AND SOURCES OF PAYMENT – Subsidy Contingency Fund."</p>

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**OFFICIAL STATEMENT  
of  
NORTHERN CALIFORNIA POWER AGENCY**

**Relating to its**

**\$254,955,000**

**LODI ENERGY CENTER REVENUE BONDS, ISSUE ONE**

**\$78,330,000**  
**2010 SERIES A**  
**(Tax-Exempt)**

**\$176,625,000**  
**2010 SERIES B**  
**(Federally Taxable – Direct Payment**  
**Build America Bonds)**

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**INTRODUCTION**

*This Introduction is qualified in its entirety by reference to the more detailed information included and referred to elsewhere in this Official Statement. The offering of the Issue One 2010 Series Bonds to potential investors is made only by means of the entire Official Statement. Capitalized terms used in this Official Statement and not otherwise defined herein will have the respective meanings assigned to them in APPENDIX A – GLOSSARY OF TERMS.”*

**Purpose**

The purpose of this Official Statement, which includes the cover page and appendices hereto, is to set forth certain information concerning (i) the Northern California Power Agency; (ii) the Lodi Energy Center to be constructed and operated by NCPA; (iii) the Power Sales Agreement pursuant to which NCPA has sold all of the capacity and energy of the Lodi Energy Center to the Participants; (iv) the eleven Participants constituting the Indenture Group A Participants under the Power Sales Agreement, including in particular the three Indenture Group A Participants with the largest shares in the Lodi Energy Center; and (v) NCPA’s Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A and NCPA’s Lodi Energy Center Revenue Bonds, Issue One, 2010 Series B.

**Authority for Issuance of Issue One 2010 Series Bonds**

The Issue One 2010 Series Bonds are being issued pursuant to the provisions of Article 4 of the California Joint Exercise of Powers Act and under and in accordance with an Indenture of Trust to be dated as of June 1, 2010, between NCPA and U.S. Bank National Association, as trustee.

**The Issue One 2010 Series Bonds**

The terms of the Issue One 2010 Series A Bonds and the Issue One 2010 Series B Bonds are described under the caption “THE ISSUE ONE 2010 SERIES BONDS.” The Issue One 2010 Series B Bonds are being issued as direct payment Taxable Subsidy Bonds constituting Build America Bonds for purposes of the American Recovery and Reinvestment Act of 2009. All Subsidy payments in connection with the Issue One 2010 Series B Bonds shall be deposited in the Issue One 2010 Series B Debt Service Account. The Issue One 2010 Series Bonds and any future Lodi Energy Center Revenue Bonds, Issue One Outstanding under the Indenture are referred to herein as the “Bonds.”

The Issue One 2010 Series Bonds are being issued by NCPA for the purpose of financing the Indenture Group A Participants’ share of the Costs of Construction of the Lodi Energy Center. A portion

of the proceeds of the Issue One 2010 Series Bonds will also be used to fund the Debt Service Reserve Fund and the Subsidy Contingency Fund for the Issue One 2010 Series Bonds, pay capitalized interest for the Issue One 2010 Series Bonds, partially fund the Operating Reserve Fund and pay costs of issuance of the Issue One 2010 Series Bonds.

### **Security and Sources of Payment for the Issue One 2010 Series Bonds**

The Issue One 2010 Series Bonds will be special, limited obligations of NCPA. The Issue One 2010 Series Bonds will be payable solely from amounts available from the Trust Estate, and secured solely by a pledge of the Trust Estate. Amounts available from the Trust Estate will consist primarily of the amounts paid by the Indenture Group A Participants pursuant to the Power Sales Agreement after the payment of the Indenture Group A Participants' share of the Operation and Maintenance Expenses of the Lodi Energy Center and reserves therefor and the amounts held by the Trustee under the Indenture. See "SECURITY AND SOURCES OF PAYMENT" herein. No Participants other than the Indenture Group A Participants are obligated to make any payments with respect to the Issue One 2010 Series Bonds.

**The Issue One 2010 Series Bonds will not constitute debts, liabilities or obligations of the State of California, any public agency thereof (other than special, limited obligations of NCPA), any Member of NCPA or any Participant and neither the faith and credit nor the taxing power of any of the foregoing (including NCPA) is pledged for the payment of the Issue One 2010 Series Bonds. NCPA has no taxing power.**

### **Risk Factors**

For a description of certain risks associated with the purchase of the Issue One 2010 Series Bonds, see "SECURITY AND SOURCES OF PAYMENT – Limitations on Remedies," "The LODI ENERGY CENTER – Timeline and Milestones; Costs of Construction," "RATE REGULATION," "CONSTITUTIONAL CHANGES IN CALIFORNIA," "DEVELOPMENTS IN THE ENERGY MARKETS," "OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY" and "LITIGATION" herein.

### **Continuing Disclosure**

NCPA and the Indenture Group A Significant Share Participants will each agree, pursuant to separate Continuing Disclosure Agreements with the Trustee, to provide to the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System a copy of their respective annual audited financial statements, as well as certain operating data relating to the Lodi Energy Center and the Indenture Group A Significant Share Participants' respective Enterprises. See "CONTINUING DISCLOSURE" herein.

### **Other Matters**

The summaries of and references to all documents, statutes, reports and other instruments referred to herein do not purport to be complete, comprehensive or definitive, and each such summary and reference is qualified in its entirety by reference to each document, statute, report or instrument. The capitalization of any word not conventionally capitalized or otherwise defined herein indicates that such word is defined in a particular agreement or other document and, as used herein, has the meaning given to it in such agreement or document. In preparing this Official Statement, NCPA has relied upon certain information relating to the Indenture Group A Participants furnished to NCPA by such respective Indenture Group A Participants.

Attached to this Official Statement is a summary of certain provisions of the Indenture. For a summary of the Power Sales Agreement, see "POWER SALES AGREEMENT" herein. Copies of the Indenture, the Power Sales Agreement, the PMOA and the Continuing Disclosure Agreements are

available for inspection at the offices of NCPA in Roseville, California, and will be available upon request and payment of duplication costs from the Trustee.

## **THE LODI ENERGY CENTER**

### **General Description**

The Lodi Energy Center is designed to provide base, peak load and ancillary power services to assist in meeting the electric generation demand and reliability requirements of the Participants by providing cost effective power and energy through modern generation and emissions control technologies that are designed to mitigate effects on the environment.

The Lodi Energy Center has a designed net heat rate of 6,804 Btu/kWh at 94 degrees F. This heat rate is low in comparison to other natural gas-fired generating facilities, and means that this plant will be very efficient and will utilize less natural gas than most gas-fired plants to generate electric energy. Even when gas prices are high, NCPA believes that the Lodi Energy Center will be competitive to other, less-efficient, gas-fired plants in the region. NCPA also believes that based on an historical evaluation of the market, the Lodi Energy Center will operate approximately 80% of the time.

The Lodi Energy Center will be a natural gas-fired, combined-cycle power generation plant to be located in the City of Lodi, San Joaquin County, California. The plant is capable of operating at 296 MW (it has been permitted to operate at this level and it has arranged for the equipment necessary to operate at this level) but is expected to operate at 280 MW under the terms of the transmission interconnection agreement with the California Independent System Operator and PG&E. The electric generation components (the "Power Island") of the Lodi Energy Center will consist of the following components: (1) one natural gas-fired Siemens STGS-5000F combustion turbine-generator ("CTG"), with an evaporative cooling system and dry low-NOx combustors to control air emissions; (2) one 3-pressure heat recovery steam generator ("HRSG"), (3) a selective catalytic reduction ("SCR") and carbon monoxide (CO) catalyst to further control NOx and CO emissions, respectively; (4) one Siemens SST-900RH condensing steam turbine generator ("STG"); (5) one natural gas-fired auxiliary boiler; (6) one 7-cell draft evaporative cooling tower; and (7) associated support equipment.

The site for the Lodi Energy Center is 4.4 acres of land owned by the City of Lodi, six miles west of the Lodi city center and two miles north of the City of Stockton. On the east side of the site is Lodi's White Slough Water Pollution Control Facility ("WPCF"). The WPCF's treatment and holding ponds are located to the north. An existing NCPA electric generating plant (one unit of NCPA's Combustion Turbine Project as described under "OTHER NCPA PROJECTS – Capital Facilities Project") (the "NCPA Lodi Unit") is located to the west. A 230-kV Pacific Gas and Electric overhead electrical transmission line is aligned further to the west. A San Joaquin County Mosquito and Vector Control facility is to the south.

The Lodi Energy Center is a Siemens "Flex Plant 30," which employs rapid startup technology, which reduces the startup times of the unit and emissions during startup. The facility is expected to have an overall annual availability of more than 95%. The CTG and associated equipment include modern control technology to limit emissions of criteria pollutants and hazardous air pollutants. An SCR system using ammonia injection will help control NOx and volatile organic compounds. The exclusive use of natural gas as the fuel for the Lodi Energy Center is the "best available control technology" standard set in the San Joaquin Valley Air Pollution Control District permit for particulate matter (PM<sub>10</sub>) and sulfur oxide (SO<sub>x</sub>) emissions.

## Need for and Benefits of the Lodi Energy Center

As a part of the services it provides to its Members, NCPA undertakes long-range evaluations of the Members' power supply requirements and resources. One result of these evaluations was the identification of the need for a thermal generating resource to supplement the hydroelectric power supplies utilized by most of the Members and to provide a long-term resource to reduce their exposure to the wholesale power markets. NCPA recommended that various Members consider participating in the Lodi Energy Project and nine of them (all of which are Indenture Group A Participants) elected to participate in the Lodi Energy Center. Four non-member entities, Azusa, CDWR, Modesto, and PWRPA, also elected to participate in the Lodi Energy Center, which enabled NCPA to undertake a larger project with the associated economies of scale.

NCPA selected the site for the Lodi Energy Center based on a number of factors including (1) an existing industrial land use zoning, (2) its proximity to the transmission facilities controlled by the California Independent System Operator (the "ISO") and to major gas pipelines, (3) the availability of recycled water from Lodi's WPCF for the operations of the Lodi Energy Center's evaporative cooling system and (4) the existing NCPA-operated and staffed combustion turbine located at the site, which will provide experienced plant operators and a more efficient staffing plan than a stand-alone unit.

NCPA expects that the Lodi Energy Center will provide a number of benefits to the Participants. In addition to the strategic location of the Lodi Energy Center, NCPA expects the Lodi Energy Center will provide a range of additional benefits including (1) a highly efficient generating unit that will be economically dispatched before other gas-fired units in the region, resulting in a highly competitive power cost, (2) a flexible generating unit capable of fast start-ups and highly efficient operations across a broad range of conditions that will complement existing and future power supplies from hydroelectric and renewable energy resources, and (3) a range of 28% to 70% less greenhouse gas emissions as compared to power supply resources presently being used by certain of the Participants, as well as other emissions that are well below all current standards set by applicable regulatory bodies.

## Timeline and Milestones

NCPA expects to commence construction of the Lodi Energy Center in the Summer of 2010 with commercial operation expected in the Summer of 2012. The following represents an expected milestone timeline for the construction of the Lodi Energy Center:

<b>Milestone</b>	<b>Date</b>
Construction Commences	July 2010
Steam Turbine On Site	November 2011
OandM Training Begins	January 2012
Testing Begins	March 2012
Commercial Operation Date	June 2012

The estimated construction schedule for the plant is consistent with the industry standard construction time of 20-24 months for a combined cycle plant.

NCPA has executed a Project Labor Agreement ("PLA") which creates certainty around the availability and cost of labor required to complete the project. Among other things, the PLA eliminates the ability for unions and union employees to strike or create any work stoppage or slowdowns.

A number of factors, some of which may be outside the control of NCPA, could affect the timely completion of the Lodi Energy Center. These factors include timely selection of and performance by various contractors and subcontractors, the performance of equipment suppliers to meet contractual commitments, services not yet contracted for, labor disputes, contract disputes, the implementation of

mitigation measures or meeting conditions contained in permits and governmental approvals, changes in law and regulations and other uncontrollable forces and unforeseen circumstances.

### **Costs of Construction**

The estimated Costs of Construction of the Lodi Energy Center are approximately \$375 million. Below is a breakdown of such estimated costs:

	<u>Cost (\$mm)</u>
Materials	\$182.3
General Construction Contract	99.2
Development/Interconnection and Fees	56.1
Engineering	17.9
Contingency	19.8
<b>TOTAL CONSTRUCTION COST</b>	<b><u>\$375.3</u></b>

Approximately 86% of the estimated Costs of Construction are under contract. All of the major contracts in place are fixed price. Costs may increase due to a variety of factors, including change orders from the contractors. At the time the request for bids for the General Construction Contract was issued, detailed engineering was approximately 44% complete. NCPA believes that the contingency amount of \$19.8 million that is included in the construction budget of the Lodi Energy Center will be adequate to cover unexpected increases in construction costs. However, various factors could affect the Costs of Construction of the Lodi Energy Center including the actual costs of materials, services and labor not yet contracted for, delays in the current construction schedule, contract bid protests and other contract disputes and other factors which may be outside of the control of NCPA. Pursuant to the provisions of the Power Sales Agreement, in the event that higher than expected Costs of Construction exceed the contingency amount provided in the current construction budget, NCPA and the Participants will determine whether to fund the additional Costs of Construction through Capital Contributions and/or additional financings.

### **Engineering Agreement**

NCPA has contracted with WorleyParsons Group, Inc. (the “Engineer”) for the detailed engineering and design of the Lodi Energy Center. The Engineer’s responsibilities include, but are not limited to: (i) all engineering and design required for a 1x1 combined cycle power plant, (ii) integration of the Power Island (as defined below), (iii) design of support equipment and systems, (iv) preparation of specifications for equipment and systems purchases and construction, (v) review of vendor and contractor proposals, (vi) on-site engineering support during construction, and (vii) construction management services. NCPA shall pay the Engineer a fixed price for all services described above. As of the date of this Official Statement, the engineering and design of the Lodi Energy Center are approximately 48% complete.

### **Siemens Agreement for Power Island**

NCPA has entered into a Purchase Agreement (the “Siemens Agreement”) with Siemens Energy, Inc. (“Siemens”) for the purchase of the Power Island components for the Lodi Energy Center, at a fixed price. Such price is subject to adjustment as provided in the Siemens Agreement, including adjustments for change orders, delays caused by NCPA or other contractors and force majeure. The Siemens Agreement provides for deliveries of major components which are consistent with the schedule of milestones under “Timeline and Milestones” above. The Power Island components and services provided under the Siemens Agreement are expected to represent approximately 40% of the total Costs of Construction of the Lodi Energy Center.

In the Siemens Agreement, Siemens makes certain performance, emissions, sound and start-up performance guarantees under specified conditions and tolerances. These guarantees are satisfied by the testing procedures contained in the Siemens Agreement. The performance guarantees provide for a net power output of 284 MW and a heat rate of 6,632 Btu/kWh for the Power Island components. The Siemens Agreement also provides for start-up and operational emissions guarantees which are within the levels permitted for the Lodi Energy Center.

The Siemens Agreement provides for \$60,000 per Btu/kWh in liquidated damages for failure to satisfy the heat rate performance guarantee and \$600 per kW in liquidated damages for failure to satisfy the net power performance guarantee, with a separate limit of \$14,709,732 for each such guarantee and a combined limit of \$22,064,598 for both performance guarantees. A \$7,354,866 limit applies to a failure to achieve the start-up performance guarantee.

In the event the Lodi Energy Center does not satisfy the emissions guarantees, and Siemens determines it cannot reduce emissions to satisfy such guarantees, the Siemens Agreement provides that NCPA and Siemens will explore alternative solutions to address the higher emissions level and will negotiate a mutually agreeable remedy. Such remedy includes retrofitting a larger SCR catalyst, NCPA applying to the relevant government agency to amend the emissions limits or other conditions in the relevant permit or payment of mutually agreeable liquidated damages. The Siemens Agreement provides that in all events Siemens's liability for performance or nonperformance thereunder shall not exceed the contract price.

### **General Construction Contract**

The Lodi Energy Center will be constructed pursuant to a General Construction Contract (the "General Construction Contract") between NCPA and ARB, Inc. (the "Construction Contractor").

Under the General Construction Contract the Construction Contractor's responsibilities include, but are not limited to: (i) performing and completing all of the work, without any defects, and furnishing the equipment and materials and labor to provide an operable Lodi Energy Center, (ii) receiving, handling, installing, testing and other tasks with respect to incorporating the Power Island into the Lodi Energy Center, (iii) constructing the Lodi Energy Center so that it is capable of operation, at the design levels specified in the General Construction Contract, (iv) providing appropriate installation and start-up representatives from major subcontractors and major vendors, all necessary supervising personnel, all equipment, tools, construction and temporary material, and all labor for start-up, commissioning and testing in order to ensure that the Lodi Energy Center achieves completion by the guaranteed completion date, and (v) start-up, commissioning and any related testing.

The General Construction Contract provides that NCPA will suffer damages if construction of the Lodi Energy Center is not complete by the guaranteed completion date. If construction is not complete by the guaranteed completion date, the General Construction Contract provides for liquidated damages of \$25,000 per day for the first 30 days of delay, \$35,000 per day for days 31-60 of delay, and \$50,000 per day for each day of delay thereafter.

Bids for the General Construction Contract were received on May 3, 2010; however, due to technical compliance issues under the public works bidding process, NCPA elected to reject all bids, revise its bid specifications and re-bid the General Construction Contract. Bids were received on June 14, 2010 and the lowest bid from the Construction Contractor of \$99.2 million was approximately 9% greater than the engineering estimate. As shown in the table under "Costs of Construction," this \$8.2 million increase over the engineering estimate was partially offset by a \$3.5 million reduction in materials costs, resulting in a reduction in the project contingency amount from \$24.5 million to \$19.8 million. NCPA awarded the General Construction Contract to the Construction Contractor on June 17, 2010. As described under "Costs of Construction," if higher than expected Costs of Construction exceed the contingency amount provided in the current construction budget, NCPA and the Participants will

determine whether to fund the additional Costs of Construction through Capital Contributions and/or additional financings pursuant to the Power Sales Agreement.

### **Fuel Supply**

Natural gas will be delivered to the Lodi Energy Center through a new off-site pipeline (about 2.7 miles long) running parallel to a 2.7-mile existing natural gas pipeline owned by Pacific Gas and Electric that services the NCPA Lodi Unit.

The NCPA Fuel Management Contract between NCPA and JP Morgan Ventures Energy Corporation governs fuel related activities. The NCPA Fuel Management Contract calls for purchase of fuel at short-term rates. Additionally, the NCPA Fuel Management Contract is considered non-exclusive, namely that NCPA and each of the Participants retain the right to purchase its fuel requirements outside of such NCPA Fuel Management Contract.

NCPA presently procures services to schedule, balance and supply up to 78,000 MMBtu/day of natural gas and 5,400 MMBtu/day of pipeline capacity for the benefit of various Members. See "OTHER NCPA PROJECTS – Gas Purchase Contracts" below.

### **Water Supply and Wastewater Discharge**

Recycled water will be used for cooling needs for the Lodi Energy Center and will be provided by a new pipeline in the utility corridor connecting the Lodi Energy Center and Lodi's WPCF. Potable water for sanitary and domestic use would be provided by new on-site potable water well.

The Lodi Energy Center will produce no non-reclaimable process wastewater. Process wastewater will be disposed of by using a new Class I underground injection well, with the existing Class 1 underground injection well at the NCPA Lodi Unit available as a backup.

### **Transmission and Power Delivery**

The output of Lodi Energy Center is to be transmitted to the power grid via a proposed 1,100 foot in length, transmission/generation tie-line to the adjacent NCPA Lodi Unit 230 kilovolt ("kV") switchyard substation adjacent to the Lodi Energy Center.

### **Operation**

NCPA will operate and maintain the Lodi Energy Center. NCPA manages and operates seven power plant sites with a capacity of approximately 540 megawatts-including geothermal steam, hydroelectric and natural gas-fired facilities and is responsible for state of the art operations and asset management of all NCPA plants.

NCPA is to operate the Lodi Energy Center under the general direction of the Participants pursuant to the Power Sales Agreement and the PMOA. The PMOA addresses areas such as fuel procurement and energy dispatch of the Lodi Energy Center. Modifications to the PMOA may be made pursuant to the Power Sales Agreement.

### **Projected Operating Cost**

NCPA has prepared a preliminary operating budget for the Lodi Energy Center for the Fiscal Year ending June 30, 2013, the projected first full year of operation for the facility. The preliminary operating budget projects the Lodi Energy Center will operate at an 80% capacity factor. A summary of the preliminary operating budget, excluding debt service costs (which will vary by Indenture Group), appears in the table below.

**LODI ENERGY CENTER**  
**Projected Annual Operating Cost**

	FY 2013 Proposed	Cost per MWh
Routine Operations and Maintenance	\$ 11,659,774	\$ 5.94
Fuel (assumed \$7 per mmbtu for gas)	93,732,280	47.77
Other Costs	5,004,986	2.55
Total Annual Operating Budget	110,397,041	56.26
Capital and Maintenance Projects	951,500	0.48
Total Project Cost	\$ 111,348,541	\$56.75
Net Annual Generation (MWh)	1,962,240	
Net Annual Operating Cost to Participants (\$/MWh)	\$56.75	

**Permits, Licenses and Approvals**

The material permits and governmental approvals required in connection with the acquisition, construction and operation of the Lodi Energy Center have been obtained. These permits and governmental approvals in connection with the acquisition and construction of the facility include, but are not limited to, (i) San Joaquin Valley Air Pollution Control District Final Determination of Compliance, (ii) Biology Habitat Conservation Plan/Incidental Take Permit, (iii) Underground Injection Well Permit, (iv) Land Use Applicability for Gas Line, and (v) California Energy Commission (CEC) License.

**POWER SALES AGREEMENT**

**General**

Under the Power Sales Agreement, NCPA has agreed to construct and operate the Lodi Energy Center and has sold all of the capacity and energy of the Lodi Energy Center to the thirteen Participants in accordance with their respective GES to the Capacity and Energy of the Lodi Energy Center. In return, each Participant has agreed to provide for its share of the Costs of Construction of the Lodi Energy Center and all Capital Improvements and to pay its share of the Operation and Maintenance Expenses based in its GES.

**Unconditional Payment Obligation**

The Power Sales Agreement provides that each Participant shall pay NCPA the amount of its Participant Monthly Power Costs set forth in Billing Statements. See “Participant Monthly Power Costs” below. Each Participant acknowledges and agrees that its payment obligation for amounts due under the Power Sales Agreement from its Enterprise Revenues is the absolute and unconditional obligation of such Participant. The obligations of each Participant to make all payments required to be made by such Participant under the Power Sales Agreement from Enterprise Revenues are absolute and unconditional. Each Participant agrees to make all payments required to be made by such Participant under the Power Sales Agreement whether or not the Project or any part thereof is developed, constructed, is operable, operating or retired, and whether or not any Capacity or Energy is made available or furnished to such



Participant at all times or at all, and notwithstanding the suspension, interruption, interference, reduction or curtailment of Project output in whole or in part for any reason whatsoever. Except for credits allowed pursuant to the Power Sales Agreement, all payments required to be made by a Participant thereunder shall be absolutely net, free of any deductions, and are not subject to any reduction, whether by offset, recoupment, counterclaim or otherwise. Each Participant shall make all payments required to be made by such Participant under the Power Sales Agreement notwithstanding the occurrence of any act or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California, or any political subdivision of either of these, or any failure of any person to perform and observe any covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with the Power Sales Agreement, any applicable Financing Agreement or any other agreement.

### **Payments an Operating Expense of Enterprise**

The obligations of each Participant to make payments to NCPA under the Power Sales Agreement (other than Capital Contributions and Contributions in Aid of Construction) shall constitute a cost of purchased electric capacity and energy and be payable as an operating expense of the Participant's Enterprise (and with respect to CDWR, as a maintenance and operation cost of CDWR's Enterprise, the State Water Resources Development System, pursuant to California Water Code Section 12937(b)(1)). Each Participant will annually during the term of the Power Sales Agreement include in its Enterprise budget, as an Enterprise operating expense, whether or not any other items are included, an appropriation or commitment from its Enterprise Revenues sufficient to satisfy all payments required to be made by the Participant in such fiscal year under the Power Sales Agreement (other than Capital Contributions and Contributions in Aid of Construction) which are not paid from other available funds of the Participant until all such payments required to be made by the Participant under the Power Sales Agreement have been paid in full.

### **Rate Covenant**

Each Participant covenants and agrees that it will fix rates and charges for the commodities and services provided by its Enterprise which will provide the Participant at all times with Enterprise Revenues which will be sufficient, together with other funds available to make such payments, to meet when due its obligations under the Power Sales Agreement and all other obligations payable from the Enterprise Revenues on a basis prior to or on a parity with such obligations. For more information relating to electric rates see "RATE REGULATION."

### **Special Obligation**

The obligation of each Participant to make any and all payments under the Power Sales Agreement is a special obligation of such Participant which the Participant is obligated to make solely from its Enterprise Revenues. The obligation of each Participant to make payments thereunder does not constitute a debt of such Participant or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction, nor a pledge of the full faith and credit and taxing power of such Participant or any other entity. Nothing in the Power Sales Agreement shall be construed as prohibiting any Participant, in its sole discretion, from using any funds other than Enterprise Revenues for the purpose of satisfying any provisions of the Power Sales Agreement, or from entering into contracts or incurring other obligations payable from its Enterprise Revenues on parity with such Participant's obligation to make payments under the Power Sales Agreement.

## **Participant Monthly Power Costs**

The amount of the Total Monthly Power Costs to be paid by each Participant for a particular month (i.e., the Participant Monthly Power Costs) shall be the sum of the following:

- Each Participant's GES multiplied by the Operating Cost Component of the Total Monthly Power Costs for such month.
- Each Participant's GES multiplied by the Fuel Cost Component of the Total Monthly Power Costs for such month unless an alternate billing procedure is included in the PMOA as provided in the Power Sales Agreement, in which case each Participant shall be billed for Fuel Costs as provided in the PMOA.
- Each Participant's ICS multiplied by the Indenture Cost Component of the Total Monthly Power Cost for the Indenture Group of such Participant for such month.
- Each Participant's GES multiplied by the Non-Financed Capital Cost Component of the Total Monthly Power Costs for such month.
- Each Non-Defaulting Participant's OandM Step-up Share multiplied by the OandM Step-Up Component of the Total Monthly Power Costs for such month.

## **Billing Statement**

NCPA shall invoice each Participant for the amount of its Participant Monthly Power Costs by providing such Participant with a Billing Statement for such Participant Monthly Power Costs. Subject to any available credits, such Billing Statement shall be paid in full by each Participant by the 30th day after the date of such Billing Statement. The Participant Committee may recommend the adoption of an alternative Billing Statement procedure in connection with each Participant's Billing Statement with respect to the Total Monthly Power Costs and associated agreements and obligations. Any such recommended alternative Billing Statement implementation shall satisfy the requirements of each Financing Agreement, shall be fiscally prudent and shall assure coverage of all anticipated and actual Project related costs and obligations of NCPA.

## **Enterprise**

Each Participant shall operate and maintain its Enterprise in a business-like fashion and in accordance with Prudent Utility Practice.

## **Participants' Obligations Several**

Each Participant shall be solely responsible and liable for its performance under the Power Sales Agreement and for the maintenance and operation of its Enterprise. The obligation of each Participant to make payments under the Power Sales Agreement is a several obligation and not a joint obligation with the other Participants.

## **Increase in Non-Defaulting Indenture Group A Participants' Original GES**

Upon the failure of any Indenture Group A Participant to make any payment, which failure constitutes a default under the Power Sales Agreement, and except as GES Lay-Offs are made pursuant thereto, the Power Sales Agreement provides that the GES of each Non-Defaulting Indenture Group A Participant will be automatically increased for the remaining term of the Power Sales Agreement, pro rata with those of the other non defaulting Indenture Group A Participants thereunder; provided, however, that the sum of such increases for any Non-Defaulting Indenture Group A Participant will not exceed, without written consent of such Non-Defaulting Indenture Group A Participant, an accumulated maximum of 35% of the Non-Defaulting Indenture Group A Participant's original GES.

### **Increase in Non-Defaulting Participant's OandM Payments**

In the event of a payment default by a Participant which causes a deficiency in the amount available in the Operating Fund to pay all Operation and Maintenance Expenses then due, each Non-Defaulting Participant is to increase its payments with respect to Operation and Maintenance Expenses by its pro rata share (based on GES) of the amount of the resulting OandM Step-Up.

### **Transfer, Sale or Assignment**

Each Participant has the right, with certain exceptions, to make transfers and sales of its interests in Project Capacity and Energy and rights thereto; provided that no such transfer or sale shall adversely affect the Tax Status of the Bonds issued under the Indenture. No such transfer or sale shall relieve the Participant of its obligations under the Power Sales Agreement.

### **Project Management and Operations Agreement**

The PMOA sets forth the agreement among the Participants on the management and operation of the Lodi Energy Center. The responsibilities of the Project Participant Committee established under the Power Sales Agreement are provided in the PMOA and include actions relating to the operations of the Lodi Energy Center. The PMOA also dictates the principles and guidelines to be followed relating to economic operations and fuel procurement with respect to operating the Lodi Energy Center.

## **PLAN OF FINANCE**

### **Power Sales Agreement**

Under the Power Sales Agreement each Participant is responsible for providing for its share of the Costs of Construction of the Lodi Energy Center and each Capital Improvement based on its GES. The initial GES of each Participant is set forth in the introductory sections of this Official Statement. Such GES is subject to adjustment as a result of a GES Lay-Off and, with respect to the Indenture Group A Participants, a GES Step-Up.

### **Indenture Groups Under Power Sales Agreement**

For purposes of providing for the Costs of Construction of the Lodi Energy Center and each Financed Capital Improvement, the Power Sales Agreement divides the Participants into three Indenture Groups: Indenture Group A, Indenture Group B and Indenture Group C. The Participants in each Indenture Group can discharge such responsibility for Costs of Construction (on an Indenture Group basis) by authorizing NCPA to issue bonds for such Costs of Construction or by making a Capital Contribution in the amount of such Costs of Construction. NCPA bonds issued for an Indenture Group Participants' share of the Costs of Construction are to be payable from the Project Revenues related to the Indenture Group Participants available under the Power Sales Agreement and not from any other Project Revenues. See "SECURITY AND SOURCES OF PAYMENT – Application of Project Revenues" herein.

Each Participant in each Indenture Group is responsible for the payment of bonds, notes and other evidences of indebtedness issued by NCPA with respect to such Indenture Group Participants' share of the Costs of Construction of the Lodi Energy Center and Financed Capital Improvements based on such Participant's ICS. The obligations of each Indenture Group are independent and no Participant in an Indenture Group is liable for any such payments with respect to obligations of another Indenture Group.

### **Indenture Group A Participants**

The Indenture Group A Participants have authorized NCPA to issue its bonds payable from the Project Revenues related to the Indenture Group A Participants' GES which are available under the Power Sales Agreement for all Costs of Construction of the Lodi Energy Center and each Financed

Capital Improvement. The Issue One 2010 Series Bonds are the first bonds to be issued for the Indenture Group A Participants' share of the Costs of Construction and are to provide all of the Indenture Group A Participants' share of the current estimate of the Costs of Construction of the Lodi Energy Center.

Each Indenture Group A Participant is responsible for that percentage of amounts due under the Indenture for principal and interest on the Bonds, debt service reserves for the Bonds and other costs under the Indenture equal to its ICS which is different than its GES. The ICS of each Indenture Group A Participant is set forth in the table on page –ii- of this Official Statement.

In addition to the OandM Step-Up applicable to all Non-Defaulting Participants pursuant to the Power Sales Agreement (see "POWER SALES AGREEMENT – OandM Step-Up"), each Non-Defaulting Indenture Group A Participant is obligated to increase its GES in proportion to the other Non-Defaulting Indenture Group A Participants in the event of a payment default by an Indenture Group A Participant whose GES is not voluntarily acquired by another Participant or other entity in a GES Lay-Off (see "POWER SALES AGREEMENT – GES Step-Up"). The maximum increase in the GES of an Indenture Group A Participant in connection with all GES Step-Ups is 35% of such Indenture Group A Participant's original GES. As the ICS of an Indenture Group A Participant is determined based on its GES, an increase in an Indenture Group A Participant's GES in a GES Lay-Off or GES Step-Up in connection with the default of an Indenture Group A Participant will cause an increase in such Indenture Group A Participant's ICS. The acquisition of the GES of a Defaulting Participant in a GES Lay-Off or GES Step-Up (and in the case of an Indenture Group A Participant, its ICS) does not relieve the Defaulting Participant of its payment obligations with respect to such GES (and in the case of an Indenture Group A Participant, its ICS) except to the extent of payments received with respect to such GES and ICS.

### **California Department of Water Resources**

The sole Indenture Group B Participant, CDWR, has authorized NCPA to issue its bonds payable from the Project Revenues related to the Indenture Group B Participant's GES which are available under the Power Sales Agreement for the current estimate of the Costs of Construction of the Lodi Energy Center. Contemporaneously with the offering of the Issue One 2010 Series Bonds, NCPA is offering two series of bonds to pay CDWR's GES of the current estimate of the Costs of Construction of the Lodi Energy Center. NCPA expects proceeds of such bonds to be available in the necessary amount at the time of delivery of the Issue One 2010 Series Bonds. Such bonds will not be issued pursuant to the Indenture and will not be payable from amounts available from, or secured by, the Trust Estate pledged under the Indenture.

If requested by CDWR, NCPA is also to issue its bonds payable from Project Revenues related to the Indenture Group B Participant for CDWR's GES of any additional Costs of Construction of the Lodi Energy Center and any Financed Capital Improvements; provided that CDWR has the obligation to pay such Costs of Construction with Capital Contributions if it has not requested NCPA to issue bonds for such purpose in accordance with the Power Sales Agreement.

### **Modesto Irrigation District**

The sole Indenture Group C Participant, Modesto, has elected to pay its GES of the current estimate of the Costs of Construction of the Lodi Energy Center with a Capital Contribution. Contemporaneously with the offering of the Issue One 2010 Series Bonds, Modesto, acting through its joint powers financing authority, is offering electric system revenue bonds to pay Modesto's GES of the current estimate of the Costs of Construction of the Lodi Energy Center. Modesto has reported to NCPA that it expects proceeds of such revenue bonds to be available in the necessary amount at the time of delivery of the Issue One 2010 Series Bonds. Such electric system revenue bonds will not be issued pursuant to the Indenture and will not be payable from amounts available from, or secured by, the Trust Estate pledged under the Indenture.

If requested by Modesto, NCPA is to issue its bonds payable from Project Revenues related to the Indenture Group C Participant's GES for Modesto's share of any additional Costs of Construction of the Lodi Energy Center and any Financed Capital Improvements; provided that Modesto has the obligation to pay such Costs of Construction with Capital Contributions if it has not requested NCPA to issue bonds for such purpose in accordance with the Power Sales Agreement.

## **ESTIMATED SOURCES AND USES OF FUNDS**

As discussed above, the proceeds of the Issue One 2010 Series Bonds is only a portion of the money used to finance the Lodi Energy Center. The total estimated cost of the Lodi Energy Center is approximately \$375 million.

The estimated sources and uses of funds with respect to the Issue One 2010 Series Bonds are as follows:

	Issue One 2010 Series A Bonds	Issue One 2010 Series B Bonds	Total
<b>Sources of Funds</b>			
Par amount	\$78,330,000	\$176,625,000	\$254,955,000
Original Issue Premium	3,776,558		3,776,558
Total	<u>\$82,106,558</u>	<u>\$176,625,000</u>	<u>\$258,731,558</u>
<b>Uses of Funds</b>			
Deposit to Construction Fund	\$61,626,465	\$149,798,199	\$211,424,664
Deposit to Reserve Funds <sup>(1)</sup>	7,977,235	9,015,674	16,992,909
Net Capitalized Interest	11,895,289	16,133,156	28,028,445
Costs of Issuance <sup>(2)</sup>	607,569	1,677,971	2,285,540
Total	<u>\$82,106,558</u>	<u>\$176,625,000</u>	<u>\$258,731,558</u>

<sup>(1)</sup> Includes deposit to the Issue One 2010 Series Debt Service Reserve Account, the Subsidy Contingency Fund and the Operating Reserve Fund.

<sup>(2)</sup> Costs of issuance include legal, financing and consulting fees, underwriters' discount, fees of the trustee, rating agency fees, printing costs and other miscellaneous expenses.

## **THE ISSUE ONE 2010 SERIES BONDS**

*The following is a summary of certain provisions of the Issue One 2010 Series Bonds. Reference is made to the Indenture for a more detailed description of such provisions. The discussion herein is qualified by such reference.*

### **The Issue One 2010 Series A Bonds**

#### ***General***

The Issue One 2010 Series A Bonds will be issued in the aggregate principal amount indicated on the inside cover page of this Official Statement, will mature on June 1 in the years and in the amounts, and will bear interest at the rates per annum as shown on the inside cover page of this Official Statement. The Issue One 2010 Series A Bonds will be dated their date of delivery. Interest on the Issue One 2010 Series A Bonds will be payable on June 1 and December 1 of each year, commencing December 1, 2010

(calculated on the basis of a 360-day year comprised of twelve 30-day months). Ownership interests in the Issue One 2010 Series A Bonds will be issued in authorized denominations of \$5,000 and any integral multiple thereof.

The Issue One 2010 Series A Bonds will be issued in fully registered form, and, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, such registered owner of Issue One 2010 Series A Bonds being hereinafter referred to as the “Owner.” DTC will act as securities depository for the Issue One 2010 Series A Bonds. Ownership interests in the Issue One 2010 Series A Bonds may be purchased in book-entry form only. Purchasers will not receive securities certificates representing their interests in the Issue One 2010 Series A Bonds purchased. Payments of principal of, premium, if any, and interest on the Issue One 2010 Series A Bonds will be paid by the Trustee to DTC, which is obligated in turn to remit such principal, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the Issue One 2010 Series A Bonds. See “APPENDIX D – BOOK-ENTRY ONLY SYSTEM” hereto.

### ***Redemption of the Issue One 2010 Series A Bonds***

#### ***Optional Redemption.***

The Issue One 2010 Series A Bonds maturing on June 1, 2025 are subject to redemption prior to their stated maturities, at the option of NCPA, as a whole or in part on any date on and after June 1, 2020, from any source of available funds at a redemption price equal to the principal amount of the Issue One 2010 Series A Bonds, or portions thereof, to be redeemed, without premium, plus unpaid accrued interest thereon to the redemption date.

#### ***Mandatory Sinking Fund Redemption.***

The Issue One 2010 Series A Bonds maturing on June 1, 2025 are subject to redemption prior to their stated maturity, in part, on each June 1 on or after June 1, 2021, from sinking fund installments established for such Issue One 2010 Series A Bonds, at a redemption price equal to the principal amount of Issue One 2010 Series A Bonds called for redemption, without premium, in the following principal amounts:

<b>Mandatory Redemption Date (June 1)</b>	<b>Amount</b>
2021	\$6,520,000
2022	6,845,000
2023	7,185,000
2024	7,545,000
2025*	7,925,000

\* Final Maturity

### **The Issue One 2010 Series B Bonds**

#### ***General***

The Issue One 2010 Series B Bonds will be issued in the aggregate principal amount indicated on the inside cover page of this Official Statement, will mature on June 1 in the years and in the amounts, and will bear interest at the rates per annum as shown on the inside cover page of this Official Statement. The Issue One 2010 Series B Bonds will be dated their date of delivery. Interest on the Issue One 2010 Series B Bonds will be payable on June 1 and December 1 of each year, commencing December 1, 2010 (calculated on the basis of a 360-day year comprised of twelve 30-day months). Ownership interests in

the Issue One 2010 Series B Bonds will be issued in authorized denominations of \$5,000 and any integral multiple thereof.

The Issue One 2010 Series B Bonds will be issued in fully registered form, and, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, such registered owner of Issue One 2010 Series B Bonds being hereinafter referred to as the “Owner.” DTC will act as securities depository for the Issue One 2010 Series B Bonds. Ownership interests in the Issue One 2010 Series B Bonds may be purchased in book-entry form only. Purchasers will not receive securities certificates representing their interests in the Issue One 2010 Series B Bonds purchased. Payments of principal of, premium, if any, and interest on the Issue One 2010 Series B Bonds will be paid by the Trustee to DTC, which is obligated in turn to remit such principal, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the Issue One 2010 Series B Bonds. See “APPENDIX D – BOOK-ENTRY ONLY SYSTEM” hereto.

### ***Build America Bonds***

The Issue One 2010 Series B Bonds are being issued as direct payment Taxable Subsidy Bonds constituting Build America Bonds for purposes of the American Recovery and Reinvestment Act of 2009. All Subsidy payments in connection with the Issue One 2010 Series B Bonds shall be received by NCPA and deposited in the Issue One 2010 Series B Debt Service Account.

### ***Redemption of the Issue One 2010 Series B Bonds***

#### ***Optional Redemption at option of NCPA.***

The Issue One 2010 Series B Bonds are subject to redemption prior to their stated maturities, at the option of NCPA, in whole or in part, on any date, at a redemption price equal to the greater of (i) 100% of the principal amount of the Issue One 2010 Series B Bonds, or portions thereof, to be redeemed or (ii) the Discounted Value thereof, except that for purposes of calculating such Discounted Value, the Discount Yield shall be equal to the Blended Treasury Yield plus 0.50%, plus unpaid accrued interest thereon to the redemption date. All calculations and determinations referred to in this subsection will be made by a financial advisor selected by NCPA.

“Discounted Value” is defined under the Indenture as, with respect to the Issue One 2010 Series B Bonds of each maturity thereof to be redeemed, the sum of the amounts obtained by discounting all remaining scheduled payments of principal and interest (exclusive of interest accrued to the date of redemption) on such Issue One 2010 Series B Bonds from their respective scheduled payment dates to the applicable redemption date, at a yield (computed on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months) equal to the applicable Discount Yield.

“Blended Treasury Yield” is defined under the Indenture as, with respect to the Issue One 2010 Series B Bonds of each maturity to be redeemed, the yield computed by the linear interpolation of two Market Treasury Yields such that the theoretical maturity that corresponds to the interpolated Market Treasury Yield equals the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. The first Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no later than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed; and the second Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no earlier than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. Notwithstanding the foregoing, if the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of a particular maturity to be redeemed is later than the latest maturity of any actively traded U.S. Treasury security or U.S. Treasury index, then the Blended Treasury Yield shall be

the Market Treasury Yield of the actively traded U.S. Treasury security or U.S. Treasury index having such latest maturity.

“Market Treasury Yield” is defined under the Indenture as, with respect to the Issue One 2010 Series B Bonds, that yield, assuming semiannual compounding based upon a 360-day year consisting of twelve 30-day months, which is equal to:

(i) the yield for the applicable maturity of an actively traded U.S. Treasury security, reported, as of 11:00 a.m., New York City time, on the Valuation Date on the display designated as “Page PX1” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in U.S. Treasury securities); or

(ii) if the yield described in (i) above is not reported as of such time or the yield reported as of such time is not ascertainable, the most recent yield data for the applicable U.S. Treasury maturity index from the Federal Reserve Statistical Release H.15 Daily Update (or any comparable or successor publication) reported, as of 11:00 a.m., New York City time, on the Valuation Date; or

(iii) if the yields described in (i) and (ii) above are not reported as of such time or the yields reported as of such time are not ascertainable, the yield for the applicable maturity of an actively traded U.S. Treasury security shall be based upon the average of yield quotations for such security (after excluding the highest and lowest quotations) as of 3:30 p.m., New York City time, on the Valuation Date received from no less than five primary dealers in U.S. government securities selected by NCPA.

Each yield quotation for each actively traded U.S. Treasury security required in (i) and (iii) above shall be determined using the average of the bid and ask prices for that security.

“Valuation Date” shall mean, with respect to Issue One 2010 Series B Bonds to be redeemed, the Business Day preceding the date on which notice of such redemption is given.

*Optional Redemption following an Extraordinary Event.*

The Issue One 2010 Series B Bonds are subject to redemption prior to their stated maturities, at the option of NCPA, in whole or in part on any date following the occurrence of an Extraordinary Event, at a redemption price equal to the greater of (i) 100% of the principal amount of the Issue One 2010 Series B Bonds, or portions thereof, to be redeemed or (ii) the Discounted Value thereof, except that for purposes of calculating such Discounted Value, the Discount Yield shall be equal to the Blended Treasury Yield plus 1.00%, plus unpaid accrued interest thereon to the redemption date. All calculations and determinations referred to in this subsection will be made by a financial advisor selected by NCPA.

“Extraordinary Event” is defined under the Indenture as the determination by an Authorized NCPA Representative that a material adverse change has occurred to Section 54AA or Section 6431 of the Code (as such Sections were added by Section 1531 of the American Recovery and Reinvestment Act of 2009 pertaining to “Build America Bonds”) or there is any guidance published by the IRS or the United States Treasury with respect to such Sections or any other determination by the IRS or the United States Treasury, which determination is not the result of any act or omission by NCPA to satisfy the requirements to qualify to receive the thirty-five percent cash Subsidy payment from the U.S. Treasury, pursuant to which NCPA’s thirty-five percent cash Subsidy payment from the U.S. Treasury is reduced or eliminated.



### *Mandatory Sinking Fund Redemption.*

The Issue One 2010 Series B Bonds maturing on June 1, 2040 are subject to redemption prior to their stated maturity, in part, on each June 1 on or after June 1, 2026, from sinking fund installments established for such Issue One 2010 Series B Bonds, at a redemption price equal to the principal amount of Issue One 2010 Series B Bonds called for redemption, without premium, in the following principal amounts:

<b>Mandatory Redemption Date (June 1)</b>	<b>Amount</b>
2026	\$ 8,335,000
2027	8,735,000
2028	9,150,000
2029	9,585,000
2030	10,040,000
2031	10,520,000
2032	11,020,000
2033	11,545,000
2034	12,090,000
2035	12,665,000
2036	13,265,000
2037	13,895,000
2038	14,555,000
2039	15,250,000
2040*	15,975,000

\* Final Maturity

### **Selection of Bonds for Redemption**

If less than all of the Issue One 2010 Series Bonds of like Series and maturity shall be called for prior redemption, except as otherwise provided in the Representation Letter, the particular Issue One 2010 Series Bonds or portions of Issue One 2010 Series Bonds to be redeemed shall, subject to any limitations with respect thereto contained in any applicable provision of the Indenture (including any Supplemental Indenture), be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that (i) the portion of any Issue One 2010 Series Bond of a denomination greater than the minimum Authorized Denomination for the Series of which such Issue One 2010 Series Bond is a part shall be redeemed in part only in Authorized Denominations; (ii) in selecting portions of Issue One 2010 Series Bonds for redemption, the Trustee shall treat each Issue One 2010 Series Bond of a Series as representing that number of Issue One 2010 Series Bonds of the minimum Authorized Denomination for such Series which is obtained by dividing the principal amount of such Issue One 2010 Series Bond by the minimum Authorized Denomination for the Issue One 2010 Series Bonds of such Series; and (iii) if less than all of the Issue One 2010 Series B Bonds of a maturity shall be called for redemption, such Issue One 2010 Series B Bonds of a maturity shall be redeemed in part, on a pro rata basis; provided that, so long as the Issue One 2010 Series B Bonds are held in book-entry-only form, the selection for redemption of such Issue One 2010 Series B Bonds of a maturity shall be made in accordance with the operational arrangements of DTC then in effect, and, if the DTC operational arrangements do not allow for redemption on a pro rata basis, the Issue One 2010 Series B Bonds will be selected for redemption in accordance with DTC procedures, by lot or in such other manner as is in accordance with applicable DTC operational arrangements. Neither NCPA nor the Underwriters can provide any assurance that DTC, DTC's direct and indirect participants, or any other intermediary will allocate partial redemptions among beneficial owners of the Issue One 2010 Series B Bonds of a maturity on a pro rata basis.

## **Notice of Redemption**

The Indenture requires the Trustee to give notice of any redemption of the Issue One 2010 Series Bonds by mailing a notice of redemption of such Issue One 2010 Series Bonds, first-class mail, postage prepaid, not less than 30 days before the redemption date, to the owners of any Issue One 2010 Series Bonds or portions thereof which are to be redeemed, at their last address appearing upon the bond register, but receipt of such notice shall not be a condition precedent to such redemption and failure of any owner of the Issue One 2010 Series Bonds to receive any such notice or any defect in such notice shall not affect the validity of the proceedings for redemption of the Issue One 2010 Series Bonds. Among, other things, such notice shall state that on the redemption date interest on such Issue One 2010 Series Bonds, or the portions thereof to be redeemed, shall cease to accrue and be payable. Notice of redemption may also be given to depositories and information services designated by NCPA to the Trustee; but failure to give such notice, or any defect therein, shall not affect the proceedings for redemption of the Issue One 2010 Series Bonds.

The notice with respect to any redemption of Issue One 2010 Series Bonds at the option of NCPA, unless at the time of giving of notice the Issue One 2010 Series Bonds to be redeemed shall be deemed to have been paid within the meaning of the Indenture, shall state that such redemption is conditional upon the receipt by the Trustee, on or prior to the date fixed for such redemption, of moneys sufficient to pay the principal of, and premium, if any, and unpaid accrued interest to the redemption date on, such Issue One 2010 Series Bonds to be redeemed and that if such moneys shall not have been so received said notice shall be of no force and effect and NCPA shall not be required to redeem such Issue One 2010 Series Bonds. In the event a notice of redemption of Issue One 2010 Series Bonds contains such a condition and such money are not so received, the redemption of the Issue One 2010 Series Bonds as described in the conditional notice of redemption shall not be made and the Trustee shall, within a reasonable time after the date on which such redemption was to occur, give notice to the persons and in the manner in which the notice of redemption was given, that such moneys were not so received and that there will be no redemption of Issue One 2010 Series Bonds pursuant to the notice of redemption.

So long as the Issue One 2010 Series Bonds are in book-entry form, such notice of redemption by the Trustee to the Owners will be mailed only to DTC (or its nominee).

## **SECURITY AND SOURCES OF PAYMENT**

### **Pledge Effected by the Indenture**

The Bonds, including the Issue One 2010 Series Bonds, will be special, limited obligations of NCPA. The principal amount and redemption price of, and interest on, the Bonds are payable solely from the funds available from the Trust Estate and are secured by a pledge of the Trust Estate; provided, however, that the pledge of that portion of the Trust Estate constituting the Pledged Power Sales Agreement Rights shall be on a parity with any pledge of the Pledged Power Sales Agreement Rights securing the payment of Parity Debt. The Bonds do not constitute a charge against the general credit of NCPA. The Bonds are not secured by a legal or equitable pledge of, or lien or charge upon, any property of NCPA or any of its income or receipts except the Trust Estate subject to the provisions of the Power Sales Agreement and the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein. Neither the faith and credit nor the taxing power of the State of California or any public agency thereof or any member of NCPA or any Indenture Group A Participant is pledged to the payment of the principal or redemption price of, or interest on, the Bonds. Neither the payment of the principal or redemption price of, or interest on, the Bonds constitutes a debt, liability or obligation of the State of California or any public agency thereof (other than the special limited obligation of NCPA) or any member of NCPA or any Indenture Group A Participant. Neither the members of the NCPA Commission nor any officer or employee of NCPA shall be individually liable on the Bonds, or the interest thereon, or in respect of any undertakings by NCPA under the Indenture.

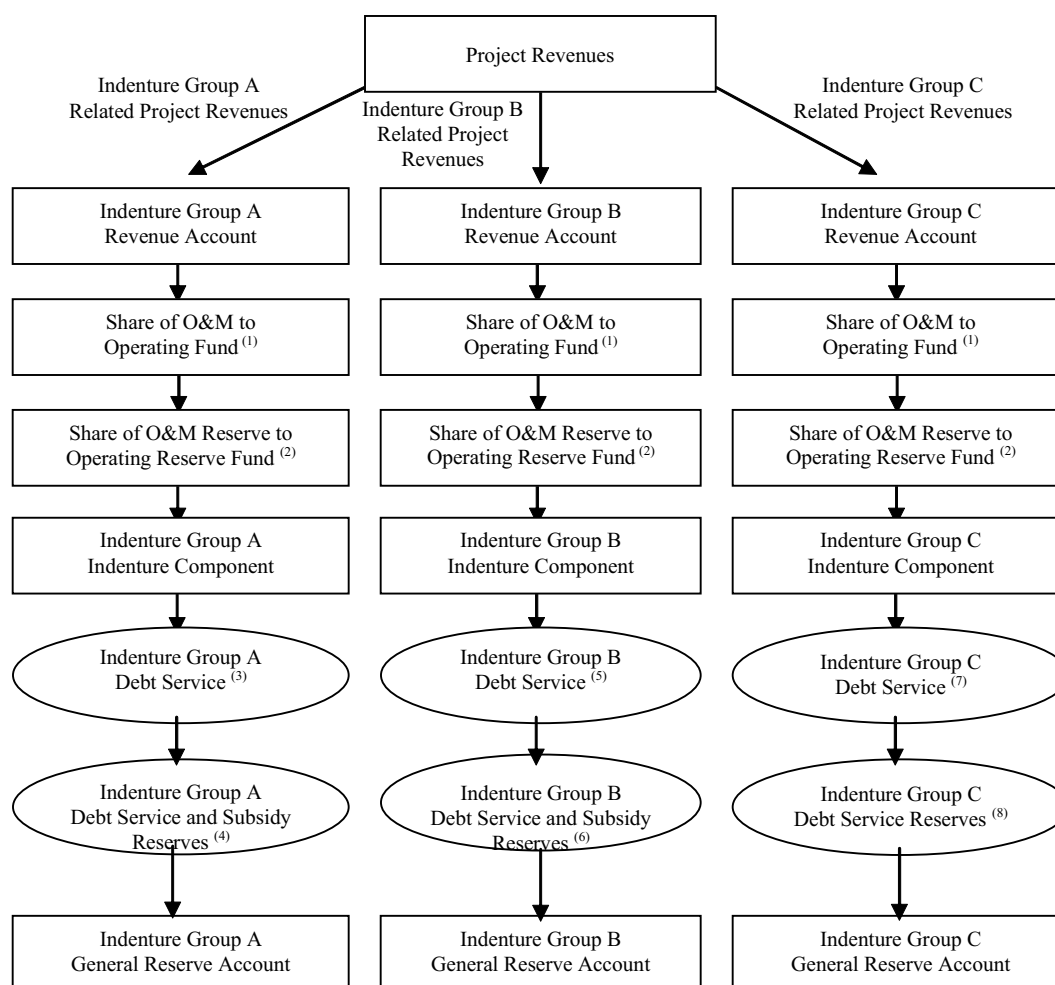
Each Participant in each Indenture Group is responsible for the payment of bonds, notes and other evidences of indebtedness issued by NCPA with respect to such Indenture Group Participants' share of the Costs of Construction of the Lodi Energy Center and Financed Capital Improvements based on such Participant's ICS. The obligations of each Indenture Group are independent and no Participant in an Indenture Group is liable for any such payments with respect to obligations of another Indenture Group.

### **Application of Project Revenues**

All revenues in connection with NCPA's ownership or operation of the Project are to be deposited in the applicable Revenue Account established under the Power Sales Agreement with respect to the Indenture Group related to such Project Revenues. The following flow chart is a graphic representation of the flow of funds of the Project Revenues under the Power Sales Agreement, the Indenture, the indenture of trust for any future bonds to be issued by NCPA on behalf of the Indenture Group B Participant and under the indenture of trust for bonds to be issued by the Indenture Group C Participant (Note: Rectangular boxes represent funds established and maintained under the Power Sales Agreement and circular boxes represent funds established and maintained under the Indenture and such indentures):

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## APPLICATION OF PROJECT REVENUES



- (1) For the payment of Operation and Maintenance Expenses, based on each Participant's Billing Statement, including amounts due for OandM Step-Ups.
- (2) As provided in each Participant's Billing Statement.
- (3) The Debt Service Fund under the Indenture and each debt service fund for Parity Debt and subordinate NCPA obligations, if any, payable from the Indenture Group A Revenue Account.
- (4) Issue One 2010 Series Debt Service Reserve Account and the Subsidy Contingency Fund under the Indenture and each debt service reserve fund for Parity Debt, if any, and subordinate obligations, if any, payable from the Indenture Group A Revenue Account.
- (5) Each debt service fund for bonds and other NCPA obligations payable from the Indenture Group B Revenue Account.
- (6) Each debt service reserve fund, if any, and subsidy contingency fund, if any, for bonds and other obligations payable from the Indenture Group B Revenue Account. The debt service reserve requirement for the Issue Two Series 2010 Bonds is zero and thus the debt service reserve fund for such Bonds will not be funded
- (7) Each debt service fund for bonds and other NCPA obligations payable from the Indenture Group C Revenue Account. Does not include amounts with respect to non-NCPA obligations.
- (8) Each debt service reserve fund for bonds and other obligations payable from the Indenture Group C Revenue Account. Does not include amounts with respect to non-NCPA obligations.

Pursuant to the Power Sales Agreement, NCPA is to establish and maintain as long as the Power Sales Agreement remains in effect, as funds separate and apart from all other funds and moneys of NCPA, the following funds: the Revenue Fund, the Default Mitigation Sale Fund, the Operating Fund, the Operating Reserve Fund and the General Reserve Fund:

*Revenue Fund.* The Revenue Fund shall consist of three accounts: the Indenture Group A Revenue Account, with respect to the Indenture Group A Participants; the Indenture Group B Revenue Account, with respect to the Indenture Group B Participant; and the Indenture Group C Revenue Account, with respect to the Indenture Group C Participant. Upon receipt thereof NCPA shall deposit: (i) in the Indenture Group A Revenue Account, all Project Revenues received in connection with the Indenture Group A Participants' GES; (ii) in the Indenture Group B Revenue Account, all Project Revenues received in connection with the Indenture Group B Participant's GES; and (iii) in the Indenture Group C Revenue Account, all Project Revenues received in connection with the Indenture Group C Participant's GES; provided, however, that the proceeds of Default Mitigation Sales shall be deposited directly into the applicable account within the Default Mitigation Sale Fund as provided in the Indenture. Moneys in the Revenue Fund shall be applied as described below.

*Operating Fund.* Not later than the last day of each month, NCPA shall transfer from each Revenue Account to the Operating Fund the amount specified in the applicable Indenture Group Participants' Billing Statements for the immediately preceding month that is attributable to Operation and Maintenance Expenses. Moneys in the Operating Fund shall be applied by NCPA to the Operation and Maintenance Expenses of the Project.

*Operating Reserve Fund.* Not later than the last day of each month, after making the required transfer to the Operating Fund, NCPA shall transfer from each Revenue Account to the Operating Reserve Fund the amount specified in the applicable Indenture Group Participants' Billing Statements for the immediately preceding month that is attributable to the Operating Reserve Requirement. NCPA shall transfer to each Revenue Account from the Operating Reserve Fund the pro rata amount (based on the GES attributable to each Indenture Group) by which the amount on deposit in the Operating Reserve Fund exceeds the Operating Reserve Requirement.

*Financing Agreement Transfers.* Not later than the last day of each month, after making the required transfers to the Operating Fund and the Operating Reserve Fund, NCPA shall transfer from each Revenue Account to the applicable trustee or trustees under each Financing Agreement related to such Revenue Account the amount specified in the applicable Indenture Group Participants' Billing Statements for the immediately preceding month attributable to amounts due under each such Indenture. In the event the amount available in an account in the Revenue Fund is not sufficient to make all payments in such month required by all Financing Agreements relating to the Indenture Group with respect to such account, available amounts in such account shall be applied as provided in the applicable Financing Agreements.

*General Reserve Fund.* The General Reserve Fund shall consist of three accounts: the Indenture Group A General Reserve Account, with respect to the Indenture Group A Participants; the Indenture Group B General Reserve Account, with respect to the Indenture Group B Participant; and the Indenture Group C General Reserve Account, with respect to the Indenture Group C Participant. Not later than the last day of each month, after making the required transfers to the Operating Fund, the Operating Reserve Fund, and the trustees under the Financing Agreements, NCPA shall (i) transfer all moneys remaining in the Indenture Group A Revenue Account to the Indenture Group A General Reserve Account; (ii) transfer all moneys remaining in the Indenture Group B Revenue Account to the Indenture Group B General Reserve Account, and (iii) transfer all moneys remaining in the Indenture Group C Revenue Account to the Indenture Group C General Reserve Account. Amounts in each account in the General Reserve Fund shall be applied (i) first as provided in each Financing Agreement related to the Indenture Group for

which such account was established and (ii) second, as shall be approved by the Indenture Group for which such account was established.

### **Indenture Payments from Indenture Group A Revenue Account**

The Indenture provides that as soon as practicable in each month, but in any case no later than the last Business Day of such month, after making the required transfers from the Indenture Group A Revenue Account to the Operating Fund and the Operating Reserve Fund, NCPA shall withdraw moneys from the Indenture Group A Revenue Account and deposit in the following Funds and Accounts, in the following order, the amounts set forth below:

*First:* (i) (A) in the Participating Bonds Debt Service Account the amount necessary so that the balance in said Account shall equal the Debt Service to accrue on the Participating Bonds to the last day of such month; (B) in the Issue One 2010 Series Bonds Debt Service Account the amount necessary so that the balance in said Account shall equal the Debt Service to accrue on the Issue One 2010 Series Bonds to the last day of such month; and (C) in each Account in the Debt Service Fund established for a Series of Future Bonds the amount, if any, required so that the balance in said Account shall equal the Debt Service to accrue on such Series of Future Bonds to the last day of such month; provided that, for the purposes of computing the amount on deposit in any such Account, there shall be excluded from the balance of such Account: (1) the amount, if any, set aside in such Account from the proceeds of Bonds for the payment of the principal, redemption price, or interest on Bonds, less that amount of such proceeds to be applied in accordance with the Indenture to the payment of the principal, redemption price or interest accrued and unpaid and to accrue on applicable Bonds to the last day of the then current calendar month; and (2) the amount, if any, set aside in any such Account for the payment of Principal Installments or redemption price of, or interest on, the applicable Bonds which are then due and payable; and (ii) deposit in any fund or account created to pay debt service on Parity Debt the amount, if any, required so that the balance therein shall equal the payments coming due therein to the last day of such month; provided that if the amount available in the Indenture Group A Revenue Account in any month is insufficient to make all deposits required by this subsection (a), then the available amounts in the Indenture Group A Revenue Account shall be deposited in each Account in the Debt Service Fund and the funds or accounts created to pay debt service on Parity Debt pro rata based on the amounts due.

*Second:* (i) Subject to the provisions relating to the deposit of a Financial Guaranty, in each Account in the Debt Service Reserve Fund, the amount, if any, required so that the amount in such Account is equal to the applicable Debt Service Reserve Requirement and the amount, if any, necessary to reimburse each drawing on a Financial Guaranty related to each Account in the Debt Service Reserve Fund and to pay any interest or other amounts due with respect to a Financial Guaranty related to each Account in the Debt Service Reserve Fund; and (ii) and to deposit in the debt service reserve, if any, established for Parity Debt the amount required to be deposited in such debt service reserve pursuant to the instrument or proceedings authorizing such Parity Debt; provided that if the amount available in the Indenture Group A Revenue Account in any month is insufficient to make all deposits to be made to such reserves, then the available amounts in the Indenture Group A Revenue Account shall be deposited into each Account in the Debt Service Reserve Fund and the debt service reserves for Parity Debt pro rata based on the amounts due.

*Third:* In the Subsidy Contingency Fund, the amount, if any, required so that the amount in such Fund is equal to the Subsidy Contingency Requirement.

## **NCPA Rate Covenant**

Pursuant to the Indenture, NCPA has covenanted to establish rates and charges, and cause to be collected amounts in connection with the Project and the Power Sales Agreement, as shall be required to provide Project Revenues in the Revenue Fund at least sufficient in each Fiscal Year, together with other available funds, for the payment of all Operation and Maintenance Expenses, including OandM Step-ups, during such Fiscal Year and the maintenance of the Operating Reserve Fund at the amount required by the Power Sales Agreement.

In addition NCPA has covenanted to establish rates and charges, and cause to be collected amounts in connection with the Project and the Power Sales Agreement from the Indenture Group A Participants as shall be required to provide Project Net Revenues in the Indenture Group A Revenue Account at least sufficient in each Fiscal Year, together with other available funds, for the payment of all of the following:

- (1) Debt Service on the Bonds and payments due with respect to Parity Debt for such Fiscal Year;
- (2) The amount, if any, to be paid during such Fiscal Year into each Account in the Debt Service Reserve Fund and in each debt service reserve fund for Parity Debt;
- (3) The amount, if any, to be paid during such Fiscal Year into the Subsidy Contingency Fund;
- (4) The amounts payable by NCPA as fees, expenses, indemnification and other charges to the Trustee under the Indenture and to any trustee or custodian for Parity Debt and each other person under or in connection with Parity Debt;
- (5) All other amounts payable by NCPA to any person under on in connection with the Indenture or any of the documents and proceedings authorizing or controlling any outstanding Parity Debt; and
- (6) All other charges or other amounts payable out of the Project Net Revenues in the Indenture Group A Revenue Account during such Fiscal Year.

See “APPENDIX E – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Rate Covenant” hereto.

## **Issue One 2010 Series Debt Service Reserve Account**

Upon issuance of the Issue One 2010 Series Bonds, the Debt Service Reserve Requirement for the Issue One 2010 Series Bonds will be \$8,368,124.33. A portion of the proceeds of the Issue One 2010 Series Bonds will be deposited into the Issue One 2010 Series Debt Service Reserve Account concurrently with the issuance of the Issue One 2010 Series Bonds in an amount equal to the applicable Debt Service Reserve Requirement. Amounts on deposit in the Issue One 2010 Series Debt Service Reserve Account will be applied to make up any deficiency in the Debt Service Accounts for the payment of principal of and interest on the Series of Issue One 2010 Series Bonds.

Pursuant to the Indenture, in lieu of the required deposits and transfers of money to the Issue One 2010 Series Debt Service Reserve Account, NCPA may cause to be deposited to the Issue One 2010 Series Debt Service Reserve Account a Financial Guaranty or Financial Guaranties in an amount equal to

the difference between the applicable Debt Service Reserve Requirement and the funds, if any, then on deposit in the Issue One 2010 Series Debt Service Reserve Account or being deposited in the Issue One 2010 Series Debt Service Reserve Account concurrently with such financial Guaranty or Guaranties. “Financial Guaranty” means one or more of the following to be delivered to the Trustee pursuant to the Indenture: (i) an irrevocable, unconditional and unexpired letter of credit issued by a banking institution with credit ratings not below the credit ratings of the Issue One 2010 Series Bonds at the time such letter of credit is issued; or (ii) an irrevocable, unconditional policy of insurance in full force and effect issued by a municipal bond insurer with credit rating not below the credit ratings of the Issue One 2010 Series Bonds at the time such policy of insurance is issued; in each case providing for the payment thereunder of sums for the payment of principal installments with respect to, and interest on, Bonds as required by the Indenture.

See “APPENDIX E – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Debt Service Reserve Fund” hereto.

### **Subsidy Contingency Fund**

The Subsidy Contingency Fund is created to ensure money is available to pay interest costs on the 2010 Series B Bonds in the event the Subsidy is not paid in full by the United States on the Interest Payment Date. If on any Interest Payment Date, the Subsidy for such Interest Payment Date has not been received by the Trustee, the Trustee will transfer amounts from the Subsidy Contingency Fund equal to the expected amount of the Subsidy that had not been received to the Issue One 2010 Series B Debt Service Account in the Debt Service Fund. Upon issuance of the Issue One 2010 Series Bonds, the Subsidy Contingency Requirement for the Issue One 2010 Series B Bonds will be \$2,259,784.41. A portion of the proceeds of the Issue One 2010 Series B Bonds will be deposited into the Subsidy Contingency Fund concurrently with the issuance of the Issue One 2010 Series B Bonds in an amount equal to the Subsidy Contingency Requirement. In the event the Subsidy is not paid in full on the Interest Payment Date, amounts on deposit in the Subsidy Contingency Fund will be applied to make up any deficiency in the Issue One 2010 Series B Debt Service Account in the Debt Service Fund for the payment of interest on the Issue One 2010 Series B Bonds.

See “APPENDIX E – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Subsidy Contingency Fund” hereto.

### **Additional Bonds and Parity Debt**

NCPA may issue Bonds under and secured by the Indenture to (i) refund Bonds previously issued and outstanding thereunder; (ii) finance all or a portion of the costs of any Financed Capital Improvement to the Lodi Energy Center; and (iii) may enter into or issue Financing Agreements, including indentures of trust, resolutions, loan agreements, standby bond purchase agreements, reimbursement agreements, Public Finance Contracts or other applicable debt instruments or financing documents providing for the issuance of, or otherwise relating to, NCPA bonds (“Parity Debt”) in accordance with the requirements of the Indenture. For further information, “APPENDIX E – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Additional Bonds,” “-Refunding Bonds” and “-Parity Debt” hereto.

### **Limitations on Remedies**

The rights of the owners of the Issue One 2010 Series Bonds are subject to the limitations on legal remedies against cities and other public agencies in the State. Additionally, enforceability of the rights and remedies of the owners of the Issue One 2010 Series Bonds, and the obligations incurred by the NCPA and the Indenture Group A Participants, may become subject to the following: the Federal



Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor's rights generally, now or hereafter in effect; equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the Issue One 2010 Series Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation, or modification of their rights.

## **NORTHERN CALIFORNIA POWER AGENCY**

### **Background**

NCPA is a joint exercise of powers agency formed under the Act and the Joint Powers Agreement now among Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Oakland (acting through its Board of Port Commissioners), Palo Alto, Redding, Roseville, Santa Clara, Ukiah, Truckee Donner, TID<sup>1</sup>, and BART as members, and Plumas-Sierra, as an associate member (herein collectively referred to as the "Members" and individually as a "Member").

Under the terms of the Joint Powers Agreement entered into by all Members, NCPA possesses the general powers to acquire, purchase, generate, transmit, distribute and sell electrical capacity and energy. Specific powers include the power to enter into contracts, acquire and construct electric generating facilities, set rates, issue revenue bonds and notes and acquire property by eminent domain.

The Member Services Agreements, dated as of February 12, 1981, and the Facilities Agreement, dated as of September 22, 1993, provide for the development of all projects undertaken by NCPA in three separate phases: (i) the initial phase of general investigation funded by NCPA's general fund; (ii) the second phase whereby Members of NCPA electing to participate in the project execute a project agreement to provide for the cost of development of the project (now referred to as an "NCPA Project"); and (iii) the third phase during which all remaining aspects, including financing, construction and operation of the NCPA Project are undertaken.

Members of NCPA have no financial or other responsibility or liability associated with the acquisition, construction, maintenance, operation or financing of any NCPA project pursuant to the Joint Powers Agreement. Members become obligated for payments with respect to a NCPA project only as participants with respect to such project as set forth in an agreement with NCPA separate from the Joint Powers Agreement.

NCPA has supplied many services to its Members in the past and expects to continue to do so in the future. NCPA has been instrumental in litigating and negotiating with Pacific Gas and Electric Company ("PG&E"), the ISO and the Western Area Power Administration of the federal government ("Western") to keep wholesale power and transmission and other ancillary services rates at levels which have resulted in substantial savings when compared to rates sought by each of those suppliers. It is anticipated that NCPA will continue to litigate and/or negotiate on behalf of its Members to maintain rates at levels which will result in continued advantage to its Members.

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<sup>1</sup> TID has provided its notice to withdraw from NCPA.

NCPA's audited financial statements for the fiscal year ended June 30, 2009 are attached hereto as APPENDIX C. The Issue One 2010 Series Bonds will be special, limited obligations of NCPA payable solely from amounts available from the Trust Estate, and secured solely by a pledge of the Trust Estate, consisting primarily of payments from the Indenture Group A Participants and the funds held by the Trustee under the Indenture.

## **Organization and Management**

NCPA's governing body (the "Commission") is composed of one representative from each Member, each such representative being designated a Commissioner. The Commission is given the general management of the affairs, property and business of NCPA and is vested with all powers of NCPA. Under the Joint Powers Agreement, associate Members do not have a voting seat on the Commission.

The management of NCPA is responsible for various areas of administration and planning of NCPA's operations and affairs. The overall management is under the direction of NCPA's General Manager, who serves at the discretion of the Commission. NCPA is organized into four separate divisions: (i) generation services, (ii) power management, (iii) legislative and regulatory, and (iv) administrative services.

Set forth below is a brief biography of each of NCPA's senior managers.

JAMES H. POPE, General Manager, was appointed General Manager of NCPA in January 2004. Prior to the appointment Mr. Pope served as the Director of Electric Utility for the City of Santa Clara since December 1996. Mr. Pope has experience in the electric and gas industry with a background in general management, operations, engineering and construction for PG&E serving as Vice President, Technical and Construction Services; Vice President for Sacramento Valley Region; and Manager, Gas Transmission and Distribution Construction. Mr. Pope has been in various public power leadership roles, including positions as Chairman and Vice Chairman of the Transmission Agency of Northern California (TANC) where he started the process to get Path 15 built. Mr. Pope now serves on the Board of Governors of the California Municipal Utilities Association (CMUA), and the Board of Directors of the California Foundation on the Environment and the Economy (CFEE). He also served as a member of the Board of Governors of the ISO. In March 2002, he was appointed by Secretary of Energy Spencer Abraham to serve on the Secretary's Electricity Advisory Board.

Mr. Pope has a Bachelor of Science degree from Oregon State University and a Masters of Science degree in Civil Engineering from Stanford University. He attended the Harvard University Business School (Program for Management Development) Executive Program.

DONNA I. STEVENER, Assistant General Manager, Finance/Administrative Services, Chief Financial Officer, received a Bachelor of Science degree in Business Administration/Accounting with high honors from California Baptist University in 1982. Ms. Stevener is a retired Certified Public Accountant in the State of California and has over 27 years of finance experience, including 18 years specializing in the power industry. Before joining NCPA in April 2005, Ms. Stevener was employed by Riverside Public Utilities as a member of the executive management team. At NCPA, Ms. Stevener oversees the Administrative Services division which includes finance, accounting, power settlements, information technology and facilities management and performs as the Chief Financial Officer of NCPA.

JANE DUNN CIRINCIONE, Assistant General Manager, Legislative and Regulatory, received a Masters degree in Public Administration from the University of Southern California, and a Bachelor of Science degree in Political Science from the University of Santa Clara in Santa Clara, California and the

London School of Economics. Ms. Cirrincione has over 22 years of experience in the energy and environmental policy arena. Prior to joining NCPA, she was a Senior Government Relations Representative for the American Public Power Association (“APPA”) in Washington, D.C. APPA is the national trade association representing the country’s over 2,000 public power systems. Before joining APPA, she was the Director of Legislative Programs for the National Hydropower Association, representing all sections of the U.S. hydroelectric industry. She also spent several years on Capitol Hill as a Legislative Assistant for Congressman Don Edwards working on environmental and wildlife issues impacting the San Francisco Bay. Before moving to Washington, D.C., she worked for the U.S. Fish and Wildlife Service at the Sacramento National Wildlife Refuge. Ms. Cirrincione was the 2006 recipient of the Robert E. Roundtree Rising Star Award recognizing future leaders of public power systems.

DAVID DOCKHAM, Assistant General Manager, Power Management, has worked in the electric utility industry since 1982 on a broad range of utility industry projects, activities and issues. Mr. Dockham’s experience includes contract development and negotiation, engineering design, system planning, policy and procedure development, public presentations to boards, commissions and industry work groups; and participation in regional and state level policy and technical working groups. From 2001 through 2007, Mr. Dockham has managed NCPA’s activities and interactions with the ISO and associated regulatory proceedings on behalf of the NCPA’s Members utilizing services under the Second Amended and Restated NCPA Metered Subsystem Aggregation Agreement and the NCPA-PG&E Interconnection Agreement. He currently manages planning, contracts, fuel purchases, and pooling arrangements for NCPA. Mr. Dockham has a Bachelor of Science degree in Electrical and Electronic Engineering from California State University, Sacramento, a Masters degree in Business Administration from the University of California, Davis and is a registered Professional Engineer in the State of California.

DONALD DAME, Assistant General Manager, Business Development, received his Bachelor’s degree in Economics with honors from the University of California in 1975, and a Master’s degree in Regulatory Economics from the University of Wyoming in 1978. Mr. Dame joined NCPA in November 1992. Prior to that time, he worked in various gas and power planning and contracting positions at the California Department of Water Resources, PacifiCorp, Bonneville Power Administration, and the Colorado Interstate Gas Company. His primary focus at NCPA is to assist its Members as a member liaison and to meet with other public agencies to find mutually beneficial business opportunities to expand or more fully utilize NCPA service capabilities for the enhancement and advancement of public power in northern California.

KEN SPEER, Assistant General Manager, Generation Services, has over 30 years of experience in the generation resource management field, having also managed significant generation facilities for the City of Santa Clara (Silicon Valley Power) and PG&E. Mr. Speer also served as the Director of Capital Investment for Duke Energy North America, where he oversaw the capital investment program for the company’s California-based assets. Mr. Speer has a Bachelor of Science degree in Mechanical and Nuclear Engineering from the University of California, Berkeley, and is a Registered Mechanical Engineer.

LYNN BIANCHI-ROSSI, Human Resources Manager received a Bachelor of Science degree from the school of Business and Public Administration at California State University, Sacramento in 1979. Ms. Bianchi-Rossi has over 29 years of experience in human resources in a variety of industries, with over 26 of those years in a management role. Ms. Bianchi-Rossi assumed her duties with NCPA in May 2001. Prior to joining NCPA, she was the Corporate Services Director for Jones & Stokes Environmental Consulting. She also has prior work experience with the County of Sacramento and a nation-wide gas company.

## **NCPA Power Pool**

NCPA operates a power pool that includes the following Members: Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Port of Oakland, Palo Alto, Plumas-Sierra, and Ukiah (each, an “NCPA Pool Member”). The ten NCPA Pool Members’ service areas are connected to the ISO-controlled grid. NCPA operates a central dispatch facility (the “Central Dispatch Center”) at NCPA’s headquarters. The Central Dispatch Center balances loads and resources pursuant to the Second Amended and Restated NCPA Metered Subsystem Aggregation Agreement (the “MSSA”) with the ISO (as described below) for the ten NCPA Pool Members, and Santa Clara. The Central Dispatch Center separately coordinates with Roseville to schedule Roseville’s entitlement to output from NCPA projects across the ISO-controlled grid as requested by Roseville. The Central Dispatch Center also monitors and controls load and voltage levels, operates generating facilities, enters into buy and sell transactions with other utilities throughout the western United States and Canada and regulates hydroelectric facilities in coordination with the ISO to maintain a safe and reliable interconnected system.

NCPA operates according to the terms and conditions of the ISO tariff and the MSSA, the original form of which was approved by FERC in 2002 and was amended and restated to conform to the market restructuring that became effective in 2009. The MSSA identifies operational terms and conditions that vary from the ISO tariff, largely allowing NCPA Members to continue to operate as a vertically integrated utility by generally self-providing for resources and services otherwise procured through the ISO’s markets. In conjunction with the execution of the MSSA, NCPA and PG&E entered into an Interconnection Agreement (the “NCPA-PG&E Interconnection Agreement”) that provided for the terms and conditions for connecting NCPA resources and member loads to the ISO-controlled grid, where such ISO-controlled grid facilities are owned by PG&E and transferred to ISO operational control through a Transmission Control Agreement between PG&E and the ISO.

In April 2009, the ISO implemented a complete overhaul of its tariff, replacing the market design embodied under the former ISO tariff with an updated market design and tariff which has been entitled the Market Redesign and Technology Upgrade (“MRTU”). This overhaul largely changes how generation units are scheduled, transmission rights are allocated, and wholesale energy, capacity and ancillary service costs are allocated to NCPA and its Members. NCPA was an active participant in FERC proceedings, ISO-led stakeholder meetings, and market simulations to test market participant scheduling and settlement systems in advance of MRTU implementation to ensure that Member interests were protected and that NCPA would be able to operate successfully under the new market design. NCPA and the ISO negotiated amendments to the MSSA to adapt to the changes resulting from MRTU. See “OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY—ISO FERC Filings—MRTU” herein

Santa Clara has separate agreements for the services provided under the MSSA and NCPA-PG&E Interconnection Agreement. See “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS—CITY OF SANTA CLARA” hereto.

## **Wholesale Power Trading**

NCPA trades in the Western wholesale electricity markets to maximize the value of its transmission and generation assets and to minimize its cost of power supply for its Members. NCPA has engaged in wholesale market transactions since 1984. While there have from time to time been bankruptcies among participants in those markets, NCPA claims against those bankruptcy estates have all been resolved and NCPA does not have any additional financial exposure due to past bankruptcies in the

electric utility industry. See “LITIGATION – California Energy Market Refund Dispute and Related Litigation” and “– Bankruptcies Related to Electric Industry Restructuring” herein.

### **Investment of NCPA Funds**

All funds of NCPA (except bond proceeds which are invested pursuant to the indenture under which such bonds are issued) are invested in accordance with NCPA’s investment policy and guidelines (the “Investment Policy”) as authorized by Sections 53600 et seq. of the Government Code of the State of California. The Investment Policy and monthly activity reports are approved by the Commission.

The following securities, if and to the extent the same are at the time legal and in compliance with the applicable bond covenants and agreements for investment of NCPA’s funds, are authorized investments under the Investment Policy: (i) securities of the U.S. Government, or its agencies, (ii) certificates of deposit (or time deposits) placed with commercial banks and/or savings and loan companies, (iii) negotiable certificates of deposit, (iv) bankers acceptances, (v) Local Agency Investment Fund (State Pool) demand deposits, (vi) repurchase agreements, (vii) passbook savings account demand deposits, (viii) municipal bonds, and (ix) commercial paper.

The Investment Policy provides the following guidelines, among others. All rated securities must be rated by Moody’s or S&P as “A” or better. All certificates of deposit must mature within one year. All collateralized certificates of deposit must mature within one year. Certificates of deposit with a face value in excess of \$100,000 will be collateralized by Treasury Department securities or first mortgage loans. The Treasury bills or notes must be at least 110% of the face value of the certificate of deposit collateralized in excess of the first \$100,000. The value of first mortgages must be at least 150% of the face value of the certificate of deposit balance secured in excess of the first \$100,000. The portfolio will be diversified with holdings from at least several of the major eligible market sectors. Except for obligations issued or guaranteed by the U.S. Government, federal agencies or Government-sponsored corporations and the Local Agency Investment Fund, no more than 10% of an NCPA construction project or of the NCPA operating funds portfolio will be invested in the securities of any one issuer. Unless otherwise restricted, all holdings will be of sufficient size and held in issues which are actively traded to facilitate transactions at a minimum cost and accurate market valuation. Buying and selling securities before settlement or the use of reverse repurchase agreements for speculative purposes is not authorized. A reverse repurchase agreement may be used only in infrequent circumstances and only to prevent a material loss that would otherwise result from the sale of an investment for liquidity purposes. Any reverse repurchase agreements must be specifically reported to the Commission along with the reasons therefor on a timely basis.

The Investment Policy may be changed at any time at the discretion of the Commission subject to the State law provisions relating to authorized investments. Any exception to the Investment Policy must be formally approved by the Commission. There can be no assurance, therefore, that the State law and/or the Investment Policy will not be amended in the future to allow for investments which are currently not permitted under such State law or the Investment Policy, or that the objectives of NCPA with respect to investments will not change.

### **THE INDENTURE GROUP A PARTICIPANTS**

#### **General**

Pursuant to the Power Sales Agreement, NCPA has sold a portion of the capacity and energy of the Lodi Energy Center to the Indenture Group A Participants as set forth under “POWER SALES AGREEMENT.” The governing body of each Participant has approved the Power Sales Agreement and

the PMOA. Each of the Indenture Group A Participants, other than BART, operates a municipal electric utility and expects to use the energy from the Lodi Energy Center in connection with such utility. BART operates a rapid transit rail system and expects to use the energy from the Lodi Energy Center in connection with such rail system.

### **Indenture Group A Significant Share Participants**

The three Indenture Group A Participants with the largest Indenture Cost Shares are Santa Clara (46.1588%), Lodi (17.0295%) and BART (11.8310%), which, in the aggregate, comprise over 75% of the Indenture Group A Indenture Cost Shares. None of the remaining Indenture Group A Participants has an Indenture Cost Share in excess of 5.0%. Santa Clara, Lodi and BART are sometimes referred to herein as the “Indenture Group A Significant Share Participants.” Brief descriptions of the Indenture Group A Significant Share Participants, their Enterprise systems and certain information relating to the operations of such Enterprise systems are set forth in “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS” hereto.

### **Other Indenture Group A Participants**

Each Indenture Group A Participant that is not an Indenture Group A Significant Share Participant operates an electric utility for distribution of electric power and energy which utility constitutes such Indenture Group A Participant’s Enterprise.

The Indenture Group A Participants that are cities provide retail electric service pursuant to the authority of the Constitution of the State of California, Article XI, Section 9. Under California law, such municipal Indenture Group A Participants have authority to acquire, construct, establish, enlarge, improve, maintain, own and operate electric distribution systems. Plumas-Sierra provides electric service pursuant to its Articles and Bylaws. The Power and Water Resources Pooling Authority provides electric service pursuant to its joint powers agreement and contracts with its customers.

The retail customers of the Indenture Group A Participants that are cities are located within their respective city boundaries and environs. Plumas-Sierra serves rural areas in Plumas, Lassen and Sierra Counties in California and in Washoe Township in Washoe County, Nevada. The Power and Water Resources Pooling Authority serves the retail requirements of certain irrigation districts and water districts.

## **OTHER NCPA PROJECTS**

Set forth below is a brief description of the NCPA resources in addition to the Lodi Energy Center. Each such resource is financed under a separate agreement with the Members participating in such resource. No Member not a party to such agreement has any obligation to make payments in connection with such resources.

Participating Members occasionally make short-term and long-term assignments of entitlement rights to NCPA resources. Such assignment would not impact the underlying project participant obligations contained in the related agreement relating to such NCPA resource and each project participant remains obligated for all payments due from such project participant in the event moneys received from transferees pursuant to such arrangements are insufficient to satisfy all payments.

## Hydroelectric Project Number One

NCPA's Hydroelectric Project Number One (the "Hydroelectric Project") consists of (a) three diversion dams, (b) the 243-MW Collierville Powerhouse, (c) the New Spicer Meadow Dam with a 5.5-MW powerhouse, and (d) associated tunnels located essentially on the North Fork Stanislaus River and on the Stanislaus River in Alpine, Tuolumne and Calaveras Counties, California, together with required transmission facilities.

The Hydroelectric Project, with the exception of certain transmission facilities and three storage reservoirs, is owned by the Calaveras County Water District ("CCWD") and is licensed by FERC pursuant to a 50-year License No. 2409 to CCWD. Pursuant to a Power Purchase Contract, NCPA (i) is entitled to the electric output of the project until February 2032, subject to FERC approval, (ii) managed the construction of the project and (iii) operates the generating and recreational facilities of the project. Under a separate FERC-issued license with an expiration date coterminous with the License No. 2409 (Project No. 11197), NCPA holds the license and owns the 230 kV Collierville-Bellota and 21 kV Spicer Meadows-Cabbage Patch transmission lines for License No. 2409. NCPA also has a separate FERC license for Project No. 11563 (Upper Utica Project), which consists of three storage reservoirs that mainly feed the New Spicer Meadow Reservoir. This license expires in 2033. *Northern California Power Agency*, 104 F.E.R.C. ¶ 62,163 (2003). After the present FERC license for Project No. 2409 expires in the year 2032, NCPA has the option to continue to purchase project capacity and energy during a subsequent license renewal period. It is estimated that the price will be significantly less than the comparable alternatives at that time. The purchase option includes all capacity and energy which is surplus to CCWD's needs for power within the boundaries of Calaveras County.

In February 1990, the operating portions of the project were declared substantially complete and commercially operable. The project has been supplying peak load requirements of the project participants therein and complementing other resources available to them through NCPA.

The load-following characteristics of the project, together with the ability to schedule Western energy deliveries, give NCPA a great degree of flexibility in meeting the hourly and daily variations which occur in the project participants' loads.

NCPA financed the Hydroelectric Project through the issuance of Hydroelectric Project Number One Revenue Bonds, of which approximately \$458.4 million aggregate principal amount was outstanding as of June 1, 2010 (the "NCPA Hydroelectric Revenue Bonds"). Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, Ukiah and Plumas-Sierra, are participants in the Hydroelectric Project. See "Indebtedness" for each of the Significant Share Project Participants in "APPENDIX B – SELECTED INFORMATION RELATING TO THE SIGNIFICANT SHARE PROJECT PARTICIPANTS" hereto for a discussion of the obligations of Lodi and Santa Clara with respect to the Hydroelectric Project.

NCPA has sold the capacity of the Hydroelectric Project to certain of its project participants pursuant to "take-or-pay" power sales contracts which require payments to be made whether or not the Hydroelectric Project is completed or operable. Each purchaser is responsible under its power sales contract for paying its entitlement share in the Hydroelectric Project of all of NCPA's costs of the Hydroelectric Project, including debt service on the aforementioned bonds as well as a "step-up" of up to 25% in the event of the unremedied default of another project participant.

## Geothermal Project

NCPA has developed a geothermal project (the “Geothermal Project”) located on federal land in certain areas of Sonoma and Lake Counties, California (the “Geysers Area”). In addition to the geothermal leasehold, wells, gathering system and related facilities, the Geothermal Project consists of two electric generating stations (Plant 1 and Plant 2), each with two 55 MW (nameplate rating) turbine generator units utilizing low pressure, low temperature geothermal steam, associated electrical, mechanical and control facilities, a heat dissipation system, a steam gathering system, a transmission tapline and other related facilities. Geothermal steam for the project is derived from the geothermal property, which includes wellpads, access roads, steam wells and reinjection wells. NCPA formed two not-for-profit corporations controlled by its Members to own the generating plants of the Geothermal Project. NCPA manages the Geothermal Project for the corporations and is entitled to all the capacity and energy generated by the Geothermal Project.

As noted above, the Geothermal Project consists of two operating electric generating stations (Plant 1 and Plant 2), each with two 55 MW (nameplate rating) turbine generator units. Plant 1 and Plant 2 were originally developed and operated as separate projects referred to as “Geothermal Project Number 2” and “Geothermal Project Number 3,” respectively. Plant 1 and Plant 2 are now operated together as the Project pursuant to the terms of the Geothermal Operating Agreement.

Steam for NCPA’s geothermal plants comes from lands in the Geysers Area, which are leased by NCPA from the federal government. NCPA operates these steam-supply areas. Operation of the geothermal plants at high generation levels, together with high steam usage by others in the same area, resulted in a decline in the steam production from the steam wells at a rate greater than expected. As a result, by April 1988, for the purpose of slowing the decline in the steam field capability, NCPA changed its steam field production from base-load to load-following and reduced average annual generation. These changes were effective in reducing the decline in steam production.

Beginning in 1991, along with other steam field operators in the area, NCPA began implementing various operating strategies to further reduce the rate of decline in steam production. NCPA has modified both steam turbine units at Plant 1 and the associated steam collection system to enable generation with lower pressure steam at higher mass-flow rates to optimize the utilization of the available steam resource.

NCPA also entered into agreements with other producers in the Geysers Area to finance and construct the Southeast Geysers Effluent Pipeline Project, which was completed in September 1997 and began operating soon thereafter. The 26-mile pipeline collects waste-water from Lake County Sanitation District treatment plants at Clearlake and Middletown and delivers the waste water to NCPA and the other Geysers steam field operator for injection into the steam field. A second pipeline enhancement project to further augment the waste-water injection program was completed in 2004. Contractual changes made in connection with the project have increased NCPA’s entitlement to receive waste-water for reinjection from 33% to 44%.

During Fiscal Years 2008-09 and 2009-10, NCPA has been, and will be, undertaking certain capital improvements to the Geothermal Project, including: (i) the acquisition of a spare turbine rotor, as well as the replacement of the existing Unit 4 turbine rotor at Plant 2 with a new turbine rotor designed for lower pressure, which will avoid one-time operation and maintenance costs of \$3 million, and is expected to result in operation and maintenance cost savings of approximately \$150,000 per year; (ii) the design, permitting and construction of a 1 MW photovoltaic solar project to be constructed at the Middletown Treatment Plant in Lake County, which is expected to provide nearly 100% of the power needs for the 300 kW booster pump station presently under construction at the treatment plant; and (iii) the construction of a 1 MW photovoltaic solar project located at the Clearlake Southeast Treatment Plant



in Lake County, completed in December of 2008, which provides approximately 25% of the power needs for the existing pump station located at the treatment plant. The pump stations at the Middletown Treatment Plant and the Clearlake Southeast Treatment Plant are part of the Southeast Geysers Effluent Pipeline Project.

NCPA financed the Geothermal Project with Geothermal Project Number 3 Revenue Bonds, of which \$63.2 million were outstanding as of June 1, 2010 (including Geothermal Project Number 3 Revenue Bonds issued to finance the capital improvements to the Geothermal Project described in the preceding paragraph). The remaining annual debt service on these bonds ranges from \$3.6 million to \$30.9 million, with final maturity of July 1, 2024. Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, Ukiah and Plumas-Sierra, participate in the Geothermal Project. See “Indebtedness” for each of the Indenture Group A Significant Share Participants in “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS” hereto for a discussion of the obligations of Lodi and Santa Clara with respect to the Geothermal Project.

Annual generation of the Project was approximately 116 MW gross (“MWG”) for calendar year (“CY”) 2008. Based on current operating protocols and forecasted operations, after CY 2008 both the average and peak capacity are expected to continue to decrease, reaching approximately 112 MWG by CY 2010 and 72 MWG by CY 2031. Under terms of the federal geothermal leasehold agreements, which became effective August 1, 1974, the leasehold had a 10-year primary term with provision for renewal as long thereafter as geothermal steam is produced or utilized, but not longer than 40 years. At the expiration of that period, if geothermal steam is still being produced, NCPA has preferential right to renew the leasehold for a second term. The leasehold also requires NCPA to remove its leasehold improvements including the geothermal plants and steam gathering system when and if NCPA abandons the leasehold. These decommissioning costs are currently estimated to total approximately \$24.1 million. NCPA has begun collecting about one percent per annum of the expected decommissioning costs and is expected to continue to do so through 2010. The decommissioning cost plan will be re-evaluated at that time.

### **Geysers Transmission Project**

In order to meet certain obligations required of NCPA to secure transmission and other support services for the Geothermal Project, NCPA has undertaken a geysers transmission project (the “Geysers Transmission Project”). The Geysers Transmission Project includes (i) an ownership interest in PG&E’s 230 kV line from Castle Rock Junction in Sonoma County to the Lakeville Substation (the “Castle Rock to Lakeville Line”), (ii) additional firm transmission rights in the Castle Rock to Lakeville Line and (iii) the Central Dispatch Facility.

NCPA financed the Geysers Transmission Project through the issuance of Transmission Project Number One Revenue Bonds, of which \$0.9 million were outstanding as of June 1, 2010. The final maturity of the Transmission Project Number One Revenue Bonds is August 15, 2010. Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Ukiah and Plumas-Sierra, are participants in the Geysers Transmission Project. See “Indebtedness” for each of the Indenture Group A Significant Share Participants in “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS” hereto for a discussion of the obligations of Lodi with respect to the Geysers Transmission Project.

## **Capital Facilities Project**

NCPA Capital Facilities Project, known as Combustion Turbine Project Number Two, currently consists of one power generating station, Unit One, with a design rating of 49.9 MW located in the City of Lodi. Such power generating station consists of a single natural gas-fired steam injected gas turbine (STIG), generator, and required auxiliary and electrical interconnection systems. The Capital Facilities Project is currently financed with \$55.120 million aggregate principal amount of NCPA Capital Facilities Revenue Bonds. The Cities of Alameda, Lodi, Lompoc and Roseville are the project participants in the Capital Facilities Project.

Unit One is economically dispatched to meet the project participants' load, depending on the amount of generation available from NCPA's hydroelectric project and prices of alternative electric energy supplies, to meet other NCPA Members' load or to sell power to third parties depending on natural gas prices and electric energy prices.

## **Combustion Turbine Project Number One**

The Combustion Turbine Project Number One (the "Combustion Turbine Project") consists of five combustion turbine units, each nominally rated 25 MW. Two units are located in each of Roseville and Alameda and one in Lodi. Sale of the two units located in Roseville to the City of Roseville will be effective September 1, 2010.

The Combustion Turbine Project provides capacity (i) that is economically dispatched during the peak load period to the extent permitted by air quality restrictions and (ii) to be used to meet the capacity reserve requirements. Such reserve capacity is operated only during emergency periods when other resources are unexpectedly out of service.

NCPA financed the Combustion Turbine Project through the issuance of Combustion Turbine Project Number One Revenue Bonds, of which \$4.1 million were outstanding as of June 1, 2010. The debt service on these bonds is approximately \$4.3 million annually, with a final maturity of August 15, 2010. Alameda, Healdsburg, Lodi, Lompoc, Roseville, Santa Clara, Ukiah and Plumas-Sierra, are participants in Combustion Turbine Project Number One. See "Indebtedness" in "APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS" hereto for a discussion of the obligations of Lodi and Santa Clara with respect to the Combustion Turbine Project.

As is typical of reserve and peaking resources, the average cost per kWh of power delivered to the participants in the Combustion Turbine Project is comparatively expensive.

## **Gas Purchase Contracts**

NCPA, on behalf of TID and on behalf of the participants in Combustion Turbine Project Number One and in the Capital Facilities Project's Unit One, has entered into a Consolidated Natural Gas Purchase and Management Agreement (the "Consolidated Natural Gas Agreement"), effective September 1, 2007, with Constellation NewEnergy – Gas Division, LLC and Constellation NewEnergy – Canada, Inc. (collectively, "Constellation"). The Consolidated Natural Gas Agreement is being amended to remove TID as a party. The Consolidated Natural Gas Agreement is a consolidation of gas supply agreements that were purchased by Constellation. NCPA and Constellation each have the right to terminate the Consolidated Natural Gas Agreement with six months' notice; otherwise, the agreement automatically renews each January 1 following December 31, 2008. The agreement continued in effect

on January 1, 2010. The Consolidated Natural Gas Agreement provides that Constellation will provide gas supply and management services, including the following:

- Supply of gas for the full daily output of Combustion Turbine Project Number One, Unit One of the Capital Facilities Project and selected Turlock Irrigation District gas-fired plants (approximately 78,136 MMBtu/day). The gas may be purchased on a daily basis or for a forward time period with the gas price fixed at the time of commitment.
- Scheduling and balancing for NCPA gas supplies from third parties, along with gas supplies from Constellation. Surplus gas is to be purchased by Constellation.
- Management of NCPA's 5,409 MMBtu/day of pipeline capacity from AECO to PG&E Citygate and release of certain other pipelines while NCPA is transporting gas from AECO to PG&E Citygate. NCPA is paid the value of the unused pipeline capacity by Constellation.

### **Power Purchase Contracts**

NCPA, on behalf of Healdsburg, Palo Alto, Ukiah, Lodi and Roseville, has negotiated a seasonal exchange agreement with Seattle City Light for 60 MW of summer capacity and energy and a return of 46 MW of capacity and energy in the winter. Deliveries under the agreement began June 1, 1995 and will terminate no earlier than May 31, 2014. Effective May 31, 2008, Healdsburg, Palo Alto and Roseville assigned their participation percentages to Santa Clara.

NCPA, on behalf of Alameda, entered into a power purchase agreement with Henwood Associates, Inc for 440 kW of capacity and energy. The energy source for the facility is hydro-electric and the facility meets the qualifying facilities requirements, established by FERC. The facility output, which varies with hydrological conditions, has averaged about 2,000 MWh per year. Deliveries under the agreement began February 1, 2010 and will terminate on January 31, 2030.

NCPA, on behalf of Biggs, Gridley, Healdsburg, Lompoc and Ukiah may enter into supply agreements for terms of up to five years utilizing Commission approved Edison Electric Institute and WSPP Inc. Purchase Agreements. Procurement terms and conditions are governed by a Market Purchase Program agreement between NCPA and the participating Members listed in the preceding sentence. Purchase amounts are limited to 115% of each participating members forecast net open position associated with the period of the procurement. The Program was approved by the Commission on July 26, 2007, with a term of five years, which is extended for one year on each anniversary of the agreement as to each participant that does not withdraw from the agreement or have their participation terminated.

NCPA provides power supply and scheduling services to BART under a ten year Single Member Services Agreement which was executed on December 1, 2005. Under this agreement, NCPA procures power to meet BART's power supply needs utilizing Commission approved Edison Electric Institute and WSPP Inc. Purchase Agreements.

### **RATE REGULATION**

NCPA, and each Indenture Group A Participant other than BART sets rates, fees and charges for electric service. The authority of such Indenture Group A Participants or NCPA to impose and collect rates and charges for electric power and energy sold and delivered is not subject to the general regulatory jurisdiction of the California Public Utilities Commission ("CPUC") and presently neither the CPUC nor any other regulatory authority of the State of California nor FERC approves such rates and charges. Although the retail rates of such Indenture Group A Participants are not subject to approval by any federal

agency, such as Indenture Group A Participants and NCPA are subject to certain ratemaking provisions of the federal Public Utility Regulatory Policies Act of 1978 (“PURPA”) and Sections 211-213 of the Federal Power Act (“FPA”). It is possible that future legislative and/or regulatory changes could subject the rates and/or service areas of such Indenture Group A Participants or NCPA to the jurisdiction of the CPUC or to other limitations or requirements.

FERC could potentially assert jurisdiction over rates of licensees of hydroelectric projects and customers of such licensees under Part I of the Federal Power Act, although it has not as a practical matter exercised or sought to exercise such jurisdiction to modify rates that would legitimately be charged. If it did assert such jurisdiction, the result might have some significance for NCPA and the participants in Hydroelectric Project Number One.

Under Sections 211, 212 and 213 of the FPA, FERC has the authority, under certain circumstances and pursuant to certain procedures, to order any utility (municipal or otherwise) to provide transmission access to others at FERC-approved rates. In addition, the Energy Policy Act of 2005 expanded FERC’s jurisdiction to require municipal utilities that sell more than eight million megawatt hours of energy per year to pay refunds under certain circumstances for sales into organized markets. To date, neither NCPA nor any of the Indenture Group A Participants meet this threshold requirement.

On May 29, 2009, FERC issued an order asserting that it had the authority to “reset” rates at which Energy had been previously sold in the organized California ISO and PX markets. That order is now on appeal in the United States Court of Appeals for the Ninth Circuit, and is expected to be set for argument following the briefing process now underway. If FERC is determined to be correct in its assertion, NCPA would be subject to such refund authority (under certain limitations) for sales into organized markets without regard to the eight million megawatt hours statutory limitation discussed above. The May 29, 2009, order itself applied to the disputes discussed in “LITIGATION—California Energy Market Refund Dispute and Related Litigation” which have since been resolved as to NCPA through a Settlement Agreement, as further discussed below.

The California Energy Commission is authorized to evaluate rate policies for electric energy as related to the goals of the Energy Resources Conservation and Development Act and to make recommendations to the Governor, the Legislature and publicly owned electric utilities.

## **CONSTITUTIONAL CHANGES IN CALIFORNIA**

Proposition 218, a State ballot initiative known as the “Right to Vote on Taxes Act,” was approved by the voters of the State of California on November 5, 1996. Proposition 218 added Articles XIIC and XIID to the State Constitution. Article XIID creates additional requirements for the imposition by most local governments (including the Indenture Group A Participants) of general taxes, special taxes, assessments and “property-related” fees and charges. Article XIID explicitly exempts fees for the provision of electric service from the provisions of such article. Nevertheless, Proposition 218 could indirectly affect some California municipally-owned electric utilities. For example, to the extent Proposition 218 reduces a city’s general fund revenues, that city could seek to increase the transfers from the electric utilities of that city to the city’s general fund.

Article XIIC expressly extends the people’s initiative power to reduce or repeal previously-authorized local taxes, assessments, and fees and charges. The terms “fees and charges” are not defined in Article XIIC, although the California Supreme Court held in *Bighorn-Desert View Water Agency v. Verjil*, 39 Cal. 4th 205 (2006), that the initiative power described in Article XIIC may apply to a broader category of fees and charges than the property-related fees and charges governed by Article XIID. Moreover, in the case of *Bock v. City Council of Lompoc*, 109 Cal. App. 3d 52 (1980), the Court of

Appeal determined that electric rates are subject to the initiative power. Thus, even electric service charges (which are expressly exempted from the provisions of Article XIID) might be subject to the initiative provision of Article XIIC, thereby subjecting such fees and charges imposed by each Participant to reduction by the electorate. However, NCPA and the Indenture Group A Participants believe that even if the electric rates of any Indenture Group A Participants are subject to the initiative power, under Article XIIC or otherwise, their respective electorates would be precluded from reducing electric rates and charges in a manner adversely affecting the payment of the Issue One 2010 Series Bonds by virtue of the “impairments clause” of the United States Constitution.

Articles XIIC and XIID were adopted as measures that qualified for the ballot pursuant to California’s initiative process. From time to time, including presently, other initiatives have been, and could be, proposed, and if qualified for the ballot, could be adopted affecting NCPA’s and/or the Indenture Group A Participants’ revenues or operations. Neither NCPA nor the Indenture Group A Participants can predict the nature or impact of these measures or their likelihood of qualification for the ballot or passage.

## **DEVELOPMENTS IN THE ENERGY MARKETS**

### **Background; California Electric Market Deregulation**

In 1996, California partially deregulated its electric energy market. As a consequence of the partial deregulation, the California IOUs sold a large portion of their generation resources and began to purchase significant amounts of electricity on a spot basis in the organized markets. During portions of 2000 and 2001, the market price of electricity in California went through significant fluctuations; the impacts of these market dislocations are well documented.

A number of state and federal proceedings began as a result of the market dysfunction of 2000 and 2001. These included investigations into alleged market manipulation, which for the most part have either ended or are in the final appellate stages. Other proceedings are ongoing, such as litigation at FERC regarding the need for refunds due to the alleged overcharging for the sale of electricity (which proceedings initially included sales by municipal utilities but were dismissed for lack of jurisdiction) (the “Refund Cases”). Although it was ultimately found that FERC lacked jurisdiction to order refunds for alleged overcharging by non-jurisdictional entities, several plaintiffs have pursued remedies in state and federal courts based on a contract and quasi-contract theory. See “LITIGATION—California Energy Market Refund Dispute and Related Litigation” herein for a discussion of the Refund Cases. While NCPA has settled with the plaintiffs in that related litigation, and that settlement has been approved by FERC, there are still some claims by others at FERC that may not be resolved thereby. While those claims are considered by NCPA to be lacking in merit, neither NCPA nor the Indenture Group A Participants are able to provide assurance of that result until those proceedings are concluded.

During 2000 and 2001, California experienced extreme fluctuations in the prices and supplies of natural gas and electricity in much of the State. While there has been some progress in addressing these issues, uncertainty remains. There has been great volatility in the cost of natural gas, which is the fuel source for many of California’s electric generating units. As a result of the foregoing and other factors, no assurance can be given that measures undertaken during the last several years, together with measures to be taken in the future, will prevent the recurrence of shortages, price volatility or other energy problems that have adversely affected the Indenture Group A Participants and California electric utilities in the past. See, however, “OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY—ISO FERC Filings—Resource Adequacy Requirements” herein.

## Climate Change Related State Legislation

A number of bills affecting the electric utility industry have been introduced or enacted by the California Legislature. In general, these bills provide for greenhouse gas emission standards and greater investment in energy-efficient and environmentally friendly generation alternatives through more stringent renewable resource portfolio standards. The following is a brief summary of certain of these bills.

***Greenhouse Gas Emissions.*** On June 1, 2005, the Governor signed Executive Order S-3-05, which placed an emphasis on efforts to reduce greenhouse gas emissions by establishing statewide greenhouse gas reduction targets. The targets are: (i) a reduction to 2000 emissions levels by 2010; (ii) a reduction to 1990 levels by 2020; and (iii) a reduction to 80% below 1990 levels by 2050. The Executive Order also called for the California Environmental Protection Agency to lead a multi-agency effort to examine the impacts of climate change on California and develop strategies and mitigation plans to achieve the targets. On April 25, 2006, the Governor also signed Executive Order S-06-06 which directs the State to meet a 20% biomass utilization target within the renewable generation targets of 2010 and 2020 for the contribution to greenhouse gas emission reduction.

The Governor signed Assembly Bill 32, the Global Warming Solutions Act of 2006 (the “GWSA”), which became effective as law in 2007. The GWSA prescribes a statewide cap on global warming pollution with a goal of reaching 1990 greenhouse gas emission levels by 2020. In addition, the GWSA establishes a mandatory reporting program for all IOUs, municipal utilities and other load-serving utilities to inventory and report greenhouse gas emissions to the California Air Resources Board (“CARB”) and requires CARB to adopt regulations for significant greenhouse gas emission sources (allowing CARB to design a “cap-and-trade” system) and gives CARB the authority to enforce such regulations beginning in 2012. On December 11, 2008, CARB adopted a “scoping plan” to reduce greenhouse gas emissions which includes a mixed approach: market structures, regulation, fees and voluntary measures. The scoping plan includes a cap-and-trade system that covers 85% of all California greenhouse gas emissions and will be implemented in coordination with the Western Climate Initiative regime, which is a regional zone consisting of seven states and three Canadian provinces that is in the process of establishing a greenhouse gas trading framework.

On November 24, 2009, CARB released a Preliminary Draft Regulation for a California Cap and Trade Program for public review and comment. By September 2010, CARB is anticipating that its 45-day public review period for the regulation will commence and that CARB will consider the final draft at its October 2010 meeting. The timeline set by CARB to develop, finalize and begin implementation of the cap and trade regulation indicates that the program is scheduled to be launched by the GWSA deadline of January 1, 2012.

In addition to the GWSA, Senate Bill 1368 also became effective as law in 2007 and provides for an emission performance standard, restricting new investments in baseload fossil fuel electric generating resources that exceed the rate of emissions for greenhouse gases for existing combined-cycle natural gas baseload generation and seeks to allow the CEC to establish a regulatory framework necessary to enforce the greenhouse gas emission performance standard for publicly-owned utilities. The CPUC has the similar responsibility for the IOUs. The revised proposed CEC regulations were approved by the Office of Administrative Law on October 16, 2007.

The regulations promulgated by the CEC prohibit any investment in baseload generation that does not meet the emission performance standard of 1,100 pounds of CO<sub>2</sub> per MWh of electricity, with limited exceptions for routine maintenance, requirements of pre-existing contractual commitments, or threat of significant financial harm.

Additionally, Assembly Bill 1925, signed by the Governor on September 26, 2006, requires the CEC to develop a cost effective strategy for the geologic sequestration and management of industrial carbon dioxide.

Legislation regarding greenhouse gas emissions will impact all California electric utilities as the State begins to reduce its reliance on coal-fired generation. The Indenture Group A Participants are committed to renewable energy, demand side management and energy efficiency, however, it is widely recognized that there will still be a large demand for traditional, baseload fossil power plants in order to meet projected load growth. Currently there is a ban in California prohibiting the development of nuclear power plants until there is a permanent storage solution for spent fuel rods. Large hydroelectric plant development is also unlikely to occur in California as a result of resistance from environmental interests. Since the greenhouse gas performance standards established under SB 1368 have the effect of prohibiting new coal-fired power resources, natural gas-fired, combined cycle power plants would appear to be the primary viable option for fossil fuel based baseload power plant development absent the implementation of new technologies in connection with other resource options. The reliance on a single fuel source will continue to put pressure on the already volatile natural gas market in the United States. However, the Indenture Group A Participants that have significant reliance on natural gas have taken actions to manage their respective exposure to natural gas price fluctuations.

Santa Clara and Lodi, among other Indenture Group A Participants, have each signed a set of principles through the California Municipal Utilities Association (“CMUA”) in an effort to meet the State’s greenhouse gas reduction targets.

***Energy Procurement and Efficiency Reporting.*** Senate Bill 1037, signed by the Governor on September 29, 2005, requires that each municipal electric utility, including the Indenture Group A Participants other than BART, prior to procuring new energy generation resources, first acquire all available energy efficiency, demand reduction, and renewable resources that are cost effective, reliable and feasible. Senate Bill 1037 also requires each municipal electric utility to report annually to its customers and to the CEC its investment in energy efficiency and demand reduction programs. Further, California Assembly Bill 2021 (“AB 2021”), signed by the Governor on September 29, 2006, requires that the publicly-owned utilities establish, report, and explain the basis of the annual energy efficiency and demand reduction targets by June 1, 2007 and every three years thereafter for a ten-year horizon. Future reporting requirements under AB 2021 include: (i) the identification of sources of funding for the investment in energy efficiency and demand reduction programs; (ii) the methodologies and input assumptions used to determine cost-effectiveness; and (iii) the results of an independent evaluation to measure and verify energy efficiency savings and demand reduction program impacts. The information obtained from the local publicly-owned utilities is being used by the CEC to present the progress made by the publicly-owned utilities on the State’s goal of reducing electrical consumption by 10% in ten years and amelioration with the greenhouse gas targets presented in Executive Order S-3-05 enacted by the Governor on June 1, 2005. In addition, the CEC will provide recommendations for improvement to assist each local publicly-owned utility in achieving cost-effective, reliable, and feasible savings in conjunction with the established targets for reduction.

***Renewable Portfolio Standards.*** In September 2002, the California Legislature enacted and the Governor signed into law Senate Bill 1078 (“SB 1078”). SB 1078 requires that the IOUs adopt a Renewable Portfolio Standard (“RPS”) to meet a minimum of 1% of retail energy sales needs each year from renewable resources and to meet a goal of 20% of their retail energy needs from renewable energy resources by the year 2017. SB 1078 also directed the State’s municipal electric utilities to implement and enforce an RPS that recognizes the intent of the Legislature to encourage development of renewable resources, taking into consideration the impact on a utility’s standard on rates, reliability, financial resources, and the goal of environmental improvement. On September 26, 2006, the Governor signed

Senate Bill 107 into law, which requires IOUs to have 20% of their electricity come from renewable sources by 2010 and prescribes that municipal utilities meet the intent of the legislation. See “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS” hereto for information regarding Santa Clara’s and Lodi’s adopted RPS.

On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08. Among other things, Executive Order S-14-08 provides that the RPS target established for California shall require retail electricity sellers to serve 33% of their loads with eligible renewable energy resources by 2020. On September 15, 2009, the Governor signed Executive Order S-21-09. Executive Order S-21-09 provides, among other things, that CARB is to establish a regulation consistent with the 33% RPS target established in Executive Order S-14-08 by July 31, 2010 and that CARB work with the CEC and CPUC to ensure that such regulation will build upon the existing RPS program and will regulate all California load serving entities, including publicly-owned utilities. In addition, Executive Order S-21-09 provides that CARB may delegate policy development and implementation to CEC and CPUC, that CARB is to consult with California Independent System Operator and other balancing authorities on impacts on reliability, renewable integration requirements and interactions with wholesale power markets in carrying out the provisions of Executive Order S-21-09, and that CARB is to establish the highest priority for those resources with the least environmental costs and impacts on public health that can be developed most quickly and that support reliable, efficient and cost-effective electricity system operations, including resources and facilities located throughout the Western interconnection.

Since the implementation of Senate Bill 1078, the CPUC and the CEC have taken a number of actions that have had an impact on the renewable energy goals set by the legislation. In order to overcome the challenges associated with meeting accelerated RPS goals, the CPUC and the CEC supported the implementation of a renewable energy certificate (“REC”) trading system to meet the accelerated RPS goals. SB 107 allows this flexibility, with the condition that the energy is delivered to an in-state trading hub. In parallel, pursuant to Senate Bill 1078, the CEC, collaboratively with the Western Governors’ Association and the Western Electricity Coordinating Council, has established the Western Renewable Energy Generation Information System (“WREGIS”), which is expected to ensure the integrity of RECs and prevent the double counting of the certificates. The electronic tracking system became operational in 2007. On October 29, 2008, a CPUC Administrative Law Judge in Rulemaking 06-02-012 issued a proposed decision, which if approved by the CPUC, would authorize the use of WREGIS in tracking, and approve the purchase and sale of, tradable renewable energy credits for the investor-owned utilities. NCPA and the municipal utility Indenture Group A Participants have been monitoring the development of the WREGIS and remain involved in stakeholder activities in order obtain the necessary information to evaluate the necessary requirements and costs, once finalized, for in-state and out of state renewable product purchases and compliance benefits for participating in the electronic tracking system.

**Solar Power.** On August 21, 2006, the Governor signed into law California Senate Bill 1 (“SB 1”) (also known as the “Million Solar Roofs Initiative”). This legislation would require municipal utilities to establish a program supporting the stated goal of the legislation to install 3,000 MW of photovoltaic energy in California. Municipal utilities are also required to establish eligibility criteria in collaboration with the CEC for the funding of solar energy systems receiving ratepayer funded incentives. The legislation gives a municipal utility the choice of selecting an incentive based on the installed capacity, starting at \$2.80 per watt, or based on the energy produced by the solar energy system, measured in kilowatt-hours. Incentives would be required to decrease at a minimum average rate of 7% per year. Municipal utilities also have to meet certain reporting requirements regarding the installed capacity, number of installed systems, number of applicants, amount of awarded incentives and the contribution toward the program’s goals.



Each municipal utility Indenture Group A Participants is meeting the requirements of SB 1 through their own incentive programs that meet the incentive level for the technology as stipulated under the legislation.

### **Future Regulation**

The electric industry is subject to continuing legislative and administrative reform. States routinely consider changes to the way in which they regulate the electric industry. Recently, both further deregulation and forms of additional regulation have been proposed for the industry, which has been highly regulated throughout its history. NCPA and the Indenture Group A Participants are unable to predict at this time the impact any such considerations will have on the operations and finances of the Indenture Group A Participants, the Lodi Energy Center or the electric utility industry generally.

### **Impact of State Developments on NCPA and the Indenture Group A Participants**

The effect of these developments in the California energy markets on NCPA and the Indenture Group A Participants cannot be fully ascertained at this time. Volatility in energy prices in California may return due to a variety of factors which affect both the supply and demand for electric energy in the western United States. These factors include, but are not limited to, the adequacy of generation resources to meet peak demands, the availability and cost of renewable energy, the impact of greenhouse gas emission legislation and regulations, fuel costs and availability, weather effects on customer demand, transmission congestion, the strength of the economy in California and surrounding states and levels of hydroelectric generation within the region (including the Pacific Northwest). See “OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY” herein. This price volatility may contribute to greater volatility in the Indenture Group A Participants’ costs and revenues from the sale (and purchase) of electric energy and, therefore, could materially affect the financial condition of the affected Indenture Group A Participants. Each of the Indenture Group A Participants, individually and/or through joint powers agencies in which it participates, undertakes resource planning activities and plans for its resource needs in order to mitigate such price volatility and spot market rate exposure. For a discussion of each of the Significant Share Participant’s current resource planning activities, see “Power Supply Resources—Future Power Supply Resources” in each of the Significant Share Participant’s sections in “APPENDIX B – SELECTED INFORMATION RELATING TO THE INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS” hereto.

## **OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY**

### **Federal Energy Legislation**

***EPAc 2005.*** On August 8, 2005, President Bush signed the Energy Policy Act of 2005 (“EPAc 2005”). EPAc 2005 expanded FERC’s jurisdiction to require municipal utilities that sell more than eight million megawatt hours of energy per year to pay refunds under certain circumstances for sales into organized markets. No municipal utility Indenture Group A Participant is able to predict when, if ever, its sales of electricity would reach eight million megawatt hours, but none of them (nor NCPA in its capacity as operator of the MSSA) meet that threshold requirement at this time. EPAc 2005 also provided for mandatory reliability standards to increase system reliability and minimize blackouts, in addition to criminal and civil penalties for manipulative energy trading practices. EPAc 2005 also required the creation of an electric reliability organization (“ERO”) to establish and enforce, under FERC supervision, mandatory reliability standards to increase system reliability and minimize blackouts. Failure to comply with the mandatory reliability standards exposes a utility to significant fines and penalties by the ERO or by FERC.

***NERC Reliability Standards.*** EPCRA 2005 required FERC to certify an ERO to develop mandatory and enforceable Reliability Standards, subject to FERC review and approval. The Reliability Standards apply to users, owners and operators of the Bulk-Power System, including NCPA and potentially some of its Members, as more specifically set forth in each Reliability Standard. On February 3, 2006, FERC issued Order 672, which certified the North American Electric Reliability Corporation (“NERC”) as the ERO. Many Reliability Standards have since been approved by FERC.

The ERO or the entities to which NERC has delegated enforcement authority through an agreement approved by FERC (“Regional Entities”), such as the Western Electricity Coordinating Council, may enforce the Reliability Standards, subject to FERC oversight, or FERC may independently enforce Reliability Standards. Potential monetary sanctions include fines of up to \$1 million per violation per day. Order 693 further provided the ERO and Regional Entities with the discretion necessary to assess penalties for such violations, while also having discretion to calculate a penalty without collecting the penalty if circumstances warrant. On March 18, 2010, FERC issued a Policy Statement on Penalty Guidelines, which appears to envision the option of more serious penalties than would be imposed by NERC. NERC and a significant part of the industry have challenged that Policy Statement and several other orders issued the same day with respect to reliability. FERC has suspended the effectiveness of the policy in order to receive comments.

## **ISO FERC Filings**

***Market Redesign and Technology Upgrade.*** On February 9, 2006, the ISO filed with FERC the first set of tariff language to implement its FERC-ordered overhaul of the ISO markets. After many amendments and modifications, the ISO implemented MRTU on April 1, 2009.

So far, NCPA has identified a number of billing and settlement issues which have been raised with the ISO as part of the process. However, the impacts to date have been manageable.

The ISO’s market redesign included a move to locational marginal pricing (“LMP”), with prices to load assessed based on the aggregated costs of power, transmission congestion and losses to serve all load within fairly large zones. The FERC has ordered the ISO to increase the granularity of its LMP zones, which may affect costs for some NCPA Indenture Group A Participants. The ISO has already begun a stakeholder process on this issue, but at this point it is too early to anticipate what the proposal will look like, or to estimate its cost impacts.

No adequate assurances can be given by NCPA that unforeseen events will not occur under MRTU or under various proposed amendments to the basic MRTU framework; thus, it is impossible to predict at this time the ultimate impact of MRTU on NCPA, the Indenture Group A Participants and the California electric utility industry generally.

***Resource Adequacy Requirements.*** The ISO Tariff exempts load-following Metered Subsystems (“MSSs”) such as NCPA from most of the ISO Tariff resource adequacy provisions, and the tariff also provides significant deference to the local governing boards of municipal and cooperative entities in establishing qualifying reliability standards. As a result, the initial impacts of the Resource Adequacy Program on the Indenture Group A Participants that serve their loads through the Metered Subsystem Aggregator (“MSSA”) agreement were manageable. In general, Santa Clara (which has a separate MSS with the ISO), and which also operates within the ISO as a load-following MSS, was also minimally impacted by the change. The ISO has subsequently expanded upon its initial resource adequacy requirements, in particular by adding local capacity requirements to make certain that sufficient generating capacity is procured in particular areas where it is lacking. The local capacity requirements apply to MSS entities. To the extent that an LSE fails to meet such a requirement, it is subject to payment

of ISO procurement costs of replacement capacity. To the extent that a shortfall cannot be attributed to a specific LSE, the costs will be spread as market uplift. These risks will apply in the same manner to all LSEs.

Finally, the CPUC is currently studying the possibility of meeting future capacity needs by either extending the existing Resource Adequacy program with some modification, or by instituting centralized capacity markets. It is premature to predict the outcome of that proceeding, though it is likely that any outcome will be extended to all LSEs through the ISO tariff. While either path carries some risk of increased costs for the market, NCPA and the Indenture Group A Participants are unable to predict at this time the impact of any future decisions on the Indenture Group A Participants and the California electric utility industry generally.

## **Environmental Issues**

Electric utilities are subject to continuing environmental regulation. Federal, state and local standards and procedures which regulate the environmental impact of electric utilities are subject to change. These changes may arise from continuing legislative, regulatory and judicial action regarding such standards and procedures. Consequently, there is no assurance that NCPA or any Indenture Group A Participant facility or project will remain subject to the laws and regulations currently in effect, will always be in compliance with future laws and regulations or will always be able to obtain all required operating permits. An inability to comply with environmental standards could result in additional capital expenditures, reduced operating levels or the shutdown of individual units not in compliance. In addition, increased environmental laws and regulations may create certain barriers to new facility development, may require modification of existing facilities and may result in additional costs for affected resources. NCPA cannot predict at this time whether any additional legislation or rules will be enacted that will affect its operations, and if such laws or rules are enacted, what the cost to it might be in the future because of such actions.

### ***Global Climate Change***

Carbon dioxide (CO<sub>2</sub>), a major constituent of emissions from fossil-fuel combustion, and other greenhouse gases (“GHGs”) are generally believed to be linked to global warming resulting in climate change. Control of such emissions is the subject of debate in the United States, on local, state and national levels. In the United States, no federal legislation limiting GHG emissions has yet been enacted, but there have been significant developments relating to monitoring and regulation of GHG emissions by EPA, certain state governments and regional governmental organizations. In addition, the United States Congress is considering federal legislation that could impose a cap-and-trade system or other measures to reduce GHG emissions, such as a carbon tax.

### ***EPA Regulatory Action under the Clean Air Act***

On April 2, 2007, the United States Supreme Court issued a decision in *Massachusetts v. EPA* holding that GHG emissions are “air pollutants” under the federal Clean Air Act, thereby requiring EPA to determine whether GHGs pose a threat to public health and welfare. On December 15, 2009, EPA published the final rule for the “endangerment finding” under the Clean Air Act. In the finding, EPA declared that the six identified GHGs – CO<sub>2</sub>, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride – cause or contribute to global warming, and that the effects of climate change endanger public health or welfare by increasing the likelihood of severe weather events and the other related consequences of climate change. The issuance of the “endangerment finding” triggered the statutory requirement that EPA regulate emissions of GHGs as air pollutants from motor vehicles. Such regulations were finalized on April 1, 2010, when EPA and the United States Department

of Transportation issued a joint final rule imposing GHG emission standards on light-duty vehicles (cars and light trucks). That regulation takes effect on January 2, 2011.

On March 29, 2010, EPA affirmed its position that air pollutants that are actually controlled under any Clean Air Act program must be taken into account when considering permits issued under other programs, such as the Prevention of Significant Deterioration (“PSD”) Permit Program or Title V Permit Program. A PSD permit is required before commencement of construction of new major stationary sources or major modifications of such sources and contain requirements including but not limited to the application of Best Available Control Technology (known as “BACT”). Title V permits must be applied for within one year of the date a source becomes subject to the program. Title V permits are operating permits for major sources that consolidate all Clean Air Act requirements (arising, for example, under the Acid Rain, New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, and/or PSD programs) into a single document, provide for review of the documents by EPA, state agencies and the public, and contain monitoring, reporting and certification requirements.

As a result of the “actual control” determination, the effect of the new motor vehicle rule will be to require the analysis of emissions and control options with respect to GHG emissions from new and modified major stationary sources as of January 2, 2011, which is the date the new motor vehicle rule takes effect. Permitting requirements for GHGs will include, but are not limited to, BACT for GHG emissions, and monitoring, reporting and recordkeeping for GHGs.

On May 13, 2010, EPA issued a final rule for determining the applicability of the PSD program to GHG emissions from major sources. The rule, known as the “Tailoring Rule,” establishes criteria for identifying facilities required to obtain PSD permits and the emissions thresholds at which permitting and other regulatory requirements apply. The applicability threshold levels established by this rule include both a mass-based calculation and a metric known as the carbon dioxide equivalent, or CO<sub>2</sub>e, which incorporates the global warming potential for each of the six individual gases that comprise the collective GHG defined in the endangerment finding. The Tailoring Rule sets forth three steps for phasing in the GHG permitting requirements, the first two of which are applicable to the Lodi Energy Center.

The first step is effective on January 2, 2011, and requires sources subject to PSD and/or Title V permits due to their non-GHG emissions (such as fossil-fuel based electric generating facilities for their NO<sub>x</sub>, SO<sub>2</sub> and other emissions) to address GHG emissions in new permit applications or renewals. Construction or modification of major sources will become subject to PSD requirements for their GHG emissions if the construction or modification results in a net increase in the overall mass of GHG emissions exceeding 75,000 tpy on a CO<sub>2</sub>e basis. New and modified major sources required to obtain a PSD permit would be required to conduct a BACT review for their GHG emissions. EPA intends to issue guidance before the end of 2010 on the technologies or operations that would constitute BACT for GHGs. The Lodi Energy Center is not subject to PSD for non-GHG emissions, so this part of the rule does not apply.

With respect to Title V requirements under the first step of the Tailoring Rule, effective January 2, 2011, sources required to have Title V permits for non-GHG pollutants will be required to address GHGs as part of their Title V permitting. The 75,000 tpy CO<sub>2</sub>e applicability threshold does not apply, so when any source applies for, renews, or revises a Title V permit, then Clean Air Act requirements for monitoring, recordkeeping and reporting will be included. This part of the rule does not create any new emissions controls or limitations for GHGs; it only creates the requirement for these sources to monitor, record and report their GHG emissions. In the Tailoring Rule, EPA notes that the existing requirements created by the October 30, 2009 EPA final rule for mandatory monitoring and annual reporting of GHGs from various categories of facilities including electric generating facilities will generally be sufficient to

satisfy these new Title V requirements. The GHG monitoring and reporting rule also does not require controls or limits on emissions, but does require facilities to have begun data collection on January 1, 2010, and to submit the first annual reports by March 31, 2011. The Lodi Energy Center does require a Title V permit for its non-GHG emissions, so this provision of the Tailoring Rule does apply. The facility is also subject to the GHG monitoring and reporting rule, so NCPA does not expect compliance with the new Title V permitting requirements to be material.

The second step of the Tailoring Rule is effective July 1, 2011, and is applicable to the Lodi Energy Center only in the event that the facility undergoes a modification that increases its GHG emissions by 75,000 tpy or more of CO<sub>2</sub>e. In that case, the facility will be subject to PSD permitting requirements (including BACT review) for its GHG emissions, even if the facility is not subject to PSD for non-GHG emissions.

NCPA costs of compliance with these new regulations cannot be determined at this time. The requirements for monitoring, reporting and record keeping with respect to GHG emissions from existing units should not have a material adverse effect, but the consequences of new permit requirements in connection with any new units or modifications of existing units in the future could be significant, as could any new proposed regulations affecting permitting and controls for NCPA's existing units.

#### *Federal Legislation*

The United States Congress is currently considering several energy and climate change-related pieces of legislation that propose, among other things, a cap-and-trade system to regulate and reduce the emission of carbon dioxide and other GHGs and a federal renewable energy portfolio standard. One such bill, H.R. 2454, known as the American Clean Energy and Security Act of 2009, was passed by the House of Representatives on June 26, 2009. That bill, and several other energy and climate change-related legislative proposals are currently being considered by the Senate. On May 12, 2010, Senators Kerry and Lieberman made public the text of a proposal entitled the American Power Act, which is expected to be considered. The impact that federal GHG cap-and-trade legislation will have on the electric utility industry and NCPA's business depends largely on the specific provisions of the legislation that ultimately become law. Some of the important issues that could be addressed in cap-and-trade legislation include: the timing and magnitude of the emissions cap; the extent to which emissions allowances are allocated or auctioned to the highest bidder; and the extent to which emissions may be offset by other actions. The timeline and impact of climate change legislation cannot be accurately assessed at this time, but it is expected that any enactment of statutes to regulate GHG emissions will have a significant impact on fossil-fueled generation facilities.

*Litigation on Greenhouse Gases.* Regulation of GHGs is being litigated in courts throughout the United States. Pending cases are alleging that GHG emissions from electric generation are causing a public nuisance and should be abated by electric generation facilities. NCPA cannot currently predict how GHG emissions issues will arise in connection with pending or future permit proceedings or whether litigation based on climate change issues will adversely affect its construction and development plans.

#### *Other Environmental Issues*

*National Ambient Air Quality Standards.* The Clean Air Act requires that the EPA establish National Ambient Air Quality Standards ("NAAQS") for certain air pollutants. When a NAAQS has been established, each state must identify areas in its state that do not meet the EPA standard (known as "non-attainment areas") and develop regulatory measures in its state implementation plan ("SIP") to reduce or control the emissions of that air pollutant in order to meet the standard and become an "attainment area." EPA is in the process of reviewing NAAQS for certain air pollutants that are emitted

by power plants including nitrogen dioxide, sulfur dioxide, ozone, and particulate matter. When a stricter NAAQS is finalized and becomes effective, air pollution sources including power plants, could face stricter emission and permitting standards. The impact of any new standards under the NAAQS program will depend on the final federal regulations and resulting revisions to California's SIP, and thus NCPA cannot determine such impacts at this time.

*Acid Rain Program.* The acid rain program requires nationwide reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions using a cap-and-trade program reducing allowable emission rates and allocating emission allowances to power plants for SO<sub>2</sub> emissions based on historical or calculated levels. NCPA has sufficient SO<sub>2</sub> and NO<sub>x</sub> allowances to comply for the foreseeable future according to modeled emissions and allowance allocations.

## **Other Factors**

The electric utility industry in general has been, or in the future may be, affected by a number of other factors which could impact the financial condition and competitiveness of many electric utilities and the level of utilization of generating and transmission facilities. In addition to the factors discussed above, such factors include, among others, (a) effects of compliance with rapidly changing environmental, safety, licensing, regulatory and legislative requirements other than those described above, (b) changes resulting from conservation and demand-side management programs on the timing and use of electric energy, (c) changes resulting from a national energy policy, (d) effects of competition from other electric utilities (including increased competition resulting from mergers, acquisitions, and "strategic alliances" of competing electric and natural gas utilities and from competitors transmitting less expensive electricity from much greater distances over an interconnected system) and new methods of, and new facilities for, producing low-cost electricity, (e) the repeal of certain federal statutes that would have the effect of increasing the competitiveness of many IOUs, (f) increased competition from independent power producers and marketers, brokers and federal power marketing agencies, (g) "self-generation" or "distributed generation" (such as microturbines and fuel cells) by industrial and commercial customers and others, (h) issues relating to the ability to issue tax-exempt obligations, including severe restrictions on the ability to sell to nongovernmental entities electricity from generation projects and transmission service from transmission line projects financed with tax-exempt obligations, (i) effects of inflation on the operating and maintenance costs of an electric utility and its facilities, (j) changes from projected future load requirements, (k) increases in costs and uncertain availability of capital, (l) shifts in the availability and relative costs of different fuels (including the cost of natural gas), (m) sudden and dramatic increases in the price of energy purchased on the open market that may occur in times of high peak demand in an area of the country experiencing such high peak demand, such as has occurred in California, (n) issues relating to risk management procedures and practices with respect to, among other things, the purchase and sale of natural gas, energy and transmission capacity, (o) other legislative changes, voter initiatives, referenda and statewide propositions, (p) effects of changes in the economy, (q) effects of possible manipulation of the electric markets and (r) natural disasters or other physical calamities, including, but not limited to, earthquakes and flood. Any of these factors (as well as other factors) could have an adverse effect on the financial condition of any given electric utility, including the Indenture Group A Participants, and likely will affect individual utilities in different ways.

NCPA and the Indenture Group A Participants are unable to predict what impact such factors will have on their respective business operations and financial condition, but the impact could be significant. This Official Statement includes a brief discussion of certain of these factors. This discussion does not purport to be comprehensive or definitive, and these matters are subject to change subsequent to the date hereof. Extensive information on the electric utility industry is available from the legislative and regulatory bodies and other sources in the public domain, and potential purchasers of the Issue One 2010 Series Bonds should obtain and review such information.

## LITIGATION

There is no controversy or litigation of any nature now pending or threatened restraining or enjoining the issuance, sale, execution or redelivery of the Issue One 2010 Series Bonds, or in any way contesting or affecting the validity of the Issue One 2010 Series Bonds or any proceedings of NCPA taken with respect to the issuance or sale thereof.

Upon the basis of information presently available, NCPA and its General Counsel believe that there is no litigation pending or threatened against NCPA which will materially adversely affect the Lodi Energy Center or the respective sources of payment for the Issue One 2010 Series Bonds.

### **Market Redesign and Technology Upgrade**

Most of the matters being contested at the Federal Energy Regulatory Commission involving NCPA or an Indenture Group A Participant concern the current operation or potential changes to the ISO market. The ISO implemented its market redesign overhaul (as defined herein, “MRTU”) in April 2009. For a discussion of MRTU and other FERC filings, see “OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY—ISO FERC Filings” herein.

### **Bankruptcies Related to Electric Industry Restructuring**

In March 1998, the ISO and the California Power Exchange (the “PX”) became operational. During the next several years, the deregulated electricity and natural gas markets in California became increasingly dysfunctional until in January 2001, the PX suspended operations and in March 2001 filed for Chapter 11 bankruptcy protection. NCPA’s claims against the PX estate have now been resolved.

### **California Energy Market Refund Dispute and Related Litigation**

The IOUs—PG&E, Edison and SDG&E—and the State of California, the California Electricity Oversight Board (“EOB”) and the CPUC have been pursuing claims for refunds against NCPA and other power-producing municipally owned utilities (“MOUs”), including Santa Clara. NCPA, Santa Clara and other similarly situated MOUs sold electricity into the ISO and/or PX markets during the California energy crisis of 2000 and 2001. At that time, as noted above, the price of electricity was uncharacteristically high.

In July 2001, after initially concluding that it had no authority to require refunds of MOUs, FERC issued an order establishing an evidentiary hearing for the purpose of determining the amount of refunds, if any, due from entities selling into the ISO and PX organized spot markets from October 2, 2000 through June 20, 2001. During that time period, NCPA acted as both a seller and buyer in these organized markets, and Santa Clara acted as both a seller and buyer in the PX market. The MOUs sought relief from the FERC order in the courts. The MOU position, that FERC had during that time period no jurisdiction to order refunds from NCPA and Santa Clara, was upheld by the Ninth Circuit Court of Appeals on September 6, 2005, reversing FERC’s prior order. *Bonneville Power Administration v. FERC*, 422 F.3d 908 (9th Cir., 2005). The Supreme Court denied the PG&E petition for review by *certiorari* on December 10, 2007.

In response to the *Bonneville* decision, however, in March 2006, the IOUs and the EOB filed lawsuits against NCPA, Santa Clara and other MOUs in the United States District Court, and when that proceeding was dismissed, the IOUs and the EOB re-filed the same claims against NCPA, Santa Clara and other MOUs in California state court in Los Angeles County. *Pacific Gas and Electric Co. v.*

*Arizona Electric Power Cooperative, Inc.*, L.A. Superior Court No. BC369141. This State court action remains pending, and has been vigorously defended by NCPA and Santa Clara, among others.

NCPA has now entered into a settlement with the plaintiffs which provides the terms of a final resolution of all of these claims and of the bankruptcy claims held by NCPA against PG&E and the PX discussed above. The settlement agreement was filed with FERC on February 1, 2010, and approved by FERC on April 29, 2010. This approval by FERC is the last regulatory step necessary to resolve these disputes between those parties in their entirety, as well as a separate lawsuit filed by the State of California.

While the FERC refund proceedings remain ongoing, and it is anticipated that NCPA may have to participate from time to time to protect itself; NCPA anticipates that its high level of activity in the past will be significantly reduced for the future. On May 29, 2009, FERC determined that it did have authority to, and had, retroactively “reset” the rates under which NCPA and other MOUs had sold power to the ISO and PX during the refund period. While NCPA and the other MOUs promptly filed appeals of that order (which are now pending in the Ninth Circuit), and have taken the position that the law is clear that FERC cannot reset prices in the manner which it asserts, NCPA will withdraw from that appeal as a result of the approval of the settlement. But the appeal will go forward without NCPA’s active future participation, so the issue will be resolved for the future.

In the past, when other parties to that refund proceeding have reached resolution and settled with the IOUs and the State of California, petitions for rehearing and subsequent pro forma appeals have been filed on behalf of one or two of the other participants in those proceedings, and such a petition for rehearing has been filed with respect to the NCPA settlement as well, and it is possible that another may be filed. NCPA anticipates that the rehearing application(s) will be rejected by FERC, as have others previously filed, but that similar pro forma appeals may be filed. Those appeals have in the past been held in abeyance by the Ninth Circuit, and NCPA anticipates that similar treatment will be given any appeals which may be filed by those other participants in this case.

The net cost to NCPA of this settlement is approximately \$1 million.

### **Other Proceedings**

NCPA is involved in various other state court proceedings incidental to its operations. Based on its review of those proceedings with its General Counsel, NCPA believes that the ultimate aggregate liability, if any, resulting from those proceedings will not have a material adverse effect on its financial position.

### **RATINGS**

Standard & Poor’s Rating Service, a Division of The McGraw-Hill Companies, Inc. (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”) and Fitch Ratings (“Fitch”) have assigned to the Issue One 2010 Series Bonds the ratings of “A-,” “A3” and “A-,” respectively. Such ratings reflect only the views of such organizations and are not a recommendation to buy, sell or hold the Issue One 2010 Series Bonds. Explanations of the significance of such ratings may be obtained only from the respective organizations at: Standard & Poor’s Rating Services, 55 Water Street, New York, New York 10041; Moody’s Investors Services, 7 World Financial Center, New York, New York 10007; and Fitch Ratings, One State Street Plaza, New York, New York 10004. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance that such ratings will continue for any given period or that they will not be revised downward or withdrawn entirely by the respective rating agencies, if in the judgment of such rating agency,



circumstances so warrant. NCPA undertakes no responsibility to oppose any such revision or withdrawal. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Issue One 2010 Series Bonds.

## **UNDERWRITING**

Goldman Sachs & Co., on behalf of itself and the other underwriters noted on the cover page of this Official Statement (the “Underwriters”), has agreed to purchase the Issue One 2010 Series A Bonds from NCPA at a price of \$81,674,164.96 (which reflects the \$78,330,000.00 par amount of the Issue One 2010 Series A Bonds, plus original issue premium of \$3,776,558.20, and less an Underwriters’ discount of \$432,393.24), subject to certain conditions set forth in the Contract of Purchase between NCPA and the Underwriters.

Goldman Sachs & Co., on behalf of itself and the Underwriters, has agreed to purchase the Issue One 2010 Series B Bonds from NCPA at a price of \$175,345,380.29 (which reflects the \$176,625,000.00 par amount of the Issue One 2010 Series B Bonds, less an Underwriters’ discount of \$1,279,619.71), subject to certain conditions set forth in the Contract of Purchase between NCPA and the Underwriters.

The Underwriters may offer and sell the Issue One 2010 Series Bonds to certain dealers and others at prices lower than the offering prices stated on the inside cover page. The offering prices may be changed from time to time by the Underwriters. The Purchase Contract for the Issue One 2010 Series Bonds provides that the Underwriters will purchase all of the Issue One 2010 Series Bonds, if any are purchased, the obligation to make such purchases being subject to certain terms and conditions set forth in the Purchase Contract.

J.P. Morgan Securities Inc. (“JPMSI”), one of the Underwriters of the Issue One 2010 Series Bonds, has entered into an agreement (the “Distribution Agreement”) with UBS Financial Services Inc. for the retail distribution of certain municipal securities offerings at the original issue prices. Pursuant to the Distribution Agreement (if applicable for this transaction), J.P. Morgan Securities Inc. will share a portion of its underwriting compensation with respect to the Issue One 2010 Series Bonds with UBS Financial Services Inc.

JPMSI has also entered into a negotiated dealer agreement (the “Dealer Agreement”) with Charles Schwab & Co., Inc. (“CS&Co.”) for the retail distribution of certain securities offerings at the original issue prices. Pursuant to the Dealer Agreement, CS& Co. will purchase Issue One 2010 Series Bonds from JPMSI at the original issue price less a negotiated portion of the selling concession applicable to any Issue One 2010 Series Bonds that CS&Co. sells.

Morgan Stanley and Citigroup Inc., the respective parent companies of Morgan Stanley & Co. Incorporated and Citigroup Global Markets Inc., each an underwriter of the Issue One 2010 Series Bonds, have entered into a retail brokerage joint venture. As part of the joint venture each of Morgan Stanley & Co. Incorporated and Citigroup Global Markets Inc. will distribute municipal securities to retail investors through the financial advisor network of a new broker-dealer, Morgan Stanley Smith Barney LLC. This distribution arrangement became effective on June 1, 2009. As part of this arrangement, each of Morgan Stanley & Co. Incorporated and Citigroup Global Markets Inc. will compensate Morgan Stanley Smith Barney LLC. for its selling efforts in connection with their respective allocations of the Issue One 2010 Series Bonds.

## **FINANCIAL ADVISOR**

Public Financial Management Inc. (the “Financial Advisor”) has assisted NCPA with various matters relating to the planning, structuring and delivery of the Issue One 2010 Series Bonds. The Financial Advisor is a financial advisory firm and is not engaged in the business of underwriting or distributing municipal securities or other public securities. The Financial Advisor assumes no responsibility for the accuracy, completeness or fairness of this Official Statement. The Financial Advisor will receive compensation from NCPA contingent upon the sale of the delivery of the Issue One 2010 Series Bonds.

## **TAX MATTERS**

### **Issue One 2010 Series A Bonds**

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to NCPA, based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Issue One 2010 Series A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”) and is exempt from State of California personal income taxes. Bond Counsel is of the further opinion that interest on the Issue One 2010 Series A Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating federal corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is set forth in “APPENDIX G – FORM OF BOND COUNSEL OPINION.”

To the extent the issue price of any maturity of the Issue One 2010 Series A Bonds is less than the amount to be paid at maturity of such Issue One 2010 Series A Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Issue One 2010 Series A Bonds), the difference constitutes “original issue discount,” the accrual of which, to the extent properly allocable to each Beneficial Owner thereof, is treated as interest on the Issue One 2010 Series A Bonds which is excluded from gross income for federal income tax purposes and exempt from State of California personal income taxes. For this purpose, the issue price of a particular maturity of the Issue One 2010 Series A Bonds is the first price at which a substantial amount of such maturity of the Issue One 2010 Series A Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Issue One 2010 Series A Bonds accrues daily over the term to maturity of such Issue One 2010 Series A Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Issue One 2010 Series A Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Issue One 2010 Series A Bonds. Beneficial Owners of the Issue One 2010 Series A Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Issue One 2010 Series A Bonds with original issue discount, including the treatment of Beneficial Owners who do not purchase such Issue One 2010 Series A Bonds in the original offering to the public at the first price at which a substantial amount of such Issue One 2010 Series A Bonds is sold to the public.

Issue One 2010 Series A Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) (“Premium Bonds”) will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of obligations, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt

interest received, and a Beneficial Owner's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such Beneficial Owner. Beneficial Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Issue One 2010 Series A Bonds. NCPA has made certain representations and covenanted to comply with certain restrictions, conditions and requirements designed to ensure that interest on the Issue One 2010 Series A Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Issue One 2010 Series A Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Issue One 2010 Series A Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring), or any other matters coming to Bond Counsel's attention after the date of issuance of the Issue One 2010 Series A Bonds may adversely affect the value of, or the tax status of interest on, the Issue One 2010 Series A Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

Although Bond Counsel is of the opinion that interest on the Issue One 2010 Series A Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of interest on, the Issue One 2010 Series A Bonds may otherwise affect a Beneficial Owner's federal, state or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the Beneficial Owner or the Beneficial Owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Issue One 2010 Series A Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from State income taxation, or otherwise prevent Beneficial Owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the Issue One 2010 Series A Bonds. Prospective purchasers of the Issue One 2010 Series A Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Issue One 2010 Series A Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Department, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. NCPA has covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Issue One 2010 Series A Bonds ends with the issuance of the Issue One 2010 Series A Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend NCPA or the Beneficial Owners regarding the tax-exempt status of the Issue One 2010 Series A Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than NCPA and its appointed counsel, including the Beneficial Owners, would have little, if any,

right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which NCPA legitimately disagrees, may not be practicable. Any action of the IRS, including but not limited to selection of the Issue One 2010 Series A Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Issue One 2010 Series A Bonds, and may cause NCPA or Beneficial Owners to incur significant expense.

### **Issue One 2010 Series B Bonds**

In the opinion of Bond Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions and assuming compliance with certain covenants, interest on the Issue One 2010 Series B Bonds is exempt from State of California personal income taxes. Interest on the Issue One 2010 Series B Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Code. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or accrual or receipt of interest on, the Issue One 2010 Series B Bonds. The proposed form of opinion of Bond Counsel is contained in APPENDIX G hereto.

The following discussion summarizes certain U.S. federal tax considerations generally applicable to holders of the Issue One 2010 Series B Bonds that acquire their Issue One 2010 Series B Bonds in the initial offering. The discussion below is based upon laws, regulations, rulings, and decisions in effect and available on the date hereof, all of which are subject to change, possibly with retroactive effect. Prospective investors should note that no rulings have been or are expected to be sought from the IRS with respect to any of the U.S. federal income tax consequences discussed below, and no assurance can be given that the IRS will not take contrary positions. Further, the following discussion does not deal with all U.S. federal income tax consequences applicable to any given investor, nor does it address the U.S. federal income tax considerations applicable to categories of investors some of which may be subject to special taxing rules (regardless of whether or not such persons constitute U.S. Holders), such as certain U.S. expatriates, banks, REITs, RICs, insurance companies, tax-exempt organizations, dealers or traders in securities or currencies, partnerships, S corporations, estates and trusts, investors that hold their Issue One 2010 Series B Bonds as part of a hedge, straddle or an integrated or conversion transaction, or investors whose “functional currency” is not the U.S. dollar. Furthermore, it does not address (i) alternative minimum tax consequences or (ii) the indirect effects on persons who hold equity interests in a holder. In addition, this summary generally is limited to investors that acquire their Issue One 2010 Series B Bonds pursuant to this offering for the issue price that is applicable to such Issue One 2010 Series B Bonds (i.e., the price at which a substantial amount of the Issue One 2010 Series B Bonds are sold to the public) and who will hold their Issue One 2010 Series B Bonds as “capital assets” within the meaning of Section 1221 of the Code.

As used herein, “U.S. Holder” means a beneficial owner of a Issue One 2010 Series B Bond that for U.S. federal income tax purposes is an individual citizen or resident of the United States, a corporation or other entity taxable as a corporation created or organized in or under the laws of the United States or any state thereof (including the District of Columbia), an estate the income of which is subject to U.S. federal income taxation regardless of its source or a trust where a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons (as defined in the Code) have the authority to control all substantial decisions of the trust (or a trust that has made a valid election under U.S. Treasury Regulations to be treated as a domestic trust). As used herein, “Non-U.S. Holder” generally means a beneficial owner of a Issue One 2010 Series B Bond (other than a partnership) that is not a U.S. Holder. If a partnership holds Issue One 2010 Series B Bonds, the tax treatment of such partnership or a partner in such partnership generally will depend upon the status of the partner and upon the activities of the partnership. Partnerships holding Issue One 2010 Series B

Bonds, and partners in such partnerships, should consult their own tax advisors regarding the tax consequences of an investment in the Issue One 2010 Series B Bonds (including their status as U.S. Holders or Non-U.S. Holders).

#### ***For U.S. Holders***

The Issue One 2010 Series B Bonds are not expected to be treated as issued with original issue discount (“OID”) for U.S. federal income tax purposes because the stated redemption price at maturity of the Issue One 2010 Series B Bonds is not expected to exceed their issue price, or because any such excess is expected to only be a de minimis amount (as determined for tax purposes).

Prospective investors that are not individuals or regular C corporations who are U.S. persons purchasing the Issue One 2010 Series B Bonds for investment should consult their own tax advisors as to any tax consequences to them from the purchase, ownership and disposition of the Issue One 2010 Series B Bonds.

*Disposition of the Bonds.* Unless a nonrecognition provision of the Code applies, the sale, exchange, redemption, defeasance, retirement (including pursuant to an offer by the Department) or other disposition of a Issue One 2010 Series B Bond, will be a taxable event for U.S. federal income tax purposes. In such event, in general, a U.S. Holder of a Issue One 2010 Series B Bond will recognize gain or loss equal to the difference between (i) the amount of cash plus the fair market value of property received (except to the extent attributable to accrued but unpaid interest on the Issue One 2010 Series B Bond which will be taxed in the manner described above) and (ii) the U.S. Holder’s adjusted tax basis in the Issue One 2010 Series B Bond (generally, the purchase price paid by the U.S. Holder for the Issue One 2010 Series B Bond, decreased by any amortized premium). Any such gain or loss generally will be capital gain or loss. In the case of a noncorporate U.S. Holder of the Issue One 2010 Series B Bonds, the maximum marginal U.S. federal income tax rate applicable to any such gain will be lower than the maximum marginal U.S. federal income tax rate applicable to ordinary income if such U.S. holder’s holding period for the Issue One 2010 Series B Bonds exceeds one year. The deductibility of capital losses is subject to limitations.

#### ***For Non-U.S. Holders***

*Interest.* Subject to the discussion below under the heading “Information Reporting and Backup Withholding,” payments of principal of, and interest on, any Issue One 2010 Series B Bond to a Non-U.S. Holder, other than (1) a controlled foreign corporation, as such term is defined in the Code, which is related to the Department through stock ownership and (2) a bank which acquires such Issue One 2010 Series B Bond in consideration of an extension of credit made pursuant to a loan agreement entered into in the ordinary course of business, will not be subject to any U.S. withholding tax provided that the beneficial owner of the Issue One 2010 Series B Bond provides a certification completed in compliance with applicable statutory and regulatory requirements, which requirements are discussed below under the heading “Information Reporting and Backup Withholding,” or an exemption is otherwise established.

*Disposition of the Bonds.* Subject to the discussion below under the heading “Information Reporting and Backup Withholding,” any gain realized by a Non-U.S. Holder upon the sale, exchange, redemption, retirement (including pursuant to an offer by the Department) or other disposition of a Issue One 2010 Series B Bond generally will not be subject to U.S. federal income tax, unless (i) such gain is effectively connected with the conduct by such Non-U.S. Holder of a trade or business within the United States; or (ii) in the case of any gain realized by an individual Non-U.S. Holder, such holder is present in the United States for 183 days or more in the taxable year of such sale, exchange, redemption, retirement

(including pursuant to an offer by the Department) or other disposition and certain other conditions are met.

*U.S. Federal Estate Tax.* A Issue One 2010 Series B Bond that is held by an individual who at the time of death is not a citizen or resident of the United States will not be subject to U.S. federal estate tax as a result of such individual's death, provided that at the time of such individual's death, payments of interest with respect to such Issue One 2010 Series B Bond would not have been effectively connected with the conduct by such individual of a trade or business within the United States.

*Information Reporting and Backup Withholding.* U.S. information reporting and "backup withholding" requirements apply to certain payments of principal of, and interest on the Issue One 2010 Series B Bonds, and to proceeds of the sale, exchange, redemption, retirement (including pursuant to an offer by the Department) or other disposition of a Issue One 2010 Series B Bond, to certain noncorporate holders of Issue One 2010 Series B Bonds that are United States persons. Under current U.S. Treasury Regulations, payments of principal and interest on any Issue One 2010 Series B Bonds to a holder that is not a United States person will not be subject to any backup withholding tax requirements if the beneficial owner of the Issue One 2010 Series B Bond or a financial institution holding the Issue One 2010 Series B Bond on behalf of the beneficial owner in the ordinary course of its trade or business provides an appropriate certification to the payor and the payor does not have actual knowledge that the certification is false. If a beneficial owner provides the certification, the certification must give the name and address of such owner, state that such owner is not a United States person, or, in the case of an individual, that such owner is neither a citizen nor a resident of the United States, and the owner must sign the certificate under penalties of perjury. If a financial institution, other than a financial institution that is a qualified intermediary, provides the certification, the certification must state that the financial institution has received from the beneficial owner the certification set forth in the preceding sentence, set forth the information contained in such certification, and include a copy of such certification, and an authorized representative of the financial institution must sign the certificate under penalties of perjury. A financial institution generally will not be required to furnish to the IRS the names of the beneficial owners of the Issue One 2010 Series B Bonds that are not United States persons and copies of such owners' certifications where the financial institution is a qualified intermediary that has entered into a withholding agreement with the IRS pursuant to applicable U.S. Treasury Regulations.

In the case of payments to a foreign partnership, foreign simple trust or foreign grantor trust, other than payments to a foreign partnership, foreign simple trust or foreign grantor trust that qualifies as a withholding foreign partnership or a withholding foreign trust within the meaning of applicable U.S. Treasury Regulations and payments to a foreign partnership, foreign simple trust or foreign grantor trust that are effectively connected with the conduct of a trade or business within the United States, the partners of the foreign partnership, the beneficiaries of the foreign simple trust or the persons treated as the owners of the foreign grantor trust, as the case may be, will be required to provide the certification discussed above in order to establish an exemption from withholding and backup withholding tax requirements. The current backup withholding tax rate is 28% (subject to future adjustment).

In addition, if the foreign office of a foreign "broker," as defined in applicable U.S. Treasury Regulations pays the proceeds of the sale of a Bond to the seller of the Issue One 2010 Series B Bond, backup withholding and information reporting requirements will not apply to such payment provided that such broker derives less than 50% of its gross income for certain specified periods from the conduct of a trade or business within the United States, is not a controlled foreign corporation, as such term is defined in the Code, and is not a foreign partnership (1) one or more of the partners of which, at any time during its tax year, are U.S. persons (as defined in U.S. Treasury Regulations Section 1.1441-1(c)(2)) who, in the aggregate hold more than 50% of the income or capital interest in the partnership or (2) which, at any time during its tax year, is engaged in the conduct of a trade or business within the United States.

Moreover, the payment by a foreign office of other brokers of the proceeds of the sale of a Issue One 2010 Series B Bond, will not be subject to backup withholding unless the payer has actual knowledge that the payee is a U.S. person. Principal and interest so paid by the U.S. office of a custodian, nominee or agent, or the payment by the U.S. office of a broker of the proceeds of a sale of a Issue One 2010 Series B Bond, is subject to backup withholding requirements unless the beneficial owner provides the nominee, custodian, agent or broker with an appropriate certification as to its non-U.S. status under penalties of perjury or otherwise establishes an exemption.

### ***Circular 230***

Under 31 C.F.R. part 10, the regulations governing practice before the IRS (Circular 230), the Department and its tax advisors are (or may be) required to inform prospective investors that:

- i. any advice contained herein is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer;
- ii. any such advice is written to support the promotion or marketing of the Bonds and the transactions described herein; and
- iii. each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

### **APPROVAL OF LEGAL PROCEEDINGS**

The issuance of the Issue One 2010 Series Bonds is subject to the approval of legality of Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Bond Counsel to NCPA. Certain legal matters in connection with the Issue One 2010 Series Bonds are subject to the approval of Meyers, Nave, Riback, Silver & Wilson, Sacramento, California, General Counsel to NCPA; Spiegel & McDiarmid LLP, Washington, D.C., Washington Counsel to NCPA; Orrick, Herrington & Sutcliffe LLP, Disclosure Counsel to NCPA; and Chapman and Cutler LLP, Salt Lake City, Utah, counsel to the Underwriters.

### **INDEPENDENT AUDITORS**

The combined financial statements of Northern California Power Agency and Associated Power Corporations as of and for the year ended June 30, 2008 and June 30, 2009 have been audited by Moss Adams LLP, independent auditors, as stated in their report. Moss Adams LLP has not been engaged to perform and has not performed, since the date of its report included therein, any procedures on the financial statements addressed in such report. Moss Adams LLP has also not performed any procedures relating to this Official Statement.

### **CONTINUING DISCLOSURE**

NCPA and the Indenture Group A Significant Share Participants will each agree, pursuant to separate Continuing Disclosure Agreements with the Trustee, to provide to the Municipal Securities Rulemaking Board (the "MSRB") through its Electronic Municipal Market Access System (the "EMMA System") a copy of their respective annual audited financial statements, as well as certain operating data relating to the Project and the Indenture Group A Significant Share Participants' respective electric systems. Such audited financial statements are required to be prepared in accordance with generally accepted accounting principles. NCPA will provide to the MSRB through the EMMA System such Project information and its financial statements (unaudited if audited financial statements are not then available) within 210 days after the end of its fiscal year, and each Indenture Group A Significant Share

Participants will provide to the MSRB through the EMMA System their respective financial statements (unaudited if audited financial statements are not then available) and operating data relating to their respective electric systems within 210 days after the end of their respective fiscal years. If unaudited financial statements are provided, audited financial statements will be provided as soon as available. In addition, NCPA has agreed to give timely notice to the MSRB through the EMMA System, of the occurrence of certain enumerated events, if material. These agreements have been made in order to assist the Underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5) (the “Rule”). As of the date hereof, NCPA has never failed to comply in all material respects with any previous undertakings with regard to the provision of annual reports or notices of material events as required by the Rule. See “APPENDIX F – PROPOSED FORMS OF CONTINUING DISCLOSURE AGREEMENTS” hereto.

#### **INCLUSION BY SPECIFIC REFERENCE**

When delivered by the Underwriters, in their capacity as such, this Official Statement will be deemed to include by specific reference the most recent annual filings with the EMMA System by NCPA or a Indenture Group A Significant Share Participant (with respect to its Enterprise) to the extent that statements in such documents are material to the offering made hereby. Any statements in a document included by specific reference herein will be modified or superseded for purposes of this Official Statement to the extent that it is modified or superseded by statements contained in this Official Statement or in any other subsequently provided document included by specific reference herein.



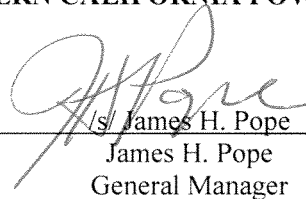
## MISCELLANEOUS

This Official Statement includes descriptions of the terms of the Issue One 2010 Series Bonds, the Indenture, the Power Sales Agreement, the Continuing Disclosure Agreements, certain other agreements and certain provisions of state and federal legislation. Such descriptions do not purport to be complete and all such descriptions and references thereto are qualified in their entirety by references to each such document, copies of which may be obtained from NCPA or, during the period of the offering, from the Underwriters.

Any statements herein involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact.

### NORTHERN CALIFORNIA POWER AGENCY

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

  
/s/ James H. Pope  
James H. Pope  
General Manager

6/17/10

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## APPENDIX A

### GLOSSARY OF TERMS

The following terms used in this Official Statement, including the Appendices hereto, shall have the meanings indicated below.

**“Accountant’s Certificate”** shall mean a certificate signed by an independent certified public accountant of recognized national standing, or a firm of independent certified public accountants of recognized national standing, selected by NCPA.

**“Account”** shall mean any account in any Fund held and maintained under the Indenture.

**“Accumulated Maximum Step-Up Percentage”** shall mean the maximum total GES which can be allocated to each Indenture Group A Participant as a result of a GES Step-Up which shall be thirty-five percent (35%) of such Indenture Group A Participant’s GES set forth in the Power Sales Agreement as of the Effective Date. The Accumulated Maximum Step-Up Percentage shall not include any GES an Indenture Group A Participant voluntarily accepts in a GES Lay-Off pursuant to Section 22.2.1.

**“Act”** shall mean the Joint Exercise of Powers Act, constituting Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended and supplemented.

**“Additional Bonds”** shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to the Indenture to pay the Indenture Group A Participants’ GES of the Costs of Construction of the Project, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture.

**“Additional Costs”** shall mean those Costs of Construction of the Lodi Energy Center and/or a Financed Capital Improvement in excess of the initial estimate of the Costs of Construction of the Lodi Energy Center or such Financed Capital Improvement.

**“Alameda”** shall mean the City of Alameda.

**“Authorized Denominations”** shall mean, unless otherwise provided with respect to a Series of Bonds in the Supplemental Indenture authorizing such Series, \$5,000 and any integral multiple thereof.

**“Authorized NCPA Representative”** shall mean the General Manager, the Assistant General Manager, Finance and Administrative Services, the Chief Financial Officer, the Treasurer-Controller, the Secretary, or an Assistant Secretary of NCPA and any other officer or employee of NCPA authorized to perform the specific acts or duties to be performed by resolution duly adopted by NCPA.

**“Azusa”** shall mean the City of Azusa.

**“Bankruptcy Code”** shall mean Title 11 of the United States Code, as amended.

**“BART”** shall mean the San Francisco Bay Area Rapid Transit District.

**“Billing Statement”** shall mean the written billing statement to each Participant prepared or caused to be prepared each month by, or on behalf of, NCPA pursuant to the Power Sales Agreement.

**“Biggs”** shall mean the City of Biggs.

**“Blended Treasury Yield”** shall mean, with respect to the Issue One 2010 Series B Bonds of each maturity to be redeemed, the yield computed by the linear interpolation of two Market Treasury Yields such that the theoretical maturity that corresponds to the interpolated Market Treasury Yield equals the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. The first Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no later than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed; and the second Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no earlier than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. Notwithstanding the foregoing, if the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of a particular maturity to be redeemed is later than the latest maturity of any actively traded U.S. Treasury security or U.S. Treasury index, then the Blended Treasury Yield shall be the Market Treasury Yield of the actively traded U.S. Treasury security or U.S. Treasury index having such latest maturity.

**“Bond”** or **“Bonds”** shall mean any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture.

**“Bond Counsel”** shall mean an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by NCPA.

**“Bond Register”** shall mean the registration books for the ownership of the Bonds maintained by the Trustee pursuant to the Indenture.

**“Business Day”** shall mean unless otherwise specified with respect to a Series of Future Bonds in the Supplemental Indenture authorizing such Series, any day other than a Saturday, Sunday or other day on which the New York Stock Exchange or banks are authorized or obligated by law or executive order to close in New York, New York, or any city in which is located the Principal Corporate Trust Office of the Trustee.

**“Capacity”** shall mean as of any time the ability of the Project at such time to generate or produce electricity, expressed in kW or MW.

**“Capital Budget”** shall mean the budget prepared by NCPA for Costs of Construction of the Lodi Energy Center and each Capital Improvement pursuant to the Power Sales Agreement.

**“Capital Contribution”** shall be with respect to Additional Costs of the Lodi Energy Center and the Costs of Construction of each Financed Capital Improvement and the Indenture Group B Participant or the Indenture Group C Participant which has given (or has been deemed to have given) NCPA a Capital Contribution Notice with respect to its share of such Costs of Construction, the amount of payment or payments by such Participant to be made in accordance with the Power Sales Agreement.

**“Capital Contribution Notice”** shall be with respect to the Indenture Group B Participant and/or the Indenture Group C Participant, a notice provided to NCPA by such Participant to the effect that it intends to make a Capital Contribution in lieu of having NCPA issue bonds for its share of any Additional Costs of the Lodi Energy Center or the Costs of Construction of a Financed Capital Improvement.

**“Capital Improvement”** shall mean any unit of property, property right, land or land right which is a replacement, repair, addition, modification, improvement or betterment to the Project or any electrical transmission or fuel facilities (including but not limited to natural gas pipelines, gas reserves and storage

facilities) relating to, or for the benefit of, the Project, the betterment of land or land rights or the enlargement or betterment of any such unit of property constituting a part of the Project or related electrical transmission or fuel facilities which: (i) is acquired or constructed after the Commercial Operation Date; (ii) which has an estimated useful life in excess of one year; (iii) the Costs of Construction of which is not treated as an Operation and Maintenance Expense; and (iv) which is either (a) consistent with Prudent Utility Practice and, except for Required Costs, has received Participant Committee Approval or (b) required by any governmental agency having jurisdiction over the Project and reviewed by the Participant Committee.

**“CDWR”** shall mean the State of California Department of Water Resources.

**“Cede & Co.”** shall mean Cede & Co., the nominee of DTC as Securities Depository for the Bonds, and any successor nominee of DTC as such Securities Depository.

**“Code”** shall mean the Internal Project Revenue Code of 1986, as amended from time to time. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applicable to the Bonds or the use of proceeds thereof, and also includes all amendments and successor provisions unless the context clearly requires otherwise.

**“Construction Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Contributions in Aid of Construction”** shall mean with respect to the Costs of Construction of each Non-Financed Capital Improvement, the amount of payment or payments by the Participants to be made in accordance with the Power Sales Agreement.

**“Costs of Construction”** shall mean with respect to the Lodi Energy Center and each Capital Improvement, all costs and expenses of planning, designing, acquiring, constructing and installing the Lodi Energy Center or such Capital Improvement, placing the Lodi Energy Center or such Capital Improvement in operation, disposal of the Lodi Energy Center or such Capital Improvement, decommissioning of the Lodi Energy Center or such Capital Improvement and obtaining governmental approvals, certificates, permits and licenses with respect thereto heretofore or hereafter paid or incurred by NCPA but shall not include Financing Costs or Indenture Deposits. The term Costs of Construction shall include funds required for all of the following with respect to the Lodi Energy Center and each Capital Improvement:

(a) All costs of planning, developing, constructing and mitigating impacts of the Project, placing the Project in operation, decommissioning of the Project, and obtaining governmental approvals, certificates, permits and licenses with respect thereto, including air emission credits.

(b) All costs of transmission facilities or project enhancements and replacement parts related to, or for the benefit of, the Project.

(c) Costs of preliminary investigation and development, the performance or construction of feasibility and planning studies for the Project, Project licensing, and the securing of regulatory approvals, as well as costs for land and land rights, water and water rights, engineering, contractors’ fees, labor, materials, equipment and legal fees relating to the Project, including costs incurred under the Development Agreement.

(d) Costs of utility services and supplies during construction.

(e) To the extent not included in Total Monthly Power Costs, all costs related to the construction or acquisition of resources and facilities, and the requisite supplies of fuel, fuel transportation and water for the Project.

(f) To the extent not included in Total Monthly Power Costs, all costs relating to injury and damage claims arising out of the development and construction/ improvement of the Project less proceeds of insurance.

(g) To the extent not included in Total Monthly Power Costs, legally required or permitted federal, state and local taxes relating to the Project.

(h) Working capital and reserves in such amounts as shall be required during construction of the Project and for placing the Project in operation.

(i) Training and testing costs which are properly allocable to the acquisition, placing in operation, or construction of the Lodi Energy Center or such Capital Improvement.

(j) All costs of insurance applicable to the period of construction and placing the Lodi Energy Center or such Capital Improvement in operation.

(k) Amounts payable with respect to capital costs for the expansion, reinforcement, enlargement, movement, reconstruction or other improvement of facilities determined by NCPA as necessary in connection with the utilization of the Lodi Energy Center or such Capital Improvement and the costs associated with the removal from service or reductions in service of any facilities as a result of the expansion, reinforcement, enlargement or other improvement of such facilities or the construction of the Lodi Energy Center or such Capital Improvement.

(l) All costs required to be paid to NCPA under the PMOA which are applied or are to be applied thereunder to the payment of Costs of Construction.

(m) All other costs incurred by NCPA and properly allocable to the acquisition, construction, placing in operation or decommissioning of the Lodi Energy Center or such Capital Improvement or any portion thereof.

**“Commercial Operation Date”** shall mean the initial date on which the Lodi Energy Center can be commercially operated and dispatched, as approved by the Participant Committee in consultation with NCPA.

**“Commission”** shall mean the NCPA Commission, as constituted from time to time, or if said NCPA Commission shall be abolished, such other entity or entities succeeding to the principal functions thereof or to whom the power and duties granted or imposed by the Act and the Joint Powers Agreement shall be given.

**“Cost of Issuance Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service”** shall mean, as of any date of calculation, with respect to any period, an amount equal to the sum of (i) interest accruing during such period on the Outstanding Bonds (net of the Subsidy for such period), except to the extent that such interest is to be paid from deposits into the Debt Service Fund from Bond proceeds or the investment earnings thereon, provided, however that in determining Debt Service with respect to any Bonds during a period that such Bonds bear interest at a variable rate

and the amount of such interest has not been determined, interest on such Bond during such period shall be the maximum interest rate applicable to such Bond and (ii) that portion of each Principal Installment for the Outstanding Bonds which would accrue during such period if each such Principal Installment were deemed to accrue daily in equal amounts from the next preceding Principal Installment due date for such Bonds (or, if there shall be no such preceding Principal Installment due date, from a date one year preceding the due date of such Principal Installment or from the date of issuance of the Bonds, whichever date is later).

**“Debt Service Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service Reserve Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service Reserve Requirement”** shall mean as of any date of calculation: (i) with respect to the Participating Bonds Debt Service Reserve Account, the amount specified in the Supplemental Indenture authorizing the issuance of the initial Series of the Participating Bonds; (ii) with respect to the Issue One 2010 Series Debt Service Reserve Account, an amount equal to 50% of the greatest amount of Debt Service for the Issue One 2010 Series Bonds coming due in the then current or any future Fiscal Year; and (iii) with respect to any Series Debt Service Reserve Account other than the Issue One 2010 Series Debt Service Reserve Account, the amount, if any, specified as such in the Supplemental Indenture establishing such Series Debt Service Reserve Account.

**“Defeasance Securities”** shall mean direct obligations of, or obligations guaranteed by, the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

**“Default Mitigation Sale”** shall mean a sale of Project Capacity and/or Energy pursuant to the Power Sales Agreement with respect to the GES of a Defaulting Participant.

**“Default Mitigation Sale Fund”** shall mean the fund so designated to be established and maintained by NCPA pursuant to the Power Sales Agreement.

**“Defaulting Participant”** shall mean as of any time, a Participant as to which a Payment Default has occurred and is continuing.

**“Depository”** shall mean any bank or trust company organized under the laws of any state of the United States, or any national banking association which is willing and able to accept the office on reasonable and customary terms, authorized by law to act in accordance with the provisions of the Indenture.

**“Discounted Value”** shall mean, with respect to the Issue One 2010 Series B Bonds of each maturity thereof to be redeemed, the sum of the amounts obtained by discounting all remaining scheduled payments of principal and interest (exclusive of interest accrued to the date of redemption) on such Issue One 2010 Series B Bonds from their respective scheduled payment dates to the applicable redemption date, at a yield (computed on a semiannual basis, assuming a 360-day year consisting of twelve 30-day months) equal to the applicable Discount Yield.

**“Discount Yield”** shall mean, with respect to the Issue One 2010 Series B Bonds of each maturity thereof to be redeemed on a particular date, the Blended Treasury Yield determined with respect to the Issue One 2010 Series B Bonds of such maturity, plus either (i) 0.50% per annum in the case of an optional redemption at option of NCPA or (ii) 1.00% per annum in the case of an optional redemption

following an Extraordinary Event. The Discount Yield will be calculated assuming semiannual compounding based upon a 360-day year consisting of twelve 30-day months.

**“DTC”** shall mean The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns. References herein to DTC shall include any nominee of DTC in whose name any Bonds are then registered.

**“Energy”** shall mean the electricity produced by the Project expressed in kWh or MWh.

**“Enterprise”** shall mean with respect to: (i) each Participant other than CDWR and BART, the electric utility owned by such Participant; (ii) with respect to CDWR, the State Water Resources Development System (as defined in California Water Code Section 12931); and (iii) with respect to BART, its rail transit system; in each case as the same may be improved, replaced and expanded.

**“Enterprise Revenues”** shall mean with respect to each Participant all income, rents, rates, fees charges and other revenues derived by the Participant from the ownership or operation of its Enterprise; provided, however that a Participant’s Enterprise Revenues shall not include any moneys which by law are limited to uses other than the payment of operating expenses of the Participant’s Enterprise or, with respect to Capital Contributions and Contributions in Aid of Construction, capital costs of the Project.

**“Event of Default”** shall mean an event designated as an event of default in the Indenture.

**“Extraordinary Event”** shall mean the determination by an Authorized NCPA Representative that a material adverse change has occurred to Section 54AA or Section 6431 of the Code (as such Sections were added by Section 1531 of the American Recovery and Reinvestment Act of 2009 pertaining to “Build America Bonds”) or there is any guidance published by the IRS or the U.S. Treasury with respect to such Sections or any other determination by the IRS or the U.S. Treasury, which determination is not the result of any act or omission by NCPA to which results in NCPA’s failure to satisfy the requirements to qualify to receive the thirty-five percent cash Subsidy payment from the U.S. Treasury, pursuant to which NCPA’s thirty-five percent cash Subsidy payment from the U.S. Treasury is reduced or eliminated.

**“Financed Capital Improvement”** shall mean a Capital Improvement for which the Costs of Construction are to be paid with the proceeds of bonds and/or Capital Contributions.

**“Financial Guaranty”** shall mean one or more of the following to be delivered to the Trustee for deposit in an Account in the Debt Service Reserve Fund pursuant to the Indenture: (i) either (A) an irrevocable, unconditional and unexpired letter of credit issued by a banking institution with credit ratings not below the credit ratings of the Bonds at the time such letter of credit is issued; or (B) an irrevocable and unconditional policy or policies of insurance in full force and effect issued by a municipal bond insurer with credit ratings not below the credit ratings of the Bonds at the time such policy of insurance is issued; and (ii) in each case providing for the payment thereunder of sums for the payment of Principal Installments with respect to, and interest on, Bonds as required by the Indenture.

**“Financing Agreement”** shall mean the one or more indentures of trust, resolutions, loan agreements, standby bond purchase agreements, reimbursement agreements, Public Finance Contracts or other applicable debt instruments or financing documents providing for the issuance of, or otherwise relating to, NCPA bonds, as from time to time amended and supplemented in conformity with its provisions and the provisions of the Power Sales Agreement.



**“Financing Costs”** shall mean with respect to the Power Sales Agreement and any bonds issued by NCPA, all costs and expenses incurred by NCPA in connection with the authorization, sale, and delivery of such bonds.

**“Fiscal Year”** shall mean the twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending immediately before 12:01 a.m. on the next following July 1, or such other 12 month period as shall be adopted by NCPA as its fiscal year.

**“Fitch”** shall mean Fitch Ratings and its corporate successors.

**“Fuel Cost”** shall mean all amounts which have received Participant Committee Approval and are payable by NCPA in connection with the acquisition of natural gas for, and delivery of natural gas to, the Project, including the cost associated with contract payments under minimum or guaranteed payment provisions.

**“Fuel Cost Component”** shall mean the portion of the each Total Monthly Power Cost included in the monthly Billing Statement with respect to fuel for the Project as determined pursuant to the Power Sales Agreement.

**“Fund”** shall mean a fund established pursuant to the Indenture

**“Funding Notice”** shall mean a notice provided by NCPA to Participants pursuant to the Power Sales Agreement with respect to the funding of a Capital Improvement.

**“Future Bonds”** shall mean Additional Bonds and Refunding Bonds issued pursuant to the Indenture after the issuance of the Issue One 2010 Series Bonds.

**“General Reserve Fund”** shall mean the fund so designated to be established and maintained by NCPA pursuant to the Power Sales Agreement.

**“GES”** shall mean the generation entitlement share (expressed as a percentage) of a Participant to a portion of the Project Energy and Capacity, as such generation entitlement share may be amended or revised from time to time in accordance with a GES Lay-Off or a GES Step-Up.

**“GES Lay-Off”** shall mean an increase in the GES of a Participant as a result of such Participant’s voluntary purchase of all or a portion of the GES of a Defaulting Participant pursuant to the Power Sales Agreement.

**“GES Step-Up”** shall mean an increase in the GES of an Indenture Group A Participant as a result of such Participant’s acquisition of all or a portion of the GES of a Defaulting Participant pursuant to the Power Sales Agreement.

**“Gridley”** shall mean the City of Gridley.

**“Healdsburg”** shall mean the City of Healdsburg.

**“ICS”** shall mean the indenture cost share of a Participant in an Indenture Group which is the portion of the Indenture Cost Component for such Indenture Group allocable to such Participant which is: (a) as of any time with respect to each Participant in Indenture Group A, the percentage obtained by dividing the GES of such Participant as of such time by the GES of all Indenture Group A Participants as

of such time; (b) with respect to the Indenture Group B Participant, 100%; and (c) with respect to the Indenture Group C Participant, 100%.

**“Indenture”** shall mean the Indenture of Trust, dated as of June 1, 2010, between NCPA and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with the terms thereof.

**“Indenture Cost Component”** shall mean the portion of the each Total Monthly Power Cost included in the monthly Billing Statement with respect to Financing Agreements as determined pursuant to the Power Sales Agreement.

**“Indenture Deposits”** shall mean that with respect to each Financing Agreement, the amounts, other than the Costs of Construction, which are required to be deposited in a fund or account pursuant to such Financing Agreement at the time NCPA bonds are issued or other obligations are incurred thereunder, including:

(a) The deposit or deposits from the proceeds of bonds, in any funds or accounts established pursuant to an Indenture, to pay capitalized interest on such bonds.

(b) The deposit or deposits from the proceeds of Bonds in any fund or account established pursuant to a Financing Agreement to meet any respective debt service reserve requirements for bonds.

(c) The payment of principal, premium, if any, and interest when due (whether at the maturity of principal or at the due date of interest or upon redemption) of any obligations issued for the purpose of financing the Costs of Construction, including any related costs of financing.

**“Indenture Group(s)”** shall mean the one or more of Indenture Group A, Indenture Group B and/or Indenture Group C.

**“Indenture Group A”** shall mean a subset of the Participants consisting of the Cities of Azusa, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Santa Clara and Ukiah, and the Bay Area Rapid Transit District, the Plumas-Sierra Rural Electric Cooperative, and the Power and Water Resources Pooling Authority.

**“Indenture Group Approval”** shall mean with respect to the approval or authorization of any action relating to a Financing Agreement or NCPA bonds by the Commission after the Effective Date, that such action, transaction, program or procedure has been approved by: (i) with respect to the Indenture Group A Participants the Indenture Group A Non-Defaulting Participants as provided in the Power Sales Agreement; (ii) with respect to Indenture Group B, the Indenture Group B Participant if not then a Defaulting Participant; and (iii) and with respect to Indenture Group C, the Indenture Group C Participant if not then a Defaulting Participant.

**“Indenture Group B”** shall mean a subset of the Participants consisting of the California Department of Water Resources.

**“Indenture Group C”** shall mean a subset of the Participants consisting of the Modesto Irrigation District.

**“Interconnection Agreement”** shall mean any agreement between NCPA and a third party regarding terms and conditions for establishing and maintaining an interconnection between the Project and the Point of Delivery.

**“Interest Payment Date”** shall mean, with respect to the Issue One 2010 Series Bonds, June 1 and December 1 of each year, commencing December 1, 2010, and with respect to a Series of Future Bonds the dates specified as, or determined as provided in, such in the Supplemental Indenture authorizing such Series.

**“Investment Securities”** shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of NCPA’s funds:

(1) Direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America);

(2) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies, which obligations are backed by the full faith and credit of the United States of America:

Export-Import Bank;  
Farm Credit System Financial Assistance Corporation;  
Rural Economic Community Development Administration;  
Federal Financing Bank;  
Federal Housing Administration (FHA);  
General Services Administration;  
Government National Mortgage Association (GNMA or “Ginnie Mae”);  
U.S. Maritime Administration;  
U.S. Department of Housing and Urban Development (PHA’s);  
Small Business Administration;

(3) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies, which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- Federal Home Loan Bank System – senior debt obligations;
- Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”) – Senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P;
- Federal National Mortgage Association (FNMA or “Fannie Mae”) – senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P;
- Resolution Funding Corp. (REFCORP) obligations;
- Government Sponsored Agencies –senior debt obligations;

(4) Money market funds registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, and having a rating by S&P of AAAm G or AAAm or higher;

(5) Commercial paper rated, at the time of purchase, “P-1” by Moody’s or “A 1+” by S&P and which matures not more than 270 days after its date of purchase;

(6) U.S. dollar denominated deposit accounts, federal funds or bankers’ acceptances with domestic commercial banks, which have a rating on their short-term certificates of deposit (on the date of purchase) of “A-1” or “A-1+” by S&P and “P-1” by Moody’s and which mature no more than 360 days after their date of purchase (ratings on holding companies are not considered as the rating of the bank);

(7) General obligations of any state, which are rated A2 or higher by Moody's and A or higher by S&P;

(8) Pre-refunded municipal obligations defined as follows: any bonds or other obligations of any state or any agency, instrumentality or local governmental unit of any state, which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in a notice, and which are:

(a) Rated, based on an irrevocable escrow account or fund, in the highest rating category of S&P and Moody's; or

(b) Fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in clause (1) hereof, which escrow may be applied only to the payment of such principal or and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to irrevocable instructions, as appropriate, and which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (8) on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate ;

(9) Investment agreements or guaranteed investment contracts supported by appropriate opinions of counsel;

(10) California State Local Agency Investment Fund, a pooled investment fund managed by the State of California Treasurer's office meeting all legal guidelines and requirements for the investment of California public agency funds;

(11) Shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California which invests exclusively in investments permitted by Section 53635 of Title 5, Division 2, Chapter 4 of the Government Code of the State of California, as it may be amended; provided that such shares are held in the name and to the credit of the Trustee; and

(12) Any other form of investment (including repurchase agreements).

**"IRS"** shall mean the Internal Revenue Service of the U.S. Department of the Treasury.

**"Issue One 2010 Continuing Disclosure Agreement"** shall mean the Continuing Disclosure Agreement, dated June 24, 2010, between NCPA and the Trustee as Dissemination Agent, in connection with the Issue One 2010 Series Bonds pursuant to Rule 15c2-12 of the Securities and Exchange Commission.

**"Issue One 2010 Series A Bonds"** shall mean the Bonds so designated and authorized by Article III of the Indenture.

**"Issue One 2010 Series A Bonds Debt Service Account"** shall mean the account so designated in the Debt Service Fund established pursuant to the Indenture.

**"Issue One 2010 Series B Bonds"** shall mean the Bonds so designated and authorized by Article III of the Indenture.

**“Issue One 2010 Series B Bonds Debt Service Account”** shall mean the account so designated in the Debt Service Fund established pursuant to the Indenture.

**“Issue One 2010 Series Bonds”** means the Issue One 2010 Series A Bonds and the Issue One 2010 Series B Bonds.

**“Issue One 2010 Series Debt Service Reserve Account”** shall mean the account so designated in the Debt Service Reserve Fund established pursuant to the Indenture.

**“Joint Powers Agreement”** shall mean the Amended and Restated Northern California Power Agency Joint Powers Agreement, dated as of January 1, 2008, by and among the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara and Ukiah, California, the Plumas-Sierra Rural Electric Cooperative, the Turlock Irrigation District, the Port of Oakland, the Truckee-Donner Public Utilities District and the San Francisco Bay Area Rapid Transit District as the same may be amended and supplemented.

**“Lodi”** shall mean the City of Lodi.

**“Lompoc”** shall mean the City of Lompoc.

**“Lodi Energy Center”** shall mean the electric generating station and related facilities, including shared facilities, and rights described in Appendix B to the Power Sales Agreement, as such Appendix may be amended from time to time prior to the commercial operation date of such station.

**“Major Contracts”** shall mean Major Contracts are: (i) the PMOA; (ii) each Interconnection Agreement; (iii) Project fuel procurement and management agreements; (iv) agreements for supplying the Project with water; (v) the lease of the Project site; and (vi) any other contract or agreement relating to the Project, other than an NCPA Multiple Project Contract, which has a total cost of more than five hundred thousand dollars and which is designated as a Major Contract by the Participant Committee, as such contracts or agreements may be entered into before, on or after the Effective Date and as they may be amended, revised or supplemented from time to time in accordance with their respective terms. No NCPA Multiple Project Contract shall constitute a Major Contract.

**“Mandatory Budget Amendment”** shall mean a mandatory amendment to a Project Annual Budget required by the Power Sales Agreement in connection with Required Costs.

**“Market Treasury Yield”** shall mean, with respect to the Issue One 2010 Series B Bonds, that yield, assuming semiannual compounding based upon a 360-day year consisting of twelve 30-day months, which is equal to:

(i) the yield for the applicable maturity of an actively traded U.S. Treasury security, reported, as of 11:00 a.m., New York City time, on the Valuation Date on the display designated as “Page PX1” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in U.S. Treasury securities); or

(ii) if the yield described in (i) above is not reported as of such time or the yield reported as of such time is not ascertainable, the most recent yield data for the applicable U.S. Treasury maturity index from the Federal Reserve Statistical Release H.15 Daily Update (or any comparable or successor publication) reported, as of 11:00 a.m., New York City time, on the Valuation Date; or

(iii) if the yields described in (i) and (ii) above are not reported as of such time or the yields reported as of such time are not ascertainable, the yield for the applicable maturity of an actively traded U.S. Treasury security shall be based upon the average of yield quotations for such security (after excluding the highest and lowest quotations) as of 3:30 p.m., New York City time, on the Valuation Date received from no less than five primary dealers in U.S. government securities selected by NCPA.

Each yield quotation for each actively traded U.S. Treasury security required in (i) and (iii) above shall be determined using the average of the bid and ask prices for that security.

**“Member,”** individually or **“Members,”** collectively, shall mean, Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Ukiah, Port of Oakland, Truckee Donner, TID, and BART as members, and Plumas-Sierra, as an associate member.

**“Moody’s”** shall mean Moody’s Investors Service, Inc., and its corporate successors.

**“NCPA”** shall mean the Northern California Power Agency, a joint exercise of powers agency, created pursuant to the Act and the Joint Powers Agreement, and its successors.

**“NCPA Administrative Costs”** shall mean that portion of the NCPA administrative, general and occupancy costs and expenses, including those costs and expenses associated with the operations, direction and supervision of the general affairs and activities of NCPA, general management, treasury operations, accounting, budgeting, payroll, human resources, information technology, facilities management, salaries and wages (including retirement benefits) of employees, facility operation and maintenance costs, taxes and payments in lieu of taxes (if any), insurance premiums, fees for legal, engineering, financial and other services, that are charged directly or apportioned to the development, financing, construction, improvement, maintenance, operation or decommissioning of the Project.

**“NCPA Multiple Project Contract”** shall mean a contract entered into by NCPA which relates to providing services, supplies or commodities with respect to the planning, financing, constructing, managing, operating, maintaining and/or improving of electric generation and/or transmission facilities, including related equipment, property, rights or facilities, with respect to the Project and one or more other NCPA projects and/or programs.

**“Non-Defaulting Participant”** shall mean as of any time, each Participant which is not a Defaulting Participant as of such time.

**“Non-Financed Capital Improvement”** shall mean a Capital Improvement, the Costs of Construction of which is to be paid with Contributions in Aid of Construction.

**“Non-Financed Capital Improvement Cost Component”** shall mean the portion of the each Total Monthly Power Cost included in the monthly Billing Statement with respect to Capital Improvements to be funded with Contributions in Aid of Construction as determined pursuant to the Power Sales Agreement.

**“OandM Step-Up”** shall mean an increase in the amount payable by a Participant for Operation and Maintenance Expenses beyond such Participant’s GES as a result of a Payment Default by another Participant which increase shall be calculated pursuant to the Power Sales Agreement.

**“OandM Step-Up Cost Component”** shall mean the portion of the each Total Monthly Power Cost included in the monthly Billing Statement with respect to an OandM Step-Up as determined pursuant to the Power Sales Agreement.

**“OandM Step-Up Share”** shall mean as of any time of calculation and with respect to each Non-Defaulting Participant, the quotient obtained by dividing (i) the GES of such Non-Defaulting Participant by (ii) the sum of the GES of all Non-Defaulting Participants.

**“Operating Cost Component”** shall mean the portion of the each Total Monthly Power Cost included in the monthly Billing Statement with respect to Operation and Maintenance Expenses as determined pursuant to the Power Sales Agreement.

**“Operating Fund”** shall mean the fund so designated to be established and maintained by NCPA pursuant to the Power Sales Agreement.

**“Operating Reserve Fund”** shall mean the fund so designated to be established and maintained by NCPA pursuant to the Power Sales Agreement.

**“Operating Reserve Requirement”** shall mean as of any time, an amount determined in accordance with the Power Sales Agreement as equal to approximately 60 days of Operation and Maintenance Expenses in the Project Annual Budget in effect as of such time.

**“Operation and Maintenance Expenses”** shall mean the costs paid or incurred by NCPA for operating and maintaining the Project including, but not limited to (a) all Fuel Costs; (b) all costs of water supply in connection with the Project; (c) all costs and expenses of management of the Project, including on-site operating staff and NCPA Administrative Costs; (d) all costs and expenses of maintenance and repair of the Project, including all expenses necessary or appropriate in the judgment of NCPA to maintain and preserve the Project in good repair and working order; (e) payments in lieu of taxes to any public agency in connection with the Project; (f) all costs, expenses and charges of accountants, engineers and other consultants; (g) any cost or expense paid by NCPA to comply with requirements of law applicable to the Project or the NCPA’s ownership or operation thereof or in any capacity in connection with the Project or any activity in connection therewith; (h) costs of repairs, replacements and reconstruction of the Project that do not entail Capital Improvements; (i) costs relating to litigation and other adversarial proceedings (including attorneys’ fees and disbursements and other amounts paid as a result thereof); (j) insurance costs (including amounts to fund any self insurance program); (k) taxes and any other governmental charges required to be paid by NCPA with respect to the Project; (l) any costs payable in connection with the output of the Project; (m) all costs related to the conducting of the business of NCPA with respect to the Project; and (n) any other costs relating to the operation or maintenance of the Project, including without limitation any costs relating to funding or maintaining working capital or similar reserves approved by NCPA and the Participant Committee.

**“Opinion of Bond Counsel”** shall mean a written opinion signed by Bond Counsel.

**“Option Bonds”** shall mean Bonds which by their terms may be tendered by and at the option of the Owner thereof for purchase prior to the stated maturity thereof.

**“Outstanding”** when used with reference to Bonds, shall mean, as of any date, Bonds theretofore, or thereupon being, authenticated and delivered under the Indenture except:

(i) Bonds cancelled by the Trustee, or delivered to the Trustee for cancellation, at or prior to such date;

- (ii) Bonds paid or deemed paid pursuant to the Indenture; and
- (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture.

**“Owner”** shall mean the person registered as the owner of a Bond in the Bond Register.

**“Palo Alto”** shall mean the City of Palo Alto.

**“Parity Debt”** shall mean: (i) bonds, notes, bond anticipation notes, or other evidences of indebtedness issued by, or loans taken out by, or Public Finance Contracts entered into by, NCPA to: (i) finance or refinance the Indenture Group A Participants’ shares of the Costs of Construction of the Project; or (ii) provide credit enhancement for, or economically modify NCPA’s payment obligations with respect to, such bonds, notes, bond anticipation notes, other evidences of indebtedness or loans, in each case satisfying the requirements of the Indenture.

**“Participating Bonds”** shall mean all Future Bonds other than Bonds authorized by a Supplemental Indenture that provides that such Bonds are not Participating Bonds in accordance with the provisions of the Indenture.

**“Participating Bonds Debt Service Account”** shall mean the Account so designated established in the Debt Service Fund.

**“Participating Bonds Debt Service Reserve Account”** shall mean the account so designated established in the Debt Service Reserve Fund.

**“Participant Committee”** shall mean the committee of Participants established in accordance with the Power Sales Agreement.

**“Participant Committee Approval”** shall mean the approval of the Participant Committee in accordance with the Power Sales Agreement.

**“Participant Monthly Power Costs”** shall mean with respect to a Participant and a given month, the costs payable by such Participant pursuant to the Power Sales Agreement.

**“Participants”** shall mean those entities (other than NCPA) executing the Power Sales Agreement, together in each case with their successors.

**“Payment Default”** shall mean the failure of a Participant to make a payment required under the Power Sales Agreement after the notice required and cure period provided by the Power Sales Agreement .

**“Pledged Power Sales Agreement Rights”** shall mean: (i) subject to the application of the Project Revenues relating to Indenture Group A to such purposes and on such terms as provided in the Power Sales Agreement, all amounts in the Indenture Group A Revenue Account; and (ii) all of NCPA’s rights under the Power Sales Agreement with respect to the Indenture Group A Participants including without limitation: (A) NCPA’s rights to the payments required to be made by the Indenture Group A Participants in accordance with or pursuant to any provision of the Power Sales Agreement; (B) NCPA’s right to receive all other Project Revenues related to Indenture Group A including Project Revenues received pursuant to actions taken upon a default by an Indenture Group A Participant; and (C) all of NCPA’s right, title and interest in, to and under the Power Sales Agreement with respect to the



obligations of the Indenture Group A Participants, including NCPA's rights to enforce the obligations of the Indenture Group A Participants under the Power Sales Agreement.

**"Plumas-Sierra"** shall mean the Plumas-Sierra Rural Electric Cooperative.

**"PMOA"** shall mean The Lodi Energy Center Project Management and Operations Agreement among NCPA and the Participants, relating to the Project, as it may be amended or supplemented from time to time in accordance with its terms.

**"Point of Delivery"** shall mean the first point of interface between the Project facilities and the facilities controlled by the entity which regulates the transmission of Energy from the Project under applicable laws and regulations.

**"Port of Oakland"** shall mean the Port of Oakland as such term is defined in the Charter of the City of Oakland, California.

**"Power Island"** shall mean the Flex-Plant 30 power island being supplied to NCPA for use in the Lodi Energy Center by a purchase agreement with Siemens Energy, Inc.

**"Power Sales Agreement"** shall mean the Lodi Energy Center Power Sales Agreement, dated as of May 24, 2010, among NCPA and the Participants, as the same may be amended and supplemented in accordance with its terms.

**"Principal Corporate Trust Office"** shall mean: (i) so long as U.S. Bank National Association is serving as Trustee under the Indenture, its Principal Corporate Trust Office located at 100 Wall Street, New York, New York or such other corporate trust office as shall be specified by U.S. Bank National Association; and (ii) the corporate trust office specified as such by any successor Trustee.

**"Principal Installment"** shall mean, as of any date of calculation, (i) the principal amount of Outstanding Bonds due on a certain future date for which no Sinking Fund Installments have been established and (ii) the unsatisfied balance (determined as provided in the Indenture) of any Sinking Fund Installments due on a certain future date for Outstanding Bonds.

**"Project"** shall mean the Lodi Energy Center and all Capital Improvements.

**"Project Annual Budget"** shall mean for any Fiscal Year, the Project budget in effect for such Fiscal Year pursuant to the Power Sales Agreement, including any amendments thereto.

**"Project Net Revenues"** shall mean for any period of time, the Project Revenues less the Operation and Maintenance Expenses during such period and less the deposits to the Operating Reserve Fund during such period.

**"Project Revenues"** shall mean all gross income and revenue received or receivable by NCPA from the ownership or operation of the Project, including all rates and charges for the Capacity and Energy of the Project and the other services and facilities of the Project, all proceeds of insurance covering business interruption loss relating to the Project, any Subsidy received by NCPA and all other income and revenue howsoever derived by NCPA from the ownership or operation of the Project or otherwise arising from the Project, including the proceeds of sales of Project Capacity and/or Energy pursuant to the Power Sales Agreement including Contributions in Aid of Construction, Capital Contributions or grants to the extent restricted by the donor to exclude the application to be made of such grant pursuant to the Power Sales Agreement.

**“Prudent Utility Practice”** shall mean any of the practices, methods and acts, which, in the exercise of reasonable judgment in the light of the facts (including but not limited to the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry prior to the date hereof) known at the time the decision was made, would have been expected to accomplish the desired result at a reasonable cost consistent with sound utility business and financial practices approved by the Western Electricity Coordinating Council or the North American Electric Reliability Corporation, reliability, safety and expedition, taking into account the fact that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at a reasonable cost consistent with reliability, safety and expedition. Prudent Utility Practice includes due regard for manufacturers’ warranties and requirements of governmental agencies of competent jurisdiction and official electric industry reliability organizations and shall apply not only to functional parts of the Project, but also to appropriate structures, landscaping, painting, signs, lighting, other facilities and public relations programs reasonably designed to promote public enjoyment, understanding and acceptance of the Project.

**“Public Finance Contract”** shall mean a contract or arrangement described in Section 5922 of the California Government Code as in effect on the dated date of the Power Sales Agreement.

**“Rating Agency”** shall mean, as of any time, each of Moody’s, Fitch, S&P and any other nationally recognized rating agency, in each case then rating the Bonds at the request of NCPA.

**“Rebate Fund”** shall mean the Fund so designated established in the Indenture.

**“Rebate Instructions”** shall mean those calculations and written directions required to be delivered to the Trustee by NCPA pursuant to the Indenture.

**“Rebate Requirement”** shall mean the Rebate Requirement as defined in the Tax Certificate.

**“Record Date”** shall mean with respect to an Interest Payment Date, unless otherwise specified with respect to a Series of Bonds in the Supplemental Indenture authorizing such Series of Bonds, the fifteenth day of the month preceding the month in which such Interest Payment date occurs.

**“Redding”** shall mean the City of Redding.

**“Refunding Bonds”** shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to the Indenture to refund Bonds or Parity Debt, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture.

**“Representation Letter”** shall mean the letter or letters of representations from NCPA and the Trustee to, or other instrument or agreement among NCPA and the Trustee with, a Securities Depository for the Bonds in which NCPA and the Trustee, among other things, make certain representations to such Securities Depository with respect to the Bonds, the payment thereof, and delivery of notices with respect thereto.

**“Required Costs”** shall mean the: (i) Additional Cost of the Lodi Energy Center or a Financed Capital Improvement which: (a) arise while any obligations remain Outstanding under an Indenture; and (b) are either (y) required by law or governmental regulation, including environmental regulation, for the operation of the Project or (z) necessary to complete the Lodi Energy Center or the Financed Capital Improvement, as applicable, as a facility performing the functions intended for the Lodi Energy Center or

such Financed Capital Improvement; and (ii) costs and expenses under a NCPA Multiple Project Contract when the use of such NCPA Multiple Project Contract in connection with the Project has been approved by the Participant Committee.

**“Revenue Account”** shall mean the account in the Revenue Fund with respect to an Indenture Group.

**“Revenue Fund”** shall mean the fund to be established and maintained by NCPA pursuant to the Power Sales Agreement.

**“Revolving Construction Amount”** shall mean with respect to the Initial Facilities, \$1,000,000; and with respect to any Financed Capital Improvement the amount, if any, specified as such in a Supplemental Indenture.

**“Roseville”** shall mean the City of Roseville.

**“S&P”** shall mean Standard & Poor’s Rating Group and its corporate successors.

**“Santa Clara”** shall mean the City of Santa Clara.

**“Securities Depository”** shall mean DTC and its successors and assigns or if (i) the incumbent Securities Depository resigns from its functions as depository of the Bonds or (ii) NCPA discontinues use of the incumbent Securities Depository pursuant to the Indenture, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the Bonds and which is selected by NCPA.

**“Securities Exchange Act”** shall mean the Securities Exchange Act of 1934, as amended.

**“Series”** when used with reference to the Bonds, shall mean all of the Bonds authenticated and delivered on original issuance and identified pursuant to the Indenture (including any Supplemental Indenture) as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture (including any Supplemental Indenture), regardless of variations in maturity, interest rate, Sinking Fund Installments, or other provisions.

**“Series Debt Service Reserve Account”** shall mean the Issue One 2010 Series Debt Service Reserve Account and each other Account within the Debt Service Reserve Fund with respect to a Series of Future Bonds that are not Participating Bonds.

**“Sinking Fund Installment”** shall mean, with respect to Bonds of each Series and maturity, each amount, if any, specified as such for the Bonds of such Series and maturity in the Indenture to be applied to the mandatory redemption (or payment at maturity) of such Bonds.

**“Subsidy”** shall mean with respect to Taxable Subsidy Bonds, a payment from the United States with respect to such Taxable Subsidy Bonds or the interest thereon or other benefit from the United States (such as a tax credit) in connection with such Taxable Subsidy Bonds.

**“Subsidy Contingency Requirement”** shall mean, as of any date of calculation, an amount equal to 35% of the amount of interest on the Issue One 2010 Series B Bonds scheduled to be paid on the next Interest Payment Date.

**“Supplemental Indenture”** shall mean any indenture supplemental to or amendatory of the Indenture as theretofore in effect.

**“Taxable Bonds”** shall mean bonds, other than Taxable Subsidy Bonds, the interest on which is not excluded from gross income for federal income tax purposes.

**“Taxable Subsidy Bond”** shall mean Bonds, the interest on which is not excluded from gross income for federal income tax purposes and as to which NCPA or an Owner of a Bond is entitled to receive a Subsidy.

**“Tax Certificate”** shall mean, with respect to a Series of Bonds, the Tax Certificate relating to the requirements of the Code signed by NCPA on the date of original issuance of the Bonds of such Series.

**“Taxable Subsidy Bonds”** shall mean bonds, the interest on which is not excluded from gross income for federal income tax purposes and as to which NCPA or an owner of a bond is entitled to receive a Subsidy.

**“Tax-Exempt Bonds”** shall mean Bonds, the interest on which is excluded from gross income for certain federal income tax purposes.

**“Tax Status”** shall mean with respect to a Tax-Exempt Bond, the exclusion from gross income for federal income tax purposes of interest on such Bond and with respect to a Taxable Subsidy Bond, the right of NCPA or the owner of a Bond to receive a Subsidy with respect to such Bond.

**“Threshold Amount”** shall mean an amount equal to \$5,000,000 or such larger amount as shall be approved by the Participant Committee pursuant to the Power Sales Agreement.

**“TID”** shall mean the Turlock Irrigation District.

**“Total Monthly Power Costs”** shall mean for each month the aggregate of the Operating Cost Component, the Fuel Cost Component, the Indenture Cost Component, the OandM Step-Up Component determined as provided in the Power Sales Agreement.

**“Truckee Donner”** shall mean the Truckee Donner Public Utility District.

**“Trustee”** shall mean U.S. Bank National Association, and its corporate successor or successors and any other entity which may at any time be substituted in its place as successor Trustee under the Indenture.

**“Trust Estate”** shall mean (a) the Pledged Power Sales Agreement Rights and (b) subject to the provisions of the Indenture permitting the application and release thereof for the purposes and on the terms and conditions set forth therein, all amounts on deposit in the Funds established pursuant to the Indenture, other than the Rebate Fund, including the investments, if any, thereof; provided that the pledge of the Pledged Power Sales Agreement Rights shall be on a parity with any pledge thereof securing the payment of Parity Debt.

**“Ukiah”** shall mean the City of Ukiah.

**“U.S.”** shall mean the United States of America.

**“Valuation Date”** shall mean, with respect to Issue One 2010 Series B Bonds to be redeemed pursuant to the optional redemption provisions of the Indenture, the Business Day preceding the date on which notice of such redemption is given.

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**APPENDIX B**

**SELECTED INFORMATION RELATING TO THE  
INDENTURE GROUP A SIGNIFICANT SHARE PARTICIPANTS**

The following information has been supplied by the respective Indenture Group A Significant Share Participants, and includes selected historical operating data and data taken from their electric system balance sheets. Neither NCPA nor any Participant makes any representation as to the accuracy or completeness of this information with respect to any other Indenture Group A Participants.

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## **CITY OF LODI**

### **Introduction**

The City of Lodi ("Lodi") is a general law city in the State of California incorporated in 1906. Lodi is located in the San Joaquin Valley of California, 35 miles south of the state capital of Sacramento, and 90 miles east of San Francisco. Lodi's boundaries encompass approximately 13.92 square miles.

Lodi provides electric utility service through an electric utility department. The legal responsibilities and powers of the electric department, including the establishment of rates and charges, are exercised through the five-member Lodi City Council. The members of the City Council are elected City-wide for staggered four year terms. The Lodi electric utility department is under the direction of the Electric Utility Director who is appointed by the City Manager.

Lodi joined NCPA at its founding in 1968. Lodi participates in all NCPA projects. In addition, NCPA has developed electric dispatch and transmission capabilities that contribute to Lodi's electric utility services.

The electric system serves the entire area of the City (approximately 13.92 square miles) and has over 145 miles of overhead lines and over 156 miles of underground lines. During the fiscal year 2008-09, the Lodi electric system served 25,386 customers comprised of 22,465 residential customers, 2,733 commercial/industrial customers and 188 other customers. On July 24, 2006, an all-time, historical high peak demand of 140.4 MW was reached.

Only the revenues of the Lodi electric system will be available to pay amounts owed by Lodi under the Power Sales Agreement.

The Lodi electric department's main office is located at 1331 South Ham Lane, Lodi, California 95242, (209) 333-6762. For more information about Lodi and its electric system, on or before June 20, 2010 contact Kenneth Weisel, Interim Electric Utility Director and on or after June 21, 2010, contact Liz Kirkley, who has been appointed Electric Utility Director effective June 21, 2010, at the above address and telephone number.

### **Power Supply Resources**

The following table sets forth information concerning Lodi's power supply resources and the energy supplied by each during the fiscal year ended June 30, 2009.



**CITY OF LODI**  
**ELECTRIC UTILITY DEPARTMENT**  
**POWER SUPPLY RESOURCES<sup>(1)</sup>**  
**For the Fiscal Year Ended June 30, 2009**

<b>Source</b>	<b>Capacity Available (MW)<sup>(2)(5)</sup></b>	<b>Actual Energy (MWh)</b>	<b>% of Total Energy</b>
Purchased Power <sup>(3)</sup> :			
Western	6.3	11,751	2.27%
NCPA			
Geothermal Project	11.1	96,991	18.75
Hydroelectric Project	25.2	42,094	8.14
Combustion Turbine Project No. 1	10.0	78	0.02
Capital Facilities, Unit One	19.7	18,039	3.49
Contracts, Exchanges and Bilaterals <sup>(4)</sup>	80.0	348,428	67.34
Total	152.3	517,381 <sup>(5)(6)</sup>	100.00%
Total Capacity and Energy Sold at Wholesale	N/A	48,289	
Lodi System Requirement for Retail	152.3	469,092	

<sup>(1)</sup> Columns may not add to totals due to rounding.

<sup>(2)</sup> Non-coincident capacity available.

<sup>(3)</sup> Entitlements, firm allocations and contract amounts.

<sup>(4)</sup> Includes participation in NCPA/Seattle City Light exchange. See "OTHER NCPA PROJECTS—Power Purchase Contracts" in the forepart of this Official Statement.

<sup>(5)</sup> Units at Backbone Output.

<sup>(6)</sup> Includes supply from exchanges.

<sup>(7)</sup> Includes line losses.

Source: City of Lodi.

In the fiscal year ended June 30, 2009, Lodi's average cost of power delivered to the Lodi electric system was 9.8 cents per kWh.

**Purchased Power**

**Western.** Lodi has an agreement with Western, which expires December 31, 2024, to purchase a base resource of 0.49049% of Central Valley Project output. Energy associated with the base resource from Western is scheduled by NCPA for Lodi's benefit. For the fiscal year ended June 30, 2009, the average melded cost of delivered power under contracts with Western was approximately \$66 per MWh.

**Other Purchases.** Of the 348,428 MWh shown as Contracts, Exchanges and Bilaterals in the table above, 219,000 MWh in fiscal year 2008-09 is attributable to a 25 MW baseload power purchase agreement with Conoco-Phillips. The Conoco-Phillips power purchase agreement is a three-year purchase arrangement terminating June 30, 2010. Lodi also has a 25 MW share of the NCPA Seattle City Light exchange arrangement which is included under Contracts, Exchanges and Bilaterals in the table above, which is transmitted to Lodi via its COTP scheduling entitlement (described below). Other power purchases for fiscal year 2008-09 were short-term. NCPA schedules daily and hourly (spot) power purchases and sales to balance Lodi's resources with its native load requirements.

Lodi has entered into forward power purchase transactions with four different wholesale electric suppliers (Constellation, Powerex, Semptra, and Shell) that together provide a 25 MW baseload power supply that will replace the expiring power purchase agreement with Conoco-Phillips. These power purchase transactions begin on July 1, 2010 and extend to March 31, 2012 and are expected to be replaced by Lodi's GES in the Lodi Energy Center.

### **Joint Powers Agency Resources**

**NCPA.** Lodi does not independently own any generation assets but, in addition to power purchased from Western and others, Lodi is a participant in all NCPA projects. Lodi has purchased from NCPA a 10.37% entitlement share in the Hydroelectric Project. Lodi has purchased from NCPA a 39.50% entitlement share in the Capital Facilities Project, Unit One. Lodi has purchased from NCPA a 10.28% entitlement share in the Geothermal Project. Lodi has purchased from NCPA an 18.48% entitlement share in the Geysers Transmission Project. Lodi has purchased from NCPA a 8.03% entitlement share in the Combustion Turbine Project Number One (exclusive of portion acquired by the City of Roseville). Lodi has a 25 MW participation in the NCPA Seattle City Light exchange contract. For a description of such resources, see "THE PROJECT" and "OTHER NCPA PROJECTS" in the forepart of this Official Statement.

For each of the NCPA projects in which Lodi participates, Lodi is obligated to pay, on an unconditional take-or-pay basis, its entitlement share of the debt service on NCPA bonds issued for the project as well as its share of the operation and maintenance expenses of the project.

**TANC California - Oregon Transmission Project.** Lodi is a member of the Transmission Agency of Northern California ("TANC"). TANC, together with Redding, Western, two California water districts and PG&E (collectively, the "COTP Participants") own the California-Oregon Transmission Project ("COTP"), a 339 mile long, 1,600 MW, 500 kV transmission project between southern Oregon and central California. The COTP was placed in service on March 24, 1993, at a cost of approximately \$430 million.

Pursuant to Project Agreement No. 3 for the COTP (the "TANC Agreement"), TANC has agreed to provide to Lodi and 12 other members of TANC (the "TANC Member-Participants") a participation percentage of TANC's entitlement of COTP transfer capability. In return, each TANC Member-Participant has severally agreed to pay TANC a corresponding percentage of TANC's share of the COTP construction costs, including debt service on TANC's outstanding revenue bonds, commercial paper and other obligations issued by TANC to finance its ownership share of the COTP. A TANC Member-Participant's obligations to make payments to TANC are not dependent upon the operation of the COTP and are not subject to reduction. Upon an unremedied default by one TANC Member-Participant in making a payment required under the TANC Agreement, the nondefaulting TANC Member-Participants are required to increase pro-rata their participation percentage by the amount of the defaulting TANC Member-Participant's entitlement share, provided that no such increase can result in a greater than 25% increase in the participation percentage of the nondefaulting TANC Member-Participants.

TANC financed its interest in the COTP through the issuance of California Oregon Transmission Project Revenue Bonds and commercial paper notes, of which approximately \$435.8 million principal amount of bonds were outstanding as of October 1, 2009. See "Indebtedness" below.

In April 2008, TANC purchased the COTP transmission assets (approximately 121 MW) of the City of Vernon, California ("Vernon"), one of the original owners of the COTP. Lodi participated in the acquisition of an increased share of transfer capability of the COTP in connection with TANC's acquisition of Vernon's interests. TANC utilized a combination of cash and the issuance of commercial

paper (which was subsequently refunded with bonds) to fund the acquisition of Vernon's COTP transmission assets (the "Vernon acquisition debt"). Lodi has a participation share of 26.7 MW of TANC's entitlement to transfer capability of the COTP and is responsible for 1.92% of TANC's COTP operating and maintenance expenses and 1.89% of TANC's COTP debt service (non-Vernon) and 2.08% of the Vernon acquisition debt.

***Tesla–Midway Transmission Service.*** TANC and certain TANC Members have arranged for PG&E to provide TANC and such TANC Members with 300 MW of firm bi-directional transmission capacity on its transmission system between the Midway Substation and the electric systems of the TANC Members (the "Tesla Midway Transmission Service") under an agreement known as the South of Tesla Principles. Lodi's share of this Tesla–Midway Transmission Service is 6.21 MW. Lodi has utilized its full allocation of Tesla–Midway Transmission Service for firm and non-firm power transactions.

### **Future Power Supply Resources**

Based upon its current forecasted sales growth, resource mix and market prices, Lodi believes its annual balance-of-month, day-ahead, and hour-ahead purchases will be less than 25% of total energy requirements for the next two years. Lodi's interest in NCPA's Multiple Capital Facilities Project Unit One and NCPA's Combustion Turbine Project No. One provide substantial capacity toward covering Lodi's net short position in the event that market prices rise above the respective unit's cost of production. Lodi has developed medium-term hedging strategies to reduce volatility associated with market purchases and the seasonal nature of its loads and resources. Lodi has committed to a 9.5% generation entitlement share in NCPA's proposed Lodi Energy Center, a 280 MW combined-cycle plant expected to be directly connected to Lodi's electric system in approximately 2012. As discussed above in "Purchased Power," the Lodi Energy Center will replace the series of 25 MW contracts that extend through March 2012. In addition, due to the long lead time in acquiring certain resources, including renewable resources, Lodi, through NCPA, continues to consider additional projects that might be included in the resource mix.

### **Interconnections, Transmission and Distribution Facilities**

Lodi's electric system is interconnected with the system of PG&E (three 60 kV lines). Lodi owns facilities for the distribution of electric power within the city limits of Lodi, which includes approximately 13 miles of 60 kV power lines, approximately 288 miles of 12 kV distribution lines (approximately 54% of which are underground) and four substations. Lodi's system experiences approximately 25 minutes of outage time per customer per year.

### **Forecast of Capital Expenditures**

Lodi's five-year capital projection for the electric facilities contemplates potential capital expenditures for substation upgrades, a new distribution substation, 60 kV power lines to interconnect an existing NCPA substation at NCPA's Combustion Turbine Project No. Two, and related system reliability projects. Lodi anticipates funding such costs from rate revenues, special development fees and possible new debt issuance as required. Over the next five years, total capital expenditures could range from \$10 million to \$25 million depending on the actual projects undertaken and their timing.

### **Employees**

As of June 30, 2009, 46 full-time Lodi employees were assigned specifically to the electric utility department. Contract/temporary employees are hired as necessary. Substantially all of the non-management Lodi personnel assigned to the Electric Utility Department are represented by the International Brotherhood of Electrical Workers, Union 1245 ("IBEW"). The current Memorandum of

Understanding with the IBEW expires on December 31, 2013. There have been no strikes or other union work stoppages at Lodi, including the electric utility department.

Retirement benefits to Lodi employees, including those assigned to the electric utility department, are provided through Lodi's participation in the California Public Employees' Retirement System ("PERS"). Lodi's contribution rate is determined by periodic actuarial calculations based on the benefit formula and the number of employees and their respective salary schedules. Lodi has made all required contributions. As of June 30, 2007, the most recent actuarial valuation date, the plan was 87% funded, with an unfunded actuarial accrued liability of \$25.7 million. In addition, Lodi provides certain post-employment benefits other than pensions (OPEB) to Lodi employees, including those assigned to the electric utility department, who retire from Lodi and receive a PERS pension through its participation in the PERS medical benefits program. Contribution requirements of the postemployment benefit are based on pay-as-you-go financing. For the fiscal year 2008-09, Lodi contributed 33.03% of the actuarially required contributions. As of January 1, 2008, the most recent actuarial valuation date, the retiree health plan has an unfunded actuarial accrued liability of \$23.3 million.

### **Rates and Charges**

Lodi has the exclusive jurisdiction to set electric rates within its service area. These rates are not subject to review by any state or federal agency.

Lodi's fiscal year 2008-09 average rate per kWh for residential service was 18.9 cents. Lodi's fiscal year 2008-09 average rate for commercial and industrial service was 14.4 cents per kWh.

The following table presents a recent history of Lodi's rate increases since 2002. The last base rate increase was in December 2005.

#### **CITY OF LODI ELECTRIC UTILITY DEPARTMENT RATE CHANGES**

<b>Effective Date</b>	<b>Percent Change</b>
December 2007	Established Solar Initiative Surcharge of \$0.00125 per kilowatt-hour
August 2007	Implemented monthly Energy Cost Adjustment
December 2005	Average 17% increase across all rate classes
December 1, 2002	4.5% average rate increase

Source: City of Lodi.

The City Council reviews electric system rates periodically and makes adjustments as necessary. The City has adopted a number of rate policies which apply to contract rates with certain customers. See "Lodi's Operations Since Industry Restructuring" herein.

Lodi implemented an Energy Cost Adjustment ("ECA") in July 2007. The purpose of the ECA is to recover market power costs due to the fluctuations in power market conditions. The ECA is reviewed monthly and is either increased or decreased as market conditions dictate.

## **Largest Customers**

The nine largest customers of Lodi's electric system in terms of kWh sales, as of June 30, 2009, accounted for 28.8% of total kWh sales and 22.5% of revenues. The largest customer accounted for 7% of total kWh sales and 4.5% of total revenues.

## **Energy Efficiency and Conservation**

Since 1998, Lodi has maintained a public benefits program as required by state law, a component of which is demand-side management (commonly referred to as energy efficiency and conservation). Under this program, Lodi offers customers utility rebates for insulation, improved air duct systems, high-efficiency air conditioners, attic fans, whole-house fans, white/cool roofing materials, radiant barriers, refrigeration efficiency improvements, EnergyStar appliances, pump/motor/process equipment improvements, lighting retrofits, and appliance recycling programs.

Lodi also provides energy education for residential and non-residential customers, including on-site and on-line energy audits, and hosts a number of programs to promote renewable energy education and outreach. As part of its education and outreach efforts, Lodi gives in-classroom presentations on solar and other renewable energy sources, sponsors the Lodi Solar Olympics project, and offers the Lodi Energy Smart Workshop series.

Over the past 9 years, over 15,000 Lodi utility customers have been positively impacted by one or more of Lodi's public benefits programs, either in the form of a direct utility rebate or via one of its outreach and educational programs.

## **Lodi's Operations Since Industry Restructuring**

Lodi's electric utility operations have been adversely affected by the lingering effects of the power crisis. Lodi has taken a number of actions in order to address challenges facing the electric utility industry that have occurred since deregulation of the California energy markets. See "DEVELOPMENTS IN THE ENERGY MARKETS" in the forepart of this Official Statement. These actions include the implementation of a number of revenue enhancements, cost containment measures and changes in operating procedures, including:

- **Energy Cost Recovery.** Implemented an Energy Cost Adjustment (ECA) for all customers. This rate action guarantees coverage of bulk power purchase costs. See "Rates and Charges" above.
- **The Risk Management Program.** City established a risk management policy. Consistent with the policy Lodi has established goals related to closing open power positions in the first, second and third following years to provide for orderly stabilization of future power costs.

<b>Timeframe</b>	<b>Open Position</b>
Current Fiscal Year	5%
Next Fiscal Year	10%
2nd Fiscal Year	25%
3rd Fiscal Year	50%

## Customers, Sales, Revenues and Demand

The average number of customers, kWh sales, revenues derived from sales by classification of service and peak demand during the past five fiscal years, are listed below.

### CITY OF LODI ELECTRIC UTILITY DEPARTMENT CUSTOMERS, SALES, REVENUES AND DEMAND<sup>(1)</sup>

	Fiscal Years Ended June 30,				
	2005	2006	2007	2008	2009
Number of Customers:					
Residential	22,554	22,870	22,928	22,523	22,465
Commercial	2,439	2,455	2,423	2,714	2,696
Industrial	32	32	33	32	37
Other	178	182	182	187	188
Total Customers	25,203	25,539	25,566	25,456	25,386
Kilowatt Hour (kWh)					
Sales:					
Residential	153,080,272	159,540,557	159,247,195	153,563,188	153,487,430
Commercial	151,275,376	150,561,659	153,963,719	155,146,983	155,206,324
Industrial	142,395,954	141,462,582	133,816,956	129,429,938	131,059,764
Other	8,486,879	8,072,294	11,712,875	12,267,600	12,322,036
Total kWh sales	455,238,481	459,637,092	458,740,745	450,407,709	452,075,554
Revenues from Sale of Energy <sup>(2)</sup>					
Residential	\$21,367,522	\$24,259,736	\$27,013,494	\$27,127,049	\$29,016,777
Commercial	19,721,979	21,365,903	23,241,809	25,173,286	26,883,557
Industrial	10,603,734	11,666,005	13,470,620	14,591,885	15,875,038
Other	2,214,897	1,820,944	2,071,324	2,132,120	2,224,567
Total Revenues from Sale of Energy:	\$53,908,133	\$59,112,588	\$65,797,247	\$69,024,340	\$73,999,939
Peak Demand (kW)	117.5	124.3	140.4	132.4	117.4

<sup>(1)</sup> Columns may not add to totals due to rounding.

<sup>(2)</sup> Excludes revenues from California Energy Commission Tax.

Sources: City of Lodi, audited annual financial statements and Customer Information System reports.

## Indebtedness

As of June 30, 2009, Lodi had outstanding \$89.4 million principal amount of obligations (including accreted value of capital appreciation certificates) payable from net revenues of Lodi's electric utility system. These obligations are subordinate to the payments required to be made with respect to the Lodi's obligations to NCPA and TANC described below. Lodi has no variable rate or auction rate direct debt.

As previously discussed, Lodi participates in certain joint powers agencies, including NCPA and TANC. Obligations of Lodi under its agreements with respect to TANC and NCPA constitute operating expenses of Lodi. Such agreements are on a “take-or-pay” basis, which requires payments to be made whether or not projects are completed or operable, or whether output from such projects is suspended, interrupted or terminated. Certain of these agreements contain “step up” provisions obligating Lodi to pay a share of the obligations of a defaulting participant. Lodi’s participation and share of debt service obligation (without giving effect to any “step up” provisions) for each of the joint powers agency projects in which it participates are shown in the following table.

**CITY OF LODI  
ELECTRIC UTILITY DEPARTMENT  
OUTSTANDING DEBT OF JOINT POWERS AGENCIES  
(Dollar Amounts in Millions)  
(As of May 1, 2010)**

	<b>Outstanding Debt</b>	<b>Lodi’s Participation<sup>(1)</sup></b>	<b>Lodi’s Share of Outstanding Debt</b>
<b>NCPA</b>			
Geothermal Project	\$ 63.2	10.28%	\$ 6.5
Geysers Transmission Project	0.9	18.48	0.2
Hydroelectric Project	458.4	10.37 <sup>(2)</sup>	47.5
Combustion Turbine Project	4.1	8.03 <sup>(3)</sup>	0.3
Capital Facilities Project	55.1	39.50	21.8
<b>TANC</b>			
COT Project	421.4	1.92	8.1 <sup>(4)</sup>
<b>TOTAL</b>	<b>\$1,003.1</b>		<b>\$84.4</b>

<sup>(1)</sup> Participation obligation is subject to increase upon default of another Participant. Such increase shall not exceed, without the written consent of a non-defaulting participant, an accumulated maximum of 25% of such non-defaulting participant’s original participation.

<sup>(2)</sup> Lodi’s actual payments represent approximately 10.64% of outstanding debt service as a result of credit to non-participating members with respect to portion of debt obligation.

<sup>(3)</sup> Reflects the transfer of 34 MW of Lodi’s interest in the NCPA Combustion Turbine Project No. 1 to the City of Roseville. Lodi remains contractually obligated under the related Power Sales Agreement for its 34.78% entitlement share through August 31, 2010.

<sup>(4)</sup> Includes share of Vernon acquisition debt.

Source: City of Lodi.

A portion of the joint powers agency debt obligations are variable rate debt, liquidity support for which is provided through liquidity arrangements with banks. Unreimbursed draws under liquidity arrangements supporting joint powers agency variable rate debt obligations bear interest at a maximum rate substantially in excess of the current interest rates on such obligations. Moreover, in certain circumstances, the failure to reimburse draws on the liquidity agreements may result in the acceleration of scheduled payment of the principal of such variable rate joint powers agency obligations. In connection with certain of such joint power agency obligations, the respective joint powers agency has entered into interest rate swap agreements relating thereto for the purposes of substantially fixing the interest cost with respect thereto. There is no guarantee that the floating rate payable to the respective joint powers agency pursuant to each of the interest rate swap agreements relating thereto will match the variable interest rate on the associated variable rate joint powers agency debt obligations to which the respective interest rate

swap agreement relates at all times or at any time. Under certain circumstances, the swap providers may be obligated to make payments to the applicable joint powers agency under their respective interest rate swap agreement that is less than the interest due on the associated variable rate joint powers agency debt obligations to which such interest rate swap agreement relates. In such event, such insufficiency will be payable as a debt service obligation from the obligated joint powers agency members (a corresponding amount of which proportionate to its debt service obligations to such joint powers agency could be due from Lodi). In addition, under certain circumstances, each of the swap agreements is subject to early termination, in which event the joint powers agency could be obligated to make a substantial payment to the applicable swap provider (a corresponding amount of which proportionate to its debt service obligations to such joint powers agency could be due from Lodi).

## **Service Area**

Lodi is served by interstate highway 5 and state highways 12 and 99 and is located on the main line of the Southern Pacific Railroad. A deep water seaport and an airport are located approximately 15 miles south. The local economy is well-balanced among residential, agricultural, commercial and industrial sectors.

Lodi is a worldwide agricultural shipping center for the San Joaquin Valley. The surrounding prime agricultural land is a major producer of wine grapes.

There are several manufacturing plants in the community area with a wide variety of products: cereals, food mixes, wines, rubber products, steel framing and industrial shelving, foundry items, recreational vehicle components, electronic substrates, and plastic piping and injection molded products. In addition, Lodi has a number of small businesses located within the City of Lodi. The main businesses in Lodi, however, are food processes and plastics.

The largest employers in Lodi as of July 30, 2009 are as follows:

### **CITY OF LODI 2009 LARGEST EMPLOYERS**

<b>Employer</b>	<b>Business</b>	<b>Number of Employees</b>
Lodi Unified School District	Education	3,301
Lodi Memorial Hospital	Medical Facility	1,360
Pacific Coast Producers	Food Processing	1,200
Blue Shield	Insurance	850
Cottage Bakery	Food Processing	700
General Mills	Cereal/Food Mix Processing	478
City of Lodi	Governmental Agency	460
Farmers & Merchants Bank	Financial Institution	336
Walmart	Retail Sales	285
Target	Retail Sales	165

Source: City of Lodi Office of Economic Development.



A five-year history of building permits in Lodi is as follows:

**CITY OF LODI  
BUILDING PERMITS  
For Calendar Years 2004-2008  
(Dollar Amounts in Thousands)**

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Residential Valuation (in thousands)					
Single Family	\$53,779	\$85,750	\$20,200	\$4,632	\$1,837
Multifamily	0	1,980	0	1,134	0
<b>TOTAL</b>	<u>\$53,779</u>	<u>\$87,730</u>	<u>\$20,200</u>	<u>\$5,766</u>	<u>\$1,837</u>
New Dwelling Units					
Single Family	262	389	101	25	12
Multiple Family	0	20	0	8	0
<b>TOTAL</b>	<u>262</u>	<u>409</u>	<u>101</u>	<u>33</u>	<u>12</u>

Sources: Economic Sciences Corporation (2004 – 2005); Construction Industry Research Board (2006 – 2008).

A five-year history of assessed valuations in Lodi is as follows:

**CITY OF LODI  
ASSESSED VALUATIONS  
For Fiscal Years 2005 through 2009  
(Dollar Amounts in Thousands)**

<b>Fiscal Year</b>	<b>Land</b>	<b>Improvements</b>	<b>Personal Property</b>	<b>Total</b>	<b>Less Exemptions</b>	<b>Net Assessed Value</b>
2004-05	\$1,107,776	\$2,739,061	\$249,812	\$4,096,649	\$217,077	\$3,879,572
2005-06	1,226,293	2,989,575	258,035	4,473,903	220,590	4,253,313
2006-07	1,431,203	3,327,453	285,340	5,043,996	229,049	4,814,947
2007-08	1,537,554	3,503,186	289,770	5,330,510	243,259	5,087,251
2008-09	1,562,729	3,577,741	281,915	5,422,385	265,154	5,157,231

Source: City of Lodi audited financial statements.

The following chart indicates the growth in the population of the City of Lodi, the County of San Joaquin and the State of California since 1970.

**CITY OF LODI, COUNTY OF SAN JOAQUIN,  
STATE OF CALIFORNIA POPULATION  
(1970–2000 as of April 1; 2005–2009 as of January 1)**

	<b>City of Lodi</b>	<b>Count of San Joaquin</b>	<b>State of California</b>
1970	28,691	291,073	19,971,069
1980	34,850	343,500	23,668,562
1990	51,900	477,700	29,760,021
2000	58,600	563,598	33,873,086
2005	62,330	652,060	36,675,346
2006	62,534	665,157	37,114,598
2007	62,934	675,463	37,559,440
2008	63,362	685,660	38,049,462
2009	63,313	689,480	38,292,687

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Source: U.S. Bureau of Census and State of California, Department of Finance.

### **Litigation**

There is no action, suit or proceeding known to be pending or threatened, restraining or enjoining Lodi in the execution or delivery of, or in any way contesting or affecting the validity of any proceedings of Lodi taken with respect to the Power Sales Agreement.

There is no litigation pending, or to the knowledge of Lodi, threatened, questioning the existence of Lodi, or the title of the officers of Lodi to their respective offices. There is no litigation pending, or to the knowledge of Lodi, threatened, questioning or affecting in any material respect the financial condition of Lodi's electric system.

Present lawsuits and other claims against Lodi's electric system are incidental to the ordinary course of operations of the electric system and are largely covered by Lodi's self insurance program. In the opinion of Lodi's management and the Lodi City Attorney, such claims and litigation will not have a materially adverse effect upon the financial position of Lodi. For a description of the California Energy Market Refund Dispute, see "LITIGATION—California Energy Market Refund Dispute and Related Litigation" in the forepart of this Official Statement.

### **Significant Accounting Policies**

Lodi's Annual Financial Report is audited by Macias, Gini & O'Connell, LLP, Sacramento, California, in accordance with generally accepted auditing standards, and contains opinions that the financial statements present fairly the financial position of the various funds maintained by Lodi. The reports include certain notes to the financial statements which may not be fully described below. Such notes constitute an integral part of the audited financial statements. Copies of these reports are available on request from the City of Lodi, Finance Department, 221 West Pine Street, Lodi, California 95240. Governmental accounting systems are organized and operated on a fund basis. A fund is defined as an independent fiscal and accounting entity with a self balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein. Funds are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations.

The electric system is accounted for as an enterprise fund. Enterprise funds are used to account for operations (i) that are financed and operated in a manner similar to private business enterprises (where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges) or (ii) where the governing body has decided that periodic determination of revenues earned, expenses incurred and/or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

The accounting policies of Lodi conform to generally accepted accounting principles (GAAP) as applicable to governments.

### **Condensed Operating Results and Selected Balance Sheet Information**

The following table sets forth summaries of income and selected balance sheet information of Lodi's electric utility for the five fiscal years ended June 30, 2009. The information for the fiscal years ended June 30, 2005 through June 30, 2009 was prepared by Lodi on the basis of its audited financial statements for such years.

**CITY OF LODI**  
**ELECTRIC UTILITY DEPARTMENT**  
**SUMMARY OF OPERATING RESULTS AND SELECTED BALANCE SHEET**  
**INFORMATION<sup>(1)</sup>**  
**Fiscal Year Ending June 30,**  
**(\$ in 000s)**

<b>OPERATING REVENUES</b>	<b>2005<sup>(2)</sup></b>	<b>2006<sup>(2)</sup></b>	<b>2007<sup>(2)</sup></b>	<b>2008</b>	<b>2009</b>
Rate Revenue	\$53,908	\$59,113	\$65,809	\$65,110	\$65,229
ECA Revenue	--	--	--	4,174	8,771
Other Revenue <sup>(3)</sup>	6,885	1,953	2,056	5,639	1,195
Total Operating Revenues	<u>\$60,793</u>	<u>\$61,066</u>	<u>\$67,865</u>	<u>\$74,923</u>	<u>\$75,195</u>
<b>OPERATING EXPENSES</b>					
Purchased Power	33,069	41,170	43,362	42,862	46,405
Non-Power Costs <sup>(4)</sup>	11,183	9,961	9,622	11,575	11,965
Total Operating Expenses	<u>\$44,252</u>	<u>\$51,131</u>	<u>\$52,984</u>	<u>\$54,437</u>	<u>\$58,370</u>
<b>NET REVENUE</b>	\$16,541	\$ 9,935	\$14,881	\$20,486	\$16,825
Debt Service	<u>(9,041)</u>	<u>(3,613)</u>	<u>(6,327)</u>	<u>(6,266)</u>	<u>(9,960)</u>
Remaining After Debt Service	\$ 7,500	\$ 6,322	\$ 8,554	\$14,220	\$ 6,865
<b>OTHER REVENUES</b>					
<b>(EXPENSES)</b>					
Payments in Lieu of Taxes	(6,349)	(6,050)	(6,779)	(6,873)	(6,942)
Other Changes in Working Capital <sup>(5)</sup>	<u>(484)</u>	<u>(5,192)</u>	<u>(1,562)</u>	<u>--</u>	<u>--</u>
Net Cash Flow Before Capital Expenditure	<u>\$ 667</u>	<u>\$(4,920)</u>	<u>\$ 213</u>	<u>\$7,347</u>	<u>\$ (77)</u>
<b>SELECTED BALANCE SHEET</b>					
<b>INFORMATION:</b>					
Net Plant in Service	\$26,043	\$34,544	\$34,582	\$36,037	\$37,386
Land and Const Work in Progress	\$ 8,700	\$ 3,990	\$ 4,465	\$ 8,314	\$ 6,418
Ending Operating Reserve Balance	\$ 7,342	\$ 3,632	\$ 5,470	\$14,513	\$13,854
Long-Term Debt	\$84,338	\$78,664	\$78,885	\$74,673	\$83,234
Debt Service Coverage Ratio	1.83	2.75	2.35	3.27	1.69

<sup>(1)</sup> Columns may not add to totals due to rounding. Figures shown are calculated in accordance with the documents pursuant to which Lodi's outstanding electric system revenue obligations were issued, which may or may not be on the same basis as Generally Accepted Accounting Principles. See "Indebtedness."

<sup>(2)</sup> Certain amounts have been recast to reflect corrected coverage amounts.

<sup>(3)</sup> Other revenues in Fiscal Year 2005 includes a transfer of \$4.5 million from a rate stabilization account and Fiscal Year 2008 includes \$3.2 million for the layoff of the City's rights in NCPA Combustion Turbine Project Number One to Roseville.

<sup>(4)</sup> Non-power costs include costs of services provided by other departments and does not include depreciation and amortization expense.

<sup>(5)</sup> Consists of non-cash accounting entries.

## **CITY OF SANTA CLARA**

### **Introduction**

Santa Clara is a charter city located in the State of California. Pursuant to its charter, Santa Clara has the power to furnish electric utility service within its service area. In connection therewith, Santa Clara has the powers of eminent domain, to contract, to construct works, to fix rates and charges for commodities or services it provides and to incur indebtedness.

Santa Clara provides electric utility service through its electric department. Santa Clara offers its electricity and energy services through the trademarked name of “Silicon Valley Power.” In addition, Santa Clara provides other city services to its inhabitants, including police and fire protection, and water and sewer service.

The legal responsibilities and powers of Santa Clara, including the establishment of rates and charges, are exercised by the seven-member Santa Clara City Council. The members of Santa Clara City Council are elected city-wide for staggered four year terms. The Santa Clara electric utility department is under the direction of the Director of Electric Utility who, together with certain other senior managers of the electric utility department, is appointed by and reports to the Santa Clara City Manager.

Since 1896, Santa Clara has provided all electric service within an area coterminous with the City of Santa Clara’s boundaries. As of January 1, 2009 Santa Clara had an estimated population of 117,242. For the fiscal year ended June 30, 2009, Santa Clara served 51,993 average customers per month, had total sales of 2,846 GWh and a peak demand of 489.9 MW. Approximately 88% of Santa Clara’s energy sales are made to large commercial and industrial customers.

To provide electric service within its service area, Santa Clara owns and operates an electric system which includes generation, transmission and distribution facilities. Santa Clara also purchases power and transmission services from other providers and participates in other utility type arrangements.

Only the revenues of the Santa Clara electric utility department will be available to pay amounts owed by Santa Clara under the Power Sales Agreement.

The Santa Clara electric utility department’s main office is located at Santa Clara City Hall, 1500 Warburton Avenue, Santa Clara, California 95050, (408) 261-5292. A copy of the most recent annual report of Santa Clara and its electric utility department may be obtained from Michael Pretto, Division Manager, at the above address and telephone number.

### **Power Supply Resources**

The following table sets forth information concerning Santa Clara’s power supply resources and the energy supplied by each during the fiscal year ended June 30, 2009.

**CITY OF SANTA CLARA  
ELECTRIC UTILITY DEPARTMENT  
POWER SUPPLY RESOURCES\***  
(For the Fiscal Year Ended June 30, 2009)

<b>Source</b>	<b>Capacity Available (MW)</b>	<b>Recorded Energy (GWh)</b>	<b>Percent of Total Energy</b>
City-Owned Generating Facilities <sup>(1)</sup>			
Cogeneration	7.0	41.0	1.4%
Stony Creek Hydro System	11.6	13.3	0.4
Gianera Generating Station	49.5	0.0	0.0
Grizzly Project	17.7	19.2	0.6
Don Von Raesfeld Power Plant	147.8	230.7	7.8
Purchased Power: <sup>(2)</sup>			
Western <sup>(3)</sup>	136.0	217.4	7.3
Altamont Wind	17.1	28.5	1.0
G2 (Landfill)	1.6	5.1	0.2
Market Purchases	50.0	1,183.1	39.8
Joint Power Agencies:			
NCPA			
Geothermal Project	71.7	420.5	14.2
Combustion Turbine Project	30.9	0.3	0.0
Hydroelectric Project	93.7	131.9	4.4
M-S-R PPA			
San Juan	51.0	386.4 <sup>(4)</sup>	13.0
Big Horn Wind Energy	105.0	294.0	9.9
Total	<u>790.6</u>	<u>2,971.4</u>	<u>100.0%</u>

\* Columns may not add to totals due to rounding.

(1) Rated or name-plate capacities.

(2) Capacity Available from Purchased Power resources represents entitlements, firm allocations and contract amounts.

(3) Santa Clara purchased varying amounts of capacity from Western during the year.

(4) Figures represent energy delivered to Santa Clara net of sales to market.

Source: City of Santa Clara.

### **Generating Facilities**

**Cogeneration.** Santa Clara owns and operates a cogeneration plant which began operation in 1981. The cogeneration plant provides steam for sale to a paperboard plant in Santa Clara and delivers power to Santa Clara's electric distribution system. Santa Clara upgraded this plant to obtain a new name-plate rating of 7.4 MW, effective July 1995. Fuel for the cogeneration plant (natural gas) is generally acquired under term contracts at prices fixed for the contract term.

**Stony Creek Hydroelectric System.** Santa Clara owns and operates three hydroelectric plants consisting of (i) a 4.9 MW hydroelectric generating plant located at the United States Bureau of Reclamation Stony Gorge Dam near Willows, California, which was completed in 1985, (ii) a 6.2 MW hydroelectric generating plant located at the United States Army Corps of Engineers' Black Butte Dam near Orland, California, which was completed in late 1988, and (iii) a 0.53 MW hydroelectric generating

plant located at the Orland Unit Water Users' Association High Line Canal/South Side Canal drop near the Black Butte dam, which was completed in late 1988.

***Gianera Generating Station.*** Santa Clara owns and operates a nominal 49.9 MW dual fuel (natural gas and fuel-oil) combustion turbine generating plant consisting of two 25 MW units, which were completed in 1986 and 1987, respectively. This generation station is used to help meet Santa Clara's peak load requirements.

***PG&E Grizzly Project.*** Pursuant to a 1990 settlement agreement with PG&E, Santa Clara agreed to finance and own 100% of a 20 MW hydroelectric facility (the "Grizzly Project") located on Grizzly Creek above the North Fork of the Feather River in Plumas County, California. The Grizzly Project operates in combination with the hydroelectric facilities of PG&E's Bucks Creek project. Pursuant to the settlement agreement, Santa Clara became a joint licensee in PG&E's Bucks Creek project. The construction of the Grizzly Project was financed (and refinanced) through the issuance by Santa Clara of electric system revenue bonds. Pursuant to the settlement agreement, PG&E constructed and operates the Grizzly Project, which was placed into operation in November 1993.

Until the date Santa Clara's ownership of the Grizzly Project is terminated (as described below), Santa Clara will own and receive all energy generated by the Grizzly Project, less transmission losses, as described in the settlement agreement (which reflects a contract capacity amount of 17.66 MW).

The Grizzly Project facilities include a tunnel intake structure, surge tank, steel penstock, powerhouse, turbine, transmission line (nominally rated at 115 kV) for interconnection with PG&E's transmission system and certain additional switchyard equipment and related facilities. Annual energy generation of the Grizzly Project is estimated at 57.3 GWh in an average water year and 26.1 GWh in dry years. For the fiscal year ended June 30, 2009, the Grizzly Project generated 19.2 GWh of energy. This reduced amount of generation reflects the continuing drought conditions in 2009.

Pursuant to the settlement agreement, Santa Clara's interest in the Grizzly Project may revert to PG&E under certain limited circumstances. In the event of such reversion, Santa Clara will be reimbursed by PG&E for the fair market value of the project or be reimbursed for costs advanced by Santa Clara as provided in the settlement agreement. The earliest possible reverter date under the settlement agreement is November 18, 2027.

***Don Von Raesfeld Power Plant.*** Santa Clara constructed and placed into commercial operation on March 22, 2005, a 122 MW nominal/147 MW peak, natural gas-fired, combined cycle power plant known as the "Don Von Raesfeld Power Plant" (initially designated by the Santa Clara City Council as the Pico Power Plant). The Don Von Raesfeld Power Plant is located in an industrial area of the city, on the site of Santa Clara's Kifer Receiving Station. The Don Von Raesfeld Power Plant includes its own switchyard, and connects to an existing 115 kV transmission line that currently crosses the plant site. Natural gas for the Don Von Raesfeld Power Plant is delivered through an approximately two mile gas pipeline from the local transmission main of PG&E. For the fiscal year ended June 30, 2009, the Don Von Raesfeld Power Plant generated 230.7 GWh of energy. Santa Clara has long-term agreements with Shell Energy North America and M-S-R Energy Authority (see "Joint Power Agency Resources – M-S-R Energy Authority" below) in place for a significant portion of the Plant's fuel requirement, and actively manages the quantity and price risks associated with fuel supply quantities not under long-term agreement. Fully baseloaded, the Plant could generate approximately 1,000 GWh of energy per year. However, Santa Clara substitutes market purchases when it is economical to do so.

## **Joint Powers Agency Resources**

***NCPA Geothermal Project.*** Santa Clara has purchased from NCPA, pursuant to power sales contracts, 54.65% and 34.13% entitlement shares, respectively, in the capacity of NCPA's Geothermal Project and is obligated to pay 44.39% of the debt service and operating costs associated with such plants and steam field. Santa Clara is currently taking delivery of its share of the capacity and associated energy from the Geothermal Project. For the fiscal year ended June 30, 2009, Santa Clara received 420.5 GWh of electric energy from the Geothermal Project. Santa Clara's share of the current ISO rated capacity of the project is 71.7 MW.

Santa Clara has a 55 MW share in NCPA's Geysers Transmission Project, which provides a link from the Geysers to PG&E's bulk transmission system. Through a long-term contract with the California Department of Water Resources, sufficient additional transmission capability on the same line is available for the balance of Santa Clara's share of the capacity and energy produced by the NCPA Geothermal Project. Santa Clara obtains additional transmission services to Santa Clara for its share of the output of NCPA Geothermal Project from arrangements with PG&E and the ISO.

***NCPA Combustion Turbine Project No. 1.*** Santa Clara has a 25% entitlement share in NCPA's Combustion Turbine Project No. 1 pursuant to a power sales contract, which has recently been amended to reflect that Santa Clara's 25% share comes specifically from the two Alameda plants and the one Lodi plant. Santa Clara uses this entitlement for capacity reserves and to meet peak load requirements. Santa Clara delivers this entitlement to its electric system in accordance with California ISO tariffs. For the fiscal year ended June 30, 2009, the City received 274 MWh of electric energy from the Combustion Turbine Project.

***NCPA Hydroelectric Project.*** Pursuant to a power sales contract, Santa Clara has purchased from NCPA a 37.02% entitlement share in NCPA's Hydroelectric Project (including a 1.16% entitlement share laid off to Santa Clara from the cities of Biggs and Gridley). Santa Clara is using this entitlement to serve peak load and to provide capacity to support non-firm purchases of energy at market prices. For the fiscal year ended June 30, 2009, Santa Clara received 131.9 GWh of electric energy from the NCPA Hydroelectric Project. Prior to September 1, 2002, Santa Clara had been receiving this entitlement to its system by using transmission service available from PG&E pursuant to the 1983 Interconnection Agreement. Beginning on September 1, 2002, Santa Clara has been utilizing such transmission service under its Metered Subsystem Agreement ("MSS Agreement") with the ISO.

For a description of such NCPA resources, see "OTHER NCPA PROJECTS" in the forepart of this Official Statement.

***TANC California-Oregon Transmission Project.*** Santa Clara is a member of the Transmission Agency of Northern California ("TANC") and has executed the TANC Agreement for a participation percentage of TANC's entitlement of COTP transfer capability. Santa Clara participated in the acquisition of an increased share of transfer capability of the COTP in connection with the acquisition by TANC in April 2008 of the COTP transmission assets (approximately 121 MW) of the City of Vernon, California ("Vernon"), one of the original owners of the COTP. TANC utilized a combination of cash and the issuance of commercial paper to fund the acquisition of Vernon's COTP transmission assets (the "Vernon acquisition debt"). Santa Clara, as well as the other acquiring TANC Members, began scheduling the new COTP transmission transfer capability on April 8, 2008. Pursuant to the TANC Agreement, Santa Clara is obligated to pay 20.47% of TANC's COTP operating and maintenance expenses and 20.70% of TANC's COTP debt service and 22.16% of the Vernon acquisition debt. Santa Clara is entitled to 20.4745% of TANC's share of COTP transfer capability (approximately 278 MW net of third party layoffs of TANC) on an unconditional take-or-pay basis. Santa Clara is using a portion of



its share of the project transfer capability of the COTP to provide transmission of energy generated from the Big Horn Project and Santa Clara's share of the SCL-NCPA Exchange Agreement (described below under "Purchased Power"). Santa Clara also participates with other TANC Members in offering unused and unencumbered transfer capability for use by other entities in an open and efficient manner in accordance with TANC posted tariffs. The costs and operation of the COTP are impacted by various FERC proceedings. Santa Clara management does not believe any of these proceedings are material to its operations or its operating performance.

***Tesla–Midway Transmission Service.*** TANC and certain TANC Members have arranged for PG&E to provide TANC and such TANC Members with 300 MW of firm bi-directional transmission capacity on its transmission system between the Midway Substation and the electric systems of the TANC Members (the "Tesla Midway Transmission Service") under an agreement known as the South of Tesla Principles. Santa Clara's share of Tesla–Midway Transmission Service is 81 MW. Santa Clara has utilized its full allocation of Tesla–Midway Transmission Service for firm and non-firm power transactions.

Santa Clara anticipates continuing to use its share of the TANC Tesla–Midway Transmission Service to provide access to power supplies located in the southwest, including delivery of power and energy from the San Juan Unit No. 4. See "M-S-R Purchased Power–San Juan" below. Santa Clara has agreed with SMUD to layoff 30 MW of its capacity of the Tesla-Midway Transmission Service, for the period beginning January 1, 2009 and going through June 30, 2013, to more closely align its service with that needed for the delivery of energy from San Juan Unit No. 4. The layoff will allow Santa Clara to procure more Congestion Revenue Rights in the ISO allocation process thus allowing Santa Clara to more effectively hedge congestion exposure under the ISO MRTU design.

***M-S-R PPA Purchased Power–San Juan.*** Santa Clara, along with the Modesto Irrigation District ("Modesto") and the City of Redding ("Redding"), is a member of a California joint powers agency known as the M-S-R Public Power Agency ("M-S-R PPA"). M-S-R PPA owns a 28.8% (approximately 146 MW) interest in the San Juan Unit No. 4 (the "M-S-R San Juan Unit No. 4 Interest"). The San Juan Unit No. 4 is a coal-fired steam electric generating unit with a net generating capability of 507 MW, located in San Juan County, New Mexico, which was constructed and is operated by Public Service Company of New Mexico ("PNM"). The San Juan Unit No. 4 is one of four generating units that together make up the San Juan Generation Station. M-S-R PPA financed the acquisition of the San Juan Resource through the issuance of revenue bonds. See "Indebtedness" below.

Santa Clara has purchased from M-S-R PPA a 35% entitlement share in the M-S-R San Juan Unit No. 4 Interest pursuant to a power sales agreement (the "M-S-R Agreement"), which includes approximately 51.1 MW of capacity and associated energy from the M-S-R PPA San Juan Unit No. 4 Interest. Pursuant to the M-S-R Agreement, Santa Clara, in exchange for its above-mentioned percentage purchased, is unconditionally obligated to pay its share of all of M-S-R's costs associated with M-S-R San Juan Unit No. 4 Interest, including debt service on revenue bonds which were issued to finance the acquisition of the M-S-R PPA San Juan Unit No. 4 Interest.

Santa Clara uses its M-S-R PPA San Juan Unit No. 4 Interest capacity and energy in its own system or for short-term lay offs to others based upon monthly economic dispatch considerations. M-S-R PPA obtains firm transmission to transmit to the M-S-R PPA members the capacity and energy of the M-S-R PPA San Juan Unit No. 4 Interest through firm transmission service agreements executed with Los Angeles Department of Water and Power ("LADWP") and Southern California Edison Company ("SCE") and via the M-S-R PPA Southwest Transmission Project (described below). For the fiscal year ended June 30, 2009, Santa Clara received 386.4 GWh of energy from the San Juan Project.

In connection with various Assembly Bill 32 (“AB 32”) proposals under consideration to reduce greenhouse gas emissions, M-S-R PPA may be required to account for carbon emissions of the San Juan Unit No. 4 and provide off-setting allowances thereto. See “DEVELOPMENTS IN THE ENERGY MARKETS—State Legislation—Greenhouse Gas Emissions” in the forepart of this Official Statement.

***M-S-R PPA Southwest Transmission Project.*** The Southwest Transmission Project consists of M-S-R PPA’s acquisition of an interest in a 500 kV alternating current transmission project between the central Arizona area and the Los Angeles basin and certain other transmission facilities and arrangements to provide for the delivery of power and energy from the San Juan Unit No. 4 Interest to the M-S-R PPA members’ systems in Northern California. Under the M-S-R Agreement, Santa Clara is unconditionally obligated for 35% of the costs of the M-S-R PPA Southwest Transmission Project, subject to certain step up provisions. Transmission service from the Midway Substation to Santa Clara’s electric system is provided by the TANC Tesla–Midway Service. See “Tesla–Midway Transmission Service” above. M-S-R PPA financed the acquisition of the Southwest Transmission Project through the issuance of San Juan Project revenue bonds. See “Indebtedness” below.

***M-S-R PPA Purchased Power–Big Horn Project.*** In 2005, M-S-R PPA entered into a series of power purchase agreements with Iberdrola Renewables, Inc. (formerly PPM Energy, Inc.) (“Iberdrola”), certain of which agreements have been assigned to Iberdrola’s subsidiary, Big Horn I, LLC., for the purchase of energy from the Big Horn wind energy project located near the town of Bickleton, in Klickitat County, Washington. Santa Clara receives 52.5% of the power purchased by M-S-R PPA from the Big Horn Project. Santa Clara’s share equates to approximately a 105 MW share of the output at a cost comparable to combined cycle gas-fuel generation. Power deliveries commenced on October 1, 2006 and will continue through September 30, 2026. For the fiscal year ended June 30, 2009, Santa Clara received 294.0 GWh of energy from the Big Horn Project. Santa Clara uses a portion of its transfer capability of the COTP to provide for transmission of the output from the Big Horn Project from the California-Oregon border.

More recently, M-S-R PPA negotiated a 25-year agreement with Iberdrola for the purchase of the output from a 50 MW expansion of the Big Horn Project, the Big Horn II Project. Santa Clara will receive 35% of the output from this project, or approximately 17.5 MW, starting in 2010.

***M-S-R Energy Authority – Gas Prepay.*** In 2009, Santa Clara participated in the M-S-R Energy Authority (“M-S-R EA”) Gas Prepay Project. The Gas Prepay Project provides, through a Gas Supply Agreement between M-S-R EA and Santa Clara, for a secure and long-term supply of natural gas of 7,500 MMBtu daily (or 2,730,500 MMBtu annually) through December 31, 2012, and 12,500 MMBtu daily (or 4,562,500 MMBtu annually) thereafter until September 30, 2039. The Gas Supply Agreement provides this supply at a discounted price below the monthly market index price (the PG&E Citygate index) over the next 30 years. M-S-R EA entered into a prepaid gas purchase agreement with Citigroup Energy, Inc. (“CEI”) to provide this gas supply, and issued \$500.2 million of its Gas Project Revenue Bonds to finance the prepayment for Santa Clara. Under the terms of the Gas Supply Agreement, M-S-R EA will bill Santa Clara for actual quantities of natural gas delivered each month on a “take-and-pay” basis. NCPA has no responsibility for the payment of debt service on the M-S-R EA Bonds. Moreover, any default by the other participants in M-S-R EA’s Gas Prepay Project, Modesto and Redding, is non-recourse to Santa Clara.

## **Purchased Power**

***Western Purchased Power.*** On December 14, 2000, Santa Clara signed a 20-year agreement with Western Area Power Administration (“Western”) for the continued purchase of low-cost hydroelectricity from the Central Valley Project (“CVP”), replacing a prior agreement which expired

December 31, 2004. The CVP, for which Western serves as marketing agency, is a series of federal hydroelectric facilities in Northern California operated by the United States Bureau of Reclamation. Service under the successor agreement began on January 1, 2005 and continues through December 31, 2025, with Santa Clara receiving a 9.06592% “slice of the system” allocation from Western. The power marketed by Western to Santa Clara is provided on a take-or-pay basis where Western’s annual costs are allocated to preference customers based on their CVP participation percentage. Western then allocates the annual take-or-pay charges to the preference customers based on a monthly percentage that is designed to reflect the anticipated seasonal energy deliveries. Santa Clara is obligated to its preference customer share (9.06592%) of the costs associated with operating the CVP facilities. Under the successor agreement, Santa Clara’s energy allocation dropped from pre-2005 levels of approximately 1,257 GWh to about 359 GWh per year delivered to Santa Clara based upon the hydrology of the CVP. For the fiscal year ended June 30, 2009, Santa Clara received 217.4 GWh of energy from Western. This amount was lower than originally forecast due to dry year conditions. Santa Clara’s Don Von Raesfeld power project, which commenced operation on March 22, 2005, was designed, in part, to offset the expected decrease in energy to be received from Western under the successor agreement beginning in 2005. See “Generating Facilities - Don Von Raesfeld Power Plant” above.

***AES Seawest Purchased Power-Altamont Wind Project.*** In 2006, Santa Clara and AES Seawest Inc. entered into five-year land lease and power purchase agreements, whereby AES Seawest Inc. rents 691 acres in the Altamont area of Alameda County from Santa Clara and sells wind power generated on the rented land to Santa Clara. The AES Seawest Inc. arrangement adds approximately 1 percent of eligible renewable energy to Santa Clara’s annual power mix. The windplant achieved commercial operation on May 3, 2007. AES Seawest Inc. operates and maintains the windplant facility which includes 200 small wind turbines, approximately 100 kW each. Santa Clara acts as the Scheduling Coordinator for the facility and schedules the output from the facility into the ISO Participating Intermittent Resource Program, and the resulting energy is then traded to the NCPA Scheduling Coordinator portfolio which serves Santa Clara’s load. For the fiscal year ended June 30, 2009, Santa Clara received 28.5 GWh of energy from the Altamont Wind Project.

***Seattle City Light (“SCL”) NCPA Exchange Agreement.*** In 2008, Santa Clara took over a share of the SCL-NCPA Exchange Agreement from certain other NCPA members. This will result in Santa Clara receiving 32.6 MW from SCL during the months of June through October each year, as well as obligating Santa Clara to provide 25 MW to SCL from December through mid-April each year. See “OTHER NCPA PROJECTS—Power Purchase Contracts” in the forepart of this Official Statement.

***Other Agreements.*** In 2008, Santa Clara entered into fixed price purchase agreements with five creditworthy counterparties for a total of 106.5 average MW of energy to be delivered in peak periods and 100 MW of energy to be delivered in off-peak periods during 2009. The delivery points were either COB or NP15. No similar agreements have been undertaken in 2010. Santa Clara also has entered into a power purchase agreement for, and began taking delivery of energy in January 2009 from, a 1.6 MW landfill gas facility, G2, near Wheatland, California. For the fiscal year ended June 30, 2009, Santa Clara received 5.1 GWh of energy from the G2 project.

## **Future Power Supply Resources**

Santa Clara’s current resources are anticipated to provide Santa Clara with sufficient capacity reserves. Santa Clara’s participation in the Lodi Energy Center will displace wholesale purchases at market prices with a cost-based resource. The capacity and energy the Lodi Energy Center are expected to provide an efficient and cost-effective power supply that will also complement Santa Clara’s existing hydroelectric and renewable resources.

In addition to its participation in the Lodi Energy Center Project, Santa Clara will generally meet additional long-term energy and capacity needs through long-term agreements with creditworthy energy providers, or through participation in other power supply projects, as required. Santa Clara is also pursuing power purchase agreements with several other new, small renewable energy projects. Santa Clara will continue to use portfolio and risk management strategies to manage its performance. See “Wholesale Power Trading” below.

### **Wholesale Power Trading**

For a number of years, Santa Clara has used its energy and transmission resources together with its power scheduling capabilities to buy and sell energy in the western North American market. As deregulation unfolded, a greater need to manage resources on a day-to-day basis evolved, resulting in a more comprehensive approach to trading operations at Santa Clara. The principal reason for wholesale power trading is to optimize the value of the utility’s assets and cost-effectively serve its retail load. For fiscal years ended June 30, 2005, 2006, 2007, 2008 and 2009 net trading revenues (wholesale power sales revenues less wholesale power purchase costs) were approximately \$4.4 million, \$5.7 million, \$7.6 million, \$(5.6) million and \$(8.4) million, respectively.

The Santa Clara City Council has approved a Risk Management Policy to provide policy guidance with respect to its wholesale power activities. In addition, Santa Clara has implemented procedures and regulations pursuant thereto (referred to collectively with the Risk Management Policy as the “Policy and Procedures”) that are designed to establish the parameters under which trading operations may occur. The Policy and Procedures are intended to: (a) provide a common risk management infrastructure to facilitate management control and reporting; (b) create a procedure to evaluate the creditworthiness of the counterparties, and to monitor and manage the aggregate credit exposure; (c) establish a corporate culture exemplifying best practices in risk management; (d) create a mechanism to identify market-related opportunities within Santa Clara’s overall exposure balance or “book” and opportunities to internalize related transactions; and (e) develop an effective, streamlined ability to timely commit to transactions. The Policy and Procedures also establish a Risk Oversight Committee (composed of the Santa Clara City Manager, the Director of Finance, the Director of Electric Utility and the Santa Clara City Attorney) and a Risk Management Committee, to oversee all proposed power purchase agreements, whether for retail or wholesale purposes.

Pursuant to the Policy and Procedures guidelines, Santa Clara has established regulations approved by the Risk Oversight Committee to govern the various functions of its trading operations. The guidelines establish, among other things, acceptable counterparty creditworthiness standards and requirements for limits on credit exposure to any individual counterparty. Most of the purchase and sale transactions entered into by the power trading operation are for 92 days or less.

### **Interconnections, Transmission and Distribution Facilities**

Santa Clara’s service area is surrounded by a portion of PG&E’s service area and the two systems are interconnected at two Santa Clara-owned 115 kV receiving stations – Northern Receiving Station (“NRS”) and Kifer Receiving Station (“KRS”), each located within Santa Clara’s city limits. In addition, Santa Clara has a 230 kV interconnection with PG&E at PG&E’s Los Esteros Substation (“LES”) in the City of San Jose. Power received at LES is transmitted by Santa Clara approximately six miles to NRS. Santa Clara owns facilities for the distribution of electric power within its city limits (approximately 19.3 square miles), which includes approximately 28 miles of 60 kV power lines, approximately 450 miles of 12 kV distribution lines (approximately 64% of which are underground), and 15 substations. Santa Clara’s electric system experiences approximately 0.5 to 1.5 hours of outage time per customer per year.

This compares favorably with other utilities in California with reliability factors ranging from 1.0 to 2.5 hours outage per customer per year.

Historically, PG&E provided interconnection, partial power and other support services to Santa Clara under an interconnection agreement. Beginning March 31, 1998, the operation of the transmission facilities owned by California's investor-owned utilities, including PG&E, was undertaken by the ISO. In July 2002, FERC approved a series of agreements between Santa Clara, PG&E, the ISO and NCPA (which acts as scheduling coordinator for Santa Clara) to replace the Santa Clara's interconnection agreement with PG&E and to allow Santa Clara to operate within the ISO control area.

To the extent Santa Clara requires transmission/ancillary/power services beyond those contained in other remaining existing contracts or from Santa Clara's own generating resources, Santa Clara will procure such transmission/ancillary/power services from the ISO or via the ISO's markets.

Santa Clara is unable to predict how future industry changes, including (i) implementation of the ISO's market redesign effort (MRTU), which went into effect on April 1, 2009 (see "OTHER FACTORS AFFECTING THE ELECTRIC UTILITY INDUSTRY - ISO FERC Filings" in the forepart of this Official Statement), and (ii) the State's resources adequacy plans, especially those concerning renewable fuels, greenhouse gas limitations, new transmission facilities to serve potential renewable energy projects and local resource adequacy requirements, will affect future costs for the purchase of services under its interconnection, scheduling and ISO agreements.

## **Employees**

As of June 30, 2009, Santa Clara had approximately 144 budgeted employees for its electric utility department. All of these electric utility department employees are represented either by the International Brotherhood of Electrical Workers ("IBEW") or one of three employees' associations, in matters pertaining to wages, benefits and working conditions. Santa Clara has reached new labor agreements with the three employee associations and the IBEW, each with an effective date of December 14, 2008. The current labor agreements with the three employee associations expire on December 24, 2011. The current agreement with the IBEW expires on December 22, 2012. There have been no strikes or other union work stoppages at Santa Clara, including its electric utility department.

Santa Clara's permanent employees, including those in the electric utility department, are covered by the Miscellaneous Plan public agency contract between Santa Clara and the California Public Employees Retirement System ("CalPERS"). The cost of the pension is funded through bi-weekly contributions from employees and from employer contributions by Santa Clara. As of June 30, 2007 (the latest date for which actuarial information is available), the total actuarial accrued liability for Santa Clara was \$376,099,469 for the Miscellaneous Plan, the actuarial value of plan assets was \$308,331,733, and Santa Clara had an unfunded liability of \$67,767,736.

According to a preliminary actuarial report prepared by Bartel Associates, LLC, dated June 30, 2008, the actuarial accrued liability of Santa Clara for post-employment healthcare benefits was \$27.9 million. Santa Clara has established an irrevocable trust and has funded the fiscal year 2008-09 actuarially required contribution.

## **Rates and Charges**

The Santa Clara City Council is authorized by the City Code of the City of Santa Clara to set charges, pay for and supply all electric energy and power to be furnished to customers according to such schedules, tariffs, rules and regulations as are adopted by the Santa Clara City Council. The authority of

Santa Clara to impose and collect rates and charges for electric power and energy is not subject to the regulatory jurisdiction of the California Public Utilities Commission (“CPUC”) or any other regulatory authority. For the calendar years 2001-2005, Santa Clara rates were unchanged and averaged 7.8 cents per kWh. In December 2005, the City Council adopted a 5% rate increase effective January 2006, and a further 5% increase effective July 2006. The primary reason for this increase was the rise in cost and use of fuel for electric generation, combined with a significant reduction in energy available from Western. For calendar year 2007, Santa Clara maintained rates at year-end 2006 levels. Santa Clara was able to avoid a rate increase due to its significant cash reserves, which are permitted to be included in satisfying its rate covenants to its bondholders. On December 4, 2007, the City Council approved a rate increase of 3% in January 2008 and 3% in January 2009. On December 8, 2009, the City Council approved a rate increase of 7% in January 2010 and 7% in January 2011. See “Cash Reserves” below.

### **Largest Customers**

The ten largest customers of Santa Clara’s electric utility department, in terms of kWh sales for the fiscal year ended June 30, 2009 accounted for 40.9% of total kWh sales and 35.0% of revenues. Santa Clara is heavily dependent upon its industrial customers, which comprise approximately 88% of its load and 86% of its revenues (in fiscal year 2008-09). For reference, Santa Clara’s industrial category includes all customers using more than 8,000 kWh per month. For many years, Santa Clara has been home to a number of the world’s best known “high tech” firms involved in the design and production of computers and software. In the past few years, some of these firms have shifted production away from Santa Clara; however, this shift has been more than offset by the development of numerous data centers established to serve the data needs of corporate offices and of internet-related businesses.

To help retain its industrial customers, and thus assure the stability of Santa Clara’s electric sales and revenue, Santa Clara has entered into power purchase contracts with a number of its largest customers. Currently, twelve customers, representing approximately 39% of Santa Clara’s electric utility load and approximately 32% of annual sales revenues, are under contract. The contracts have varied terms, with expirations ranging from 2010 through 2014. No existing customer contract has a term exceeding five years.

### **Renewable Energy and Energy Efficiency**

A significant portion of the energy received by Santa Clara customers comes from renewable energy. Santa Clara’s power mix in calendar year 2009 consisted of 25% percent eligible renewable resources. When large hydroelectric resources are included, Santa Clara’s power mix consisted of 43% renewable and large hydroelectric. On November 18, 2008, the Santa Clara City Council adopted revisions to Santa Clara’s Environmental Stewardship and Renewable Portfolio Standard (RPS) Policy Statement. Essentially, the revised policy expands Santa Clara’s commitment to renewable energy by targeting 33% of Santa Clara’s energy needs to be served by renewable resources (not including “large hydro”) by 2020.

Santa Clara’s energy efficiency programs are separated into residential and business programs, with the majority of funding toward its largest customer segment - the business sector. Total Public Benefits Charge funds are about \$8 million per year. Residential programs include rate assistance for low-income customers, energy efficiency rebates (refrigerators, dishwashers, whole house fans, LCD computer monitors, attic insulation, and lighting), solar electric installations, energy audits, and programs for schools and libraries. Business programs include energy audits, installation management for small companies, rebates for a wide variety of equipment (lighting, air conditioning systems, chillers, programmable thermostats, washing machines, motors, new construction, photovoltaic systems and

customized installations), and design and construction assistance. Over 920 million kilowatt hours in savings have been achieved since 1998.

### Customers, Energy Sales, Revenues and Demand

The average number of customers, kWh sales and revenues derived from sales, by classification of service, and peak demand during the past five fiscal years, are listed below.

**CITY OF SANTA CLARA  
ELECTRIC UTILITY DEPARTMENT  
CUSTOMERS, SALES, REVENUES AND DEMAND  
(Fiscal Year Ended June 30)**

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Number of Customers:					
Residential	41,421	42,139	42,759	43,182	43,618
Commercial	5,780	5,838	5,867	5,862	5,900
Industrial	1,955	1,932	1,932	1,931	1,916
Other	538	543	553	558	559
Total	<u>49,694</u>	<u>50,452</u>	<u>51,111</u>	<u>51,533</u>	<u>51,993</u>
Kilowatt-hour Sales (000):					
Residential	227,958	234,464	243,747	246,115	245,884
Commercial	86,323	87,815	87,960	85,396	84,526
Industrial	2,090,777	2,263,441	2,455,735	2,481,277	2,492,849
Other	20,241	20,002	21,076	22,556	22,363
Total	<u>2,425,299</u>	<u>2,605,722</u>	<u>2,808,518</u>	<u>2,835,344</u>	<u>2,845,622</u>
Charges from Sale of Energy (000) <sup>(1)</sup> :					
Residential	\$ 17,846	\$ 18,824	\$ 21,063	\$ 21,682	\$ 22,270
Commercial	9,617	9,987	10,752	10,612	10,788
Industrial	157,088	172,473	200,332	205,753	215,688
Other	1,803	1,852	2,031	2,130	2,192
Total <sup>(2)</sup>	<u>\$186,354</u>	<u>\$203,136</u>	<u>\$234,178</u>	<u>\$240,177</u>	<u>\$250,938</u>
Peak Demand (MW)	400.7	461.2	486.5	479.6	489.9

<sup>(1)</sup> Differs from Operating Revenues in Financial Operating Results and Balance Sheet information due to: (i) timing differences in accruals and billings; and (ii) exclusion of non-consumption based revenues.

<sup>(2)</sup> Includes public benefits charge and grid management charge revenues.

Source: City of Santa Clara.

### Capital Requirements

Santa Clara expects net capital requirements for the next five fiscal years to aggregate up to \$88 million. Such improvements include distribution system improvements and replacements of approximately \$60 million, including several new distribution substations and significant upgrades to its internal bulk distribution loops and distribution feeders. These distribution facilities are needed to meet

increased capacity requirements of new and existing customers. They are expected to be financed through a combination of load development fees, funds from Santa Clara's available cash reserves, and electric revenues.

## **Indebtedness**

***Senior Lien Obligations.*** As of June 1, 2010, Santa Clara had no outstanding senior lien electric revenue bonds. Santa Clara has covenanted not to issue any additional senior bonds or other obligations.

***Subordinated Lien Obligations.*** As of June 1, 2010, Santa Clara had outstanding subordinate lien electric revenue bonds in the aggregate principal amount of \$223.3 million, payable from net revenues of the electric system. Such outstanding subordinate lien electric revenue bonds are comprised of \$1.0 million aggregate principal amount of outstanding Subordinated Electric Revenue Refunding Bonds, Series 1998 A, \$86.4 million aggregate principal amount of outstanding Subordinated Electric Revenue Bonds, Series 2003 A, \$49.7 million aggregate principal amount of outstanding Subordinated Electric Revenue Bonds, Series 2008 A (the "Series 2008 A Bonds") and \$86.2 million aggregate principal amount of outstanding Subordinated Electric Revenue Refunding Bonds, Series 2008 B (the "Series 2008 B Bonds"). Each of the Series 2008 A Bonds and the Series 2008 B Bonds are variable rate obligations secured by letters of credit. Bank of America, N.A. provided the letter of credit for the Series 2008 A Bonds and Dexia Credit Local provided the letter of credit for the Series 2008 B Bonds. Santa Clara has entered into reimbursement agreements with such letter of credit banks in connection with the issuance of each letter of credit, pursuant to which it is obligated to repay the banks for amounts drawn under the letters of credit. The interest rate payable by Santa Clara for unreimbursed draws under the letters of credit may be considerably higher than the interest rate on the bonds. While Santa Clara may attempt to refinance the bonds to avoid this additional debt burden, there can be no assurance that Santa Clara will have access to the debt markets. Prior to the issuance of the Series 2008 B Bonds, Santa Clara entered into an interest rate swap agreement (the "Swap Agreement") with Bear Stearns Capital Markets Inc., which agreement has been novated to JPMorgan Chase Bank, N.A. (the "Swap Provider"). Under the Swap Agreement, Santa Clara is obligated to make payments to the Swap Provider calculated on the basis of a fixed rate of 3.470% while it is to receive from the Swap Provider payments based upon 65% of the one month London InterBank Offering Rate. Santa Clara's obligation to make any net regularly scheduled payments due to the Swap Provider under the Swap Agreement is payable from subordinated net revenues of the electric system on a parity with its other outstanding subordinated electric bonds. Under certain circumstances, the Swap Agreement may be terminated and Santa Clara may be required to make a termination payment to the Swap Provider. Any such termination payment owed by Santa Clara would be payable from net revenues of the electric system subordinate to Santa Clara's outstanding electric revenue bonds.

***Joint Powers Agency Obligations.*** As previously discussed, Santa Clara participates in several joint powers agencies, including M-S-R PPA and TANC as well as NCPA, which have issued indebtedness to finance the costs of certain projects on behalf of their respective project participants. Obligations of Santa Clara under its agreements with respect to TANC, NCPA and M-S-R PPA constitute operating expenses of Santa Clara's electric system payable prior to any of the payments required to be made on Santa Clara's electric revenue bonds described above. Agreements with TANC, NCPA and M-S-R PPA are on a "take-or-pay" basis, which requires payments to be made whether or not projects are completed or operable, or whether output from such projects is suspended, interrupted or terminated. Other than the agreement with M-S-R EA, these agreements contain "step-up" provisions obligating Santa Clara to pay a share of the obligations of a defaulting participant. As described herein, Santa Clara also participates in M-S-R EA and has certain payment obligation in connection therewith which constitute operating expenses of Santa Clara's electric system. However, Santa Clara's payment obligation to M-S-R EA is with respect to actual quantity of natural gas delivered each month on a take-



and-pay (rather than take-or-pay) basis. Responsibility for bond repayment is non-recourse to Santa Clara. See “Joint Powers Agency Resources – M-S-R Energy Authority – Gas Prepay” above.

Santa Clara’s participation and share of debt service obligation (without giving effect to any “step-up” provisions) for the TANC, NCPA and M-S-R PPA projects in which it participates are shown in the following table.

**CITY OF SANTA CLARA  
ELECTRIC UTILITY DEPARTMENT  
OUTSTANDING DEBT OF JOINT POWERS AGENCIES  
(as of June 1, 2010)  
(Dollar Amounts in Millions)**

	<b>Outstanding Debt</b>	<b>Santa Clara Participation<sup>(1)</sup></b>	<b>Santa Clara Share of Outstanding Debt</b>
M-S-R PPA			
San Juan Unit No. 4	\$336.3	35.00%	\$117.7
Southwest Transmission Project	44.2	35.00	15.5
NCPA			
Geothermal	63.2	44.39	28.1
Combustion Turbine Project No. 1	4.1	25.00	1.0
Calaveras Hydroelectric Project	458.4	37.02 <sup>(3)</sup>	169.7
TANC			
Bonds	421.4	20.84 <sup>(4)</sup>	87.8
<b>TOTAL*</b>	<b>\$1,327.6</b>		<b>\$419.8</b>

\* Columns may not add to totals due to independent rounding.

(1) Participation based on actual debt service obligation. Participation obligation is subject to increase upon default of another Participant. Such increase shall not exceed, without written consent of a non-defaulting participant, an accumulated maximum of 25% of such non-defaulting participant’s original participation.

(2) Santa Clara portion only.

(3) Includes 1.16% additional share purchased from other NCPA participants.

(4) Includes share of Vernon acquisition debt.

Source: City of Santa Clara Electric Utility Department.

For the fiscal year ended June 30, 2009, Santa Clara’s obligation for debt service on its joint powers agency aggregated obligations was approximately \$44.4 million. Debt service on joint powers agency obligations is expected to be approximately \$48.2 million in fiscal year 2010-11, but is expected to decline to approximately \$8.2 million in fiscal year 2025-26. This projection assumes that there are no future debt issuances, that swap counterparties on interest rate hedges continue to perform (all of Santa Clara’s variable rate joint powers agency debt obligations are hedged). Santa Clara manages the total amount of variable rate debt exposure for its electric utility (including both direct and joint powers agency debt), and, by policy, has targeted up to approximately 25% as the appropriate variable rate exposure. Unreimbursed draws under liquidity arrangements supporting joint powers agency variable rate debt obligations bear interest at a maximum rate substantially in excess of the current interest rates on such variable rate debt obligations. Moreover, in certain circumstances, the failure to reimburse draws on the liquidity agreements may result in the acceleration of scheduled payment of the principal of such variable rate joint powers agency obligations. In connection with certain of such joint power agency obligations,

the respective joint powers agency has entered into interest rate swap agreements relating thereto for the purposes of substantially fixing the interest cost with respect thereto. There is no guarantee that the floating rate payable to the respective joint powers agency pursuant to each of the interest rate swap agreements relating thereto will match the variable interest rate on the associated variable rate joint powers agency debt obligations to which the respective interest rate swap agreement relates at all times or at any time. Under certain circumstances, the swap providers may be obligated to make payments to the applicable joint powers agency under their respective interest rate swap agreement that is less than the interest due on the associated variable rate joint powers agency debt obligations to which such interest rate swap agreement relates. In such event, such insufficiency will be payable from the obligated joint powers agency members (a corresponding amount of which proportionate to its debt service obligations to such joint powers agency could be due from Santa Clara). In addition, under certain circumstances, each of the swap agreements is subject to early termination, in which event the joint powers agency could be obligated to make a substantial payment to the applicable swap provider (a corresponding amount of which proportionate to its debt service obligations to such joint powers agency could be due from Santa Clara).

### **Cash Reserves**

Santa Clara maintains cash reserves for a number of reasons, including operating cash requirements, construction cash requirements, dealing with the cost impacts of dry hydroelectric conditions, gas and electric market volatility, and allowing Santa Clara the flexibility to increase rates on a scheduled basis. The Cost Reduction Fund is used to manage the cost impacts of dry year hydroelectric conditions and gas and electric market volatility, as well as the scheduling of rate increases. As of June 30, 2009, there was approximately \$98.7 million in the Cost Reduction Fund.

In addition to the Cost Reduction Fund, Santa Clara established a Rate Stabilization Fund (the "Rate Stabilization Fund"). Amounts in the Rate Stabilization Fund are available to pay costs of the electric utility subject to certain terms and conditions. As of June 30, 2009, approximately \$25.0 million was on deposit in the Rate Stabilization Fund. Further, in fiscal year 2001-02, Santa Clara established a policy of maintaining an additional cash reserve in the minimum amount of \$65 million in operating cash which is equal to approximately two months' retail and wholesale cash requirements. As of June 30, 2009, Santa Clara had unrestricted operating cash reserves of \$72.7 million. In addition, Santa Clara had \$64.0 million of cash reserves designated for construction purposes. Thus, as of June 30, 2009, Santa Clara's electric utility had restricted and unrestricted cash reserves totaling approximately \$260.4 million.

Collectively, these reserves are designed to help insulate Santa Clara from market volatility. In addition, Santa Clara's bond indentures permit the use of unrestricted cash balances and reserves (including Santa Clara's Cost Reduction Fund and its Rate Stabilization Fund) to satisfy Santa Clara's rate covenants with its bond holders. In fiscal year 2002-03, Santa Clara designated \$29.4 million in unrestricted funds for non-bond funded extension and improvement purposes. In fiscal year 2004-05, Santa Clara utilized \$36.5 million of unrestricted funds for such purpose. In fiscal year 2005-06, the Santa Clara City Council authorized the transfer of \$57.1 million of funds for such purpose, including a \$36.5 million transfer from the Cost Reduction Fund to pay for settlement costs of litigation arising out of the Enron bankruptcy. In fiscal year 2006-07, the Santa Clara City Council authorized the use of \$27.7 million unrestricted funds to pay for budgeted non-bond funded extensions and improvements and for budgeted operating expenses. In fiscal year 2007-08, the Santa Clara City Council authorized the use of \$87.7 million of unrestricted funds, including: \$11.2 million of unrestricted funds to pay for the redemption of 1985 A, B and C bonds, \$27.3 million for capital improvements and \$49.2 million for operating expenses. The transfer to operating revenues for fiscal year 2007-08 was higher than originally anticipated due to dry year conditions because lower-cost hydroelectric generation had to be replaced with power from higher cost resources. In fiscal year 2008-09, the Santa Clara City Council authorized the use

of \$19 million from the Cost Reduction Fund to pay for a portion of budgeted operating expenses and certain non-bond-funded extensions and improvements, \$6 million for the construction of the Palm Substation and \$40.3 million for non-budgeted operating expenses. In addition \$3 million was transferred from the DVR Power Plant Contracts Fund (which fund comprises a portion of Santa Clara's unrestricted cash balances); such \$3 million amount has been replenished in the current fiscal year from insurance proceeds. The 2009-10 budget anticipates a further \$18 million drawdown of the Cost Reduction Fund for operating expenses and capital improvements after taking into account the projected additional revenue from the budgeted 7.0% rate increase for January 2010 (as described below).

Santa Clara has determined that it is appropriate to use a portion of its unrestricted cash balances and reserves to stabilize or subsidize its electric rates in the near term and to increase rates when appropriate. In December 2007, the City Council adopted a 3% rate increase effective January 2008, and a 3% rate increase effective January 2009. These rate increases were designed to provide that operating revenues would better reflect then-current operating costs, near term capital requirements would be funded primarily from cash reserves, and the Cost Reduction Fund would remain above \$120 million, which the City has determined to be a prudent minimum level. In the May 2008 Budget Study Sessions with City Council, and the June Budget Adoption Public Hearing, staff advised City Council that staff would return to City Council with recommendations for the year 2010 after a thorough review of the financial performance and statements of the utility for fiscal year 2007-08. Continuing dry year conditions in fiscal years 2007-08 and 2008-09 resulted in drawing down the Cost Reduction Fund below the City's \$120 million minimum target as of June 30, 2009. This result confirmed the need for rate increases beginning in 2010. The City's adopted budget for the 2009-10 fiscal year reflected a 7% increase in January 2010 and a 7% increase in January 2011. These increases, totaling 14.5% on a cumulative basis, were projected to produce revenues sufficient to cover future operating expenses and to restore the Cost Reduction Fund to the \$120 million level by the end of the 2011-12 fiscal year. It is important to note that the impact of such increase or increases could be affected by future operating conditions, including factors outside the control of Santa Clara. The City Council approved both budgeted rate increases by resolution at its December 8, 2009 City Council meeting. See "Summary of Financial Operating Results" and "Rates and Charges" herein.

The Santa Clara City Council and the Redevelopment Agency of the City of Santa Clara are in the process of exploring the possibility of a "public-private partnership" in order to construct a football stadium in the vicinity of Great America Parkway and Tasman Drive in Santa Clara in connection with a potential relocation of the San Francisco 49ers professional football team to this site. On April 24, 2007, representatives of the San Francisco 49ers presented a stadium proposal to the Santa Clara City Council, the Redevelopment Agency of the City of Santa Clara, Santa Clara City staff and the public. In addition, Santa Clara has retained consultants to undertake a review of the economic analysis presented by the San Francisco 49ers to support such a project. These activities have been widely reported in the local media. A retired senior member of the Santa Clara management team and a former City Councilmember wrote a letter to the media suggesting that certain Santa Clara electric utility reserves maintained in the Cost Reduction Fund be used as a potential funding source for Santa Clara's contribution to a stadium project. In the opinion of the City Attorney of the City of Santa Clara, any such application of certain electric utility funds to various aspects of a stadium project would require an amendment to the Santa Clara City Charter approved by a majority vote of the electorate. On January 9, 2007, the Santa Clara City Council adopted "Guiding Principles for Use in the Evaluation of the Feasibility of a Proposed Stadium." These guiding principles included the principle to "Maintain integrity of all Santa Clara's funds per the City Charter (utility funds may only be used for utility purposes: electric, water and sewer)."

On February 9, 2010, the Santa Clara City Council approved a resolution calling and giving notice of a special municipal election to be held on Tuesday, June 8, 2010 for a vote on a voter-initiative ballot measure. Such voter-initiative passed and it establishes the requirements for any ground lease of

Santa Clara city property for the proposed stadium project. In addition, an Environmental Impact Report for the proposed stadium project has been approved. Santa Clara is unable to predict at this time whether any stadium project will proceed. In the event the stadium project does proceed, it is expected that, in connection with any such project, the Santa Clara electric utility will undertake the relocation of its Tasman substation, currently located near the proposed stadium site. The estimated cost of such substation relocation is approximately \$20 million.

### **Service Area**

The main businesses in Santa Clara are manufacturing and industrial. There are numerous companies that manufacture electronic components, communications equipment, computer systems, electronic games and similar products, and general items such as fiberglass, paper and chemicals. As shown in the following table, these firms are among the largest employers in Santa Clara as of June 30, 2009.

#### **CITY OF SANTA CLARA 2009 LARGEST EMPLOYERS**

<b>Employer</b>	<b>Business</b>	<b>Number of Employees</b>
Intel Corporation	Semiconductor Devices (Mfg.)	5,684
Sun Microsystems, Inc.	Computer Related Services	2,917
Applied Materials	Nano Technology Mfg Services	2,606
Agilent Technologies	Electronic and Bio-Analytical Measurement	1,338
Affymetrix Inc.	Genetic Analysis Products	880
BAE Systems Land & Armaments	Defense and Aerospace	758
National Semiconductor Inc.	Semiconductor Devices (Mfg.)	727
Nortel Networks	Telecommunication Services	533
Emc Corp	Information Infrastructure	508
NEC Electronics	Semiconductor Products	309

Source: City of Santa Clara Comprehensive Annual Financial Report.

A five-year history of residential building permits in Santa Clara is as follows:

**CITY OF SANTA CLARA  
BUILDING PERMITS  
For Calendar Years 2004-2008  
(Dollar Amounts in Thousands)**

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Residential Valuation (in thousands)					
Single Family	\$ 68,049	\$ 35,870	\$15,976	\$19,258	\$ 9,687
Multifamily	34,603	115,147	69,632	890	87,186
TOTAL	<u>\$102,653</u>	<u>\$151,017</u>	<u>\$85,608</u>	<u>\$20,148</u>	<u>\$96,873</u>
New Dwelling Units					
Single Family	319	195	79	80	42
Multiple Family	<u>317</u>	<u>715</u>	<u>430</u>	<u>5</u>	<u>492</u>
TOTAL	<u>636</u>	<u>910</u>	<u>509</u>	<u>85</u>	<u>534</u>

Sources: Economic Sciences Corporation (2004 – 2005); Construction Industry Research Board (2006 – 2008).

**Population**

Shown below is certain population data for Santa Clara, the County of Santa Clara and the State of California:

**CITY OF SANTA CLARA, COUNTY OF SANTA CLARA,  
STATE OF CALIFORNIA POPULATION  
(1970-2000 as of April 1; 2005-2009 as of January 1)**

	<u>City of Santa Clara</u>	<u>County of Santa Clara</u>	<u>State of California</u>
1970	86,118	1,065,313	19,971,069
1980	87,700	1,295,071	23,668,562
1990	93,613	1,497,577	29,760,021
2000	102,800	1,698,800	33,873,086
2005	108,895	1,755,453	36,675,346
2006	111,019	1,776,586	37,114,598
2007	114,066	1,805,314	37,559,440
2008	115,503	1,837,075	38,049,462
2009	117,242	1,857,621	38,292,687

Sources: 1970, 1980, 1990 and 2000 figures from U.S. Bureau of Census. Other figures from California State Department of Finance.

**Transportation and Educational Facilities**

Santa Clara is served by freeways, interstate and state highways, expressways, local and national bus service and trucking lines. Passenger rail service is provided by Altamont Commuter Express and

Amtrak. In addition, the Peninsula District Joint Powers Board–Caltrain, which provides commuter service that connects South Santa Clara County with San Francisco, and inter-urban rail service between San Jose and Sacramento, has two stations in Santa Clara. Freight rail service is provided by the Union Pacific Railroad. Air transportation is available at the San Jose International Airport, which is two miles from downtown Santa Clara and at San Francisco and Oakland International Airports, each located approximately 40 miles to the north. The Santa Clara Valley Transportation Authority light rail system runs along the Santa Clara Convention Center south to the San Jose Convention Center and south San Jose, and proceeds north through the cities of Sunnyvale and Mountain View.

Public education from kindergarten through the community college level is offered in Santa Clara. Santa Clara is also the location of the University of Santa Clara. San Jose State University and Stanford University are located nearby.

## **Litigation**

There is no action, suit or proceeding known to be pending or threatened, restraining or enjoining Santa Clara in the execution or delivery of, or in any way contesting or affecting the validity of any proceedings of Santa Clara taken with respect to the Power Sales Agreement.

There is no litigation pending, or to the knowledge of Santa Clara, threatened, questioning the existence of Santa Clara, or the title of the officers of Santa Clara to their respective offices. There is no litigation pending, or to the knowledge of Santa Clara, threatened, questioning or affecting in any material respect the financial condition of Santa Clara’s electric system.

Present lawsuits and other claims against Santa Clara’s electric utility department are incidental to the ordinary course of operations of the electric utility department and are largely covered by Santa Clara’s self insurance program. In the opinion of Santa Clara’s management and, with respect to such litigation, the Santa Clara City Attorney, such claims and litigation will not have a materially adverse effect upon the financial position of Santa Clara.

***California Energy Market Refund Dispute.*** Santa Clara is a party to the ongoing litigation in which the investor-owned utilities, PG&E, Edison and SDG&E, and the State of California, the California Electricity Oversight Board and the CPUC have been pursuing claims for refunds against NCPA and other power-producing municipally owned utilities, including Santa Clara that sold electricity into the ISO and/or PX markets during the California energy crisis of 2000 and 2001. For a discussion of such litigation, see “LITIGATION–California Energy Market Refund Dispute and Related Litigation” in the forepart of this Official Statement. Santa Clara is not a party to the settlement agreement entered into by NCPA in connection with such litigation.

## **Condensed Operating Results and Selected Balance Sheet Information**

The following table sets forth summaries of income and selected balance sheet information of Santa Clara’s electric utility for the five fiscal years ended June 30, 2009. The information for the fiscal years ended June 30, 2005 through June 30, 2009 was prepared by Santa Clara on the basis of its audited financial statements for such years.

**CITY OF SANTA CLARA  
ELECTRIC SYSTEM  
SUMMARY OF FINANCIAL OPERATING RESULTS\*  
(\$ in 000s)**

	<b>Fiscal Year Ending June 30,</b>				
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Summary of Income					
Operating Revenues <sup>(1)</sup>	\$183,136	\$202,193	\$229,319	\$240,093	\$243,889
Operating Expenses:					
Salaries, Wages and Benefits	15,675	16,486	17,329	17,036	18,402
Materials, Supplies and Services <sup>(2)</sup>	162,843	215,706	217,941	241,402	263,690
Depreciation	14,412	17,076	17,296	17,602	17,867
Total Operating Expenses	<u>\$192,930</u>	<u>\$249,268</u>	<u>\$252,565</u>	<u>\$276,041</u>	<u>\$299,959</u>
Operating Income (Loss)	(9,794)	(47,076)	(23,247)	(35,948)	(56,071)
Other Income <sup>(3)</sup>	29,549	18,629	32,934	29,629	34,354
Interest Expense	(7,671)	(12,127)	(12,086)	(11,741)	(9,860)
Wholesale Power Sales	170,165	255,188	204,723	172,404	102,480
Wholesale Power Purchases	(165,790)	(249,501)	(197,076)	(177,973)	(110,879)
Other Expenses	(3,800)	(3,152)	(4,369)	(6,240)	(7,518)
Equity (Loss) in Joint Power Agencies <sup>(4)</sup>	<u>(2,770)</u>	<u>2,921</u>	<u>3,913</u>	<u>(1,486)</u>	<u>1,223</u>
Net Income Before Operating Transfers and Extraordinary Items	<u>\$ 22,984</u>	<u>\$(24,251)</u>	<u>\$ 12,884</u>	<u>\$(31,356)</u>	<u>\$(46,270)</u>
Selected Balance Sheet Information (as of June 30)					
Cash Designated for Construction	\$ 46,730	\$ 44,509	\$ 50,564	\$ 71,757	\$ 64,017
Rate Stabilization Fund	25,000	25,000	25,000	25,000	25,000
Cost Reduction Fund	265,139	221,365	233,726	158,733	98,739
Other Unrestricted Cash	<u>86,282</u>	<u>119,949</u>	<u>72,026</u>	<u>77,037</u>	<u>72,684</u>
Balance(s)					
Total Pooled & Cash Investments	<u>\$423,151</u>	<u>\$410,823</u>	<u>\$381,317</u>	<u>\$332,527</u>	<u>\$260,440</u>

\* Columns may not add to totals due to rounding.

(1) See "Rates and Charges" above. Exclude public benefit charge revenues.

(2) Includes purchased power payments and payments to joint power agencies. Also includes payment of a portion of gross revenues to City's General Fund as contribution in lieu of taxes which payment is subordinate to the payment of other operating expenses and debt service. Per the City Charter, up to 5% of gross revenues (not including revenues from wholesale transactions) from the Electric Utility is paid to the City General Fund each year.

(3) Primarily represents interest income, public benefit charge revenues, grants, rents, and other non-recurring miscellaneous income.

(4) Net loss in fiscal years 2004-05 as a result of NCPA refunds to participants.

Source: City of Santa Clara.

## Rate Covenant Compliance Under Electric Revenue Bond Indentures

The electric revenue bond indentures require Santa Clara to produce revenues in each year sufficient to meet all obligations payable from the Electric Utility fund. Such obligations include payments in lieu of taxes as well as capital expenditures not otherwise financed with bond proceeds, which obligations would be subordinate to the payment of debt service on Santa Clara's electric revenue obligations. The electric revenue bond indentures permit amounts in the Rate Stabilization Fund or other unrestricted funds of the electric enterprise to be used to satisfy the rate covenant. Santa Clara has elected to use such unrestricted funds for such purpose as described in "Cash Reserves" above. The City has satisfied its rate covenant in each year as shown below. The coverage numbers shown below differ from those reported prior to 2007, and they more accurately reflect the terms of Santa Clara's electric revenue bond indentures (as amended).

### CITY OF SANTA CLARA RATE COVENANT COMPLIANCE UNDER ELECTRIC REVENUE BOND INDENTURES\* (\$ in 000s)

	Fiscal Year Ending June 30,				
	2005	2006	2007	2008	2009
Debt Service Coverage:					
Adjusted Operating Revenue <sup>(1)</sup>	\$253,561	\$283,611	\$297,586	\$318,895	\$346,533
Adjusted Operating Expenses <sup>(2)</sup>	217,981	251,676	246,378	283,206	323,670
Net Revenue Available for Debt Service	\$ 35,579	\$ 31,934	\$ 51,207	35,689	22,864
Debt Service on Senior and Subordinated					
Electric Revenue Bonds <sup>(3)</sup>	\$ 16,491	\$ 22,562	\$ 23,378	\$ 26,089	\$14,642
Adjusted Operating Revenues in Excess of Requirements	\$ 19,088	\$ 9,372	\$ 27,829	9,600	8,222
Debt Service Coverage Ratio <sup>(4)</sup>	2.16	1.42	2.19	1.37	1.56

\* Numbers may not add up due to independent rounding.

(1) Gross revenue includes operating and non-operating revenues, net of wholesale transactions, less income or loss on joint powers agency projects accounted for on the equity method of accounting, plus capitalized interest earnings. In fiscal years, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, gross revenue includes fund transfers of \$0, \$36,500, \$57,102, \$27,687, \$49,173 and \$68,290, respectively. See "Rates and Charges" and "Cash Reserves" above.

(2) Expenses are operating expenses, including joint powers agency obligations, less depreciation and amortization, contribution-in-lieu to the General Fund, uncapitalized interest expense (other than revenue bonds interest expenses) and letter of credit fees. Also included are costs of extensions and improvements to Electric System to the extent not funded from bond proceeds.

(3) Includes letter of credit fees relating to variable rate electric revenue bonds.

(4) Coverage of electric revenue bonds only. Excludes joint powers obligations.

Source: City of Santa Clara.



## **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

### **General Description of the District**

The San Francisco Bay Area Rapid Transit District (the “District” or “BART”) was created in 1957 by Chapter 1056 of the Statutes of 1957 of the State of California, constituting Sections 28500 to 29757, inclusive, of the California Public Utilities Code, as amended (the “BART Legislation”) to provide rapid transit to the San Francisco Bay Area. The District is presently composed of all the area in the Counties of Alameda and Contra Costa and the City and County of San Francisco (the “Three BART Counties”). In addition, the District owns property within the County of San Mateo on which BART facilities are located, and the District acquired the right to use additional right of way and station locations in connection with the extension of its rapid transit system (the “BART System”) to the San Francisco International Airport located in the County of San Mateo. Under certain conditions, other counties may be annexed to and become a part of the District.

### **Powers of the District**

The BART Legislation grants the District the following powers, among others:

*Financing and Taxation.* The District may issue general obligation bonds, up to the amount authorized by a two-thirds vote of the electorate voting on the ballot measure proposing such general obligation bonds. Upon issuance of general obligation bonds authorized by the electorate, the District is obligated to levy and collect an ad valorem tax on property in the Three BART Counties at a rate sufficient to pay the annual debt service on such outstanding general obligation bonds when due and payable. Such tax may be offset to the extent that other moneys are legally made available for such purpose.

In addition to general obligation bonds, the District may issue: (1) sales tax revenue bonds; (2) revenue bonds payable solely from revenues of any facility or enterprise to be acquired or constructed by the District; (3) equipment trust certificates payable from revenues derived from the operation of the BART System; (4) special assessment bonds; (5) grant anticipation notes, bond anticipation notes and tax and revenue anticipation notes; and (6) such other obligations as are authorized by the laws of the State of California.

*Eminent Domain.* The District has the right, with certain limitations, of eminent domain for the condemnation of private property for public use.

### **Administration**

Governance of the District is vested in a Board of Directors (the “Board” or the “Board of Directors”) composed of nine members, each representing an election district within the District. The boundaries of the election districts have been set on the basis of, as nearly as practicable, equal population and, among other things, community of interest of the population within the election district. The election districts are adjusted to reflect population changes after every national census. The boundaries of the District election districts do not conform to the boundaries of the three BART counties.

Directors are elected to four-year terms. Each term commences on the first Friday of December in the year of a November general election and ends on the first Friday of December four years later.

The District Directors are:

<b>Director</b>	<b>City of Residence</b>	<b>Term Expiration (December)</b>
James Fang President	San Francisco	2010
Bob Franklin Vice President	Oakland	2012
Carole Ward Allen	Oakland	2010
Thomas M. Blalock	Fremont	2010
Joel Keller	Brentwood	2010
John McPartland	Castro Valley	2012
Gail Murray	Walnut Creek	2012
Tom Radulovich	San Francisco	2012
Lynette Sweet	San Francisco	2012

The executive management staff of the District consists of statutory officers appointed by the Board and operating managers appointed by the General Manager.

The four statutory officers are:

Dorothy W. Dugger, General Manager

Ms. Dugger joined the District in September 1992 as Executive Manager of External Affairs. In April 1994, she was appointed Deputy General Manager, and in August, 2007 General Manager. Prior to coming to the District, Ms. Dugger had over 19 years of public policy experience, including 10 years with the Port Authority of New York and New Jersey (the "Port Authority") where she served as the Port Authority's Director of Government, Community and Public Affairs. Before joining the Port Authority, she was the Assistant to the Governor, State of New Jersey, in the Governor's Washington, D.C. office, where she represented the Governor before Congress and federal agencies. Ms. Dugger also served as Assistant to the Deputy Commissioner, New Jersey Department of Environmental Protection and as Legislative Director of the Civil Liberties Union of New Jersey. She holds a Bachelor of Arts degree in History and Sociology from Rutgers University.

Scott L. Schroeder, Controller/Treasurer

Mr. Schroeder joined the District in November 1988 as an Investment Analyst in the Finance Department. He served as Assistant Treasurer of the District from January 1996 until June 1997. In June 1997, the Board of Directors appointed Mr. Schroeder Controller/Treasurer. Prior to joining the District, Mr. Schroeder worked as a portfolio manager and government bond trader. Mr. Schroeder holds a Bachelor degree in Business Administration from California State University, Chico and became a Chartered Financial Analyst (CFA) in 1992.

#### Matthew Burrows, General Counsel

Mr. Burrows joined the District in February 1997 as an attorney in the Office of the General Counsel. In 2007 he was promoted to Associate General Counsel and in January, 2008, appointed General Counsel. Mr. Burrows received a Bachelor of Arts degree in Sociology from the University of California at Santa Barbara and his J.D. from the University of California, Hastings College of the Law.

#### Kenneth A. Duron, District Secretary

Mr. Duron joined the District in 1991 as a Senior Capital Program Planner in the Government and Community Relations Department. He served as Executive Assistant to the General Manager from 1995 to 2001 and was appointed District Secretary in February 2001. Prior to joining the District, Mr. Duron worked for Xerox Corporation. His public transit experience includes five years as a member of professional staff with the Southern California Rapid Transit District. Mr. Duron holds a Bachelor of Science degree in Public Administration from the University of Southern California, Center for Public Affairs.

Principal executive management staff appointed by the General Manager include:

#### Marcia deVaughn, Deputy General Manager

Ms. deVaughn joined the District in 2002. She served as Executive Assistant to then General Manager Tom Margo, Acting Executive Manager of the Office of Planning and Budget, and Executive Manager of Transit System Compliance. Prior to joining the District, Ms. deVaughn worked for the City and County of San Francisco as Deputy Director of Public Works for Operations and Director of the Solid Waste Management Program. Ms. deVaughn received a Master of Business Administration in international management from Golden Gate University and a Bachelor of Science from the University of San Francisco.

#### Paul Oversier, Assistant General Manager, Operations

Mr. Oversier joined the District in 1990 as Chief Transportation Officer. In June 1999, Mr. Oversier was appointed as the Assistant General Manager, Operations. Prior to joining the District, Mr. Oversier was the Chief Transportation Officer of the New York City Transit Authority for four years after serving as the Director of Operations Support for over two years. He was also the General Manager of the Centre Area Transportation Authority in State College, Pennsylvania for three years. Mr. Oversier holds a Master of Science Degree in Transportation from Northwestern University and a Bachelors Degree in Economics from the University of California at Davis.

### **Employees and Labor Relations**

As of January 31, 2010, the District had 3,122 employees, of which 3,027 were full-time and 95 were part-time. Most District employees are represented by recognized employee organizations. Some supervisors and professionals are represented by the American Federation of State, County and Municipal Employees ("AFSCME"), Local 3993. Station agents, train operators and some clerical employees and foreworkers supportive of the train operators and station agents are represented by the Amalgamated Transit Union ("ATU"), Local 1555. Maintenance and some clerical staff and foreworkers supportive of the maintenance and associated clerical staff are represented by the Service Employees International Union ("SEIU"), Local 1021. In addition, BART police officers and police managers are represented by the BART Police Officers Association ("BPOA") and the BART Police Managers Association ("BPMA"), respectively.

As of January 31, 2010, the average BART employee had been with the District 13.25 years and earned an annualized salary of \$75,650. 73% were male, and 27% were female. The youngest employee was 21 years old, the oldest was 77, and the overall average age was 49 years. Minority representation on the workforce is high and representative of the San Francisco Bay Area population, with 38% white, 24% black, 24% Asian or Pacific Islander, 14% Hispanic, and 1% American Indian.<sup>1</sup> As of January 31, 2010, the District had approximately 1,758 retirees.

Labor negotiations in 2009 resulted in a settlement without a strike with all District unions, the ATU, SEIU, BPOA, BPMA and AFSCME. All of these agreements have been approved by the union memberships and the District's Board of Directors and expire June 30, 2013. The four-year agreement caps BART's medical costs at the premium cost of the District's HMO plans, while continuing to provide full family medical coverage, suspends BART's contributions to secondary retirement accounts, eliminates wasteful work rules to provide greater flexibility in Station Agent and Foreworker assignments, reduces union business leave, freezes base salaries and provides lump sum payments to employees of \$500 in Fiscal Year 2011, \$1000 in Fiscal Year 2012, and \$1,500 in Fiscal Year 2013. The previous union agreements were negotiated in 2005, and resulted in no wage increases in 2006 and wage increases of 2%, 2% and 3% for Fiscal Years 2007, 2008 and 2009. In addition, an agreement on increased health benefit premium co-payments by employees was reached to assist the District with the cost of employee health benefits. The 2001 union agreements were negotiated following a request for a Governor's fact-finding panel and a cooling off period approved by the Governor of the State of California. Subsequent to such period, the various labor organizations reached agreement with the District without a strike. In 1997, negotiations with the labor organizations failed to produce a settlement. A request for a fact-finding panel and cooling-off period was made and approved by the Governor of the State of California. Subsequently, in September 1997, ATU and SEIU employees went on strike over wages and benefits. The strike was resolved within a one-week period.

## **Litigation**

The District is involved in various lawsuits, claims and disputes, which for the most part are expected in connection with operations such as the District's. An atypical incident occurred on January 1, 2009, New Year's Day, in connection with disturbances on a BART platform involving a fatal shooting by a BART policeman of a suspect. Recently, BART agreed to a settlement payment of \$1.5 million to the child of the deceased. Claims brought by the decedent's mother and others are still outstanding. BART as a public agency is not liable for punitive damages. The District is also engaged in civil litigation relating to its automatic train control system. See "CAPITAL PROGRAMS – System Reinvestment Program" herein.

## **BART SYSTEM FINANCINGS**

The District has received and expects to continue to receive grants from the federal government, from the State of California (the "State of California" or the "State") and from regional bridge tolls for capital renovation and expansion of the BART System. In addition to grants and bridge toll revenues, capital renovation and expansion of the BART System is funded with BART revenues, including allocations from the operating budget and the proceeds of BART financings, as further described below. See "CAPITAL PROGRAMS" in this Appendix B.

*General Obligation Bonds.* Pursuant to voter approval in the Three BART Counties in 1962, the District issued a total of \$792 million aggregate principal amount of general obligation bonds in twelve series during the years 1963 through 1969. Such general obligation bonds were payable from ad valorem taxes required to be levied on all properties subject to taxation by the District. General obligation bond proceeds were used to pay a portion of the cost of planning, acquisition and construction of the original

71-mile BART System, excluding the San Francisco Oakland rapid transit tube and its approaches (the “Transbay Tube”). All such general obligation bonds have been paid.

Pursuant to voter approval in the Three BART Counties of Measure AA (“Measure AA”) at the November 2, 2004 election, the District is authorized to issue General Obligation Bonds, in one or more series, in an amount not to exceed \$980 million, in order to make earthquake safety improvements to the BART System. In May 2005, the District issued the General Obligation Bonds (Elections 2004), 2005 Series A with an aggregate principal amount of \$100,000,000. On July 25, 2007, the District issued the General Obligation Bonds (Election of 2004), 2007 B with a principal amount of \$400,000,000. The GO Bonds were issued to finance earthquake safety improvements to BART facilities, including aerial trackway structures, underground trackway structures, including the Transbay Tube, and at-grade trackway structures, stations, and administrative, maintenance, and operations facilities and to finance additional retrofits to facilitate a rapid return to service after an earthquake or other disasters. The General Obligation Bonds are general obligations of the District, payable from and secured solely by ad valorem taxes upon all property subject to taxation by the District, without limitation as to rate or amount (except for certain personal property which is taxable at limited rates) levied in Alameda and Contra Costa Counties and the City and County of San Francisco. No other revenues of the District are pledged to the payment of the General Obligation Bonds.

After the issuance of the 2005 Series A and 2007 Series B General Obligation Bonds, the remaining principal amount of General Obligation Bonds that the District is authorized to issue under Measure AA is \$480,000,000.

*Sales Tax Revenue Bonds.* Commencing in 1970, the District has issued bonds from time to time (the “Sales Tax Revenue Bonds”). The Sales Tax Revenue Bonds are special obligations of the District payable from and collateralized by a pledge of sales tax revenues, comprised of seventy-five percent (75%) of the amounts derived from a one-half of one percent (0.5%) transactions and use tax imposed by the District within the Three BART Counties pursuant to Section 29140 of the California Public Utilities Code, in order to finance or refinance the costs of constructing, improving and equipping the BART System. The following issues are outstanding in the amounts and at the rates indicated in the table below:

Issue	Original Principal Amount	Amount Outstanding <sup>(1)</sup>	Final Maturity	Interest Rates
Series 1990 Bonds	\$ 158,478,000	\$ 28,775,000	2011	6.75%
Series 1998 Bonds	348,510,000	145,450,000	2028	4.75-5.5%
Series 2001 Bonds	168,650,000	43,765,000	2036	4.375-5.25%
Series 2005A Bonds	352,095,000	296,530,000	2030	3.25-5.00%
Series 2006 Bonds	64,915,000	64,915,000	2036	4.00-5.00%
Series 2006A Bonds	108,110,000	107,545,000	2036	4.00-5.00%

<sup>(1)</sup> As of March 1, 2010

*Leaseback Transactions.* The District currently has three outstanding leaseback obligations relating to rail traffic control equipment and rail cars. On January 11, 1991, the District entered into an

agreement with the French car manufacturer (Soferval) to sell 120 refurbished rail cars and simultaneously lease them back (collectively, the Wilson Credit Bail Transaction). The transaction continues through January 2011. This transaction was to satisfy manufacturer contractual claims against the District. On March 30, 1995, the District entered an agreement with Morrison-Knudsen (Morrison-Knudsen Transaction), a car manufacturer, to sell and simultaneously lease back 26 railcars. The transaction also runs through January 2011.

On March 19, 2002, the District entered into a lease financing transaction (consisting of three separate tranches) (the “Network Lease Transaction”) to lease rail traffic control equipment (the “Network”) to investors under head lease agreements that expire March 19, 2042, January 25, 2050 and March 19, 2042, respectively, and to simultaneously sublease the Network back from the investors under sublease agreements that each expire January 2, 2018, at which point the District has the option to purchase the head lease interests in the Network from the investors. At the closing, the investors prepaid their entire rent obligations to the District under the head lease agreements in the amount of approximately \$206,000,000 (which amount represented the fair market value of the Network at closing), of which the District paid approximately \$146,000,000 to a payment undertaker in consideration for the payment undertaker’s agreement to make rent payments on the District’s behalf under the subleases. The net cash benefit the District received from this lease/leaseback transaction at closing amounted to approximately \$23,000,000. See Appendix B – “San Francisco Bay Area Rapid Transit District Report on Audits of Financial Statements for the Years Ended June 30, 2009 and 2008. (Note #7).” On September 2, 2009, the District terminated one of the three tranches of the Network Lease Transaction (representing \$104,990,500 of the \$206,000,000 fair market value of equipment in the Network Lease Transaction at closing) and acquired the head lease interest for the equipment that was leased under such tranche.

Under the terms of the Network Lease Transaction, if the payment undertaker (or its guarantor) is not rated at least “Baa1” by Moody’s Investors Service and “BBB+” by Standard & Poor’s, the District is required, if requested by the investors, to replace the payment agreement with acceptable substitute credit protection in the form of any of (i) securities issued by certain approved institutions or governments, (ii) a standby letter of credit from a bank or financial institution that is rated at least AA by Standard & Poor’s and Aa2 by Moody’s Investors Service or (iii) another payment agreement from a bank or financial institution that is rated at least AA by Standard & Poor’s and Aa2 by Moody’s Investors Service. Failure to replace the payment agreement pursuant to the foregoing requirements would result in a default under the Network Lease Transaction, thereby triggering the investors’ right to demand a liquidated damages payment from the District. The payment undertaker is AIG-FP Special Finance (Cayman) Limited. The obligations of the payment undertaker are guaranteed by American International Group, Inc.

*SFO Extension.* The extension of the BART System into the San Francisco International Airport and to the Millbrae Station (the “SFO Extension”) was completed in 2003 and the District commenced revenue service on the SFO Extension. The final cost of the SFO Extension of \$1,582 million exceeded the amount budgeted by approximately \$114 million. Approximately \$43 million of proceeds of the Premium Fare Bonds (described below) were applied to fund a portion of such additional costs. An agreement with the Metropolitan Transportation Commission (“MTC”) and funding from federal grant financings provided additional assistance (see “MTC MOU” below).

During Fiscal Year 2007, with the assistance of MTC, BART and the San Mateo County Transit District (“SamTrans”) reached a resolution regarding the financing of operations to the five San Mateo County stations south of Daly City that make up the SFO Extension. The resulting key terms of the agreements give BART full responsibility over SFO Extension operations, with monetary contributions from SamTrans and MTC to offset the cost of operating outside the District. MTC and SamTrans provided a combined \$56 million of up-front funding over several years, first used to fund operating

deficits on the SFO Extension, then to complete the funding commitment of \$145 million to the Warm Springs Extension project. See “CAPITAL PROGRAMS – System Expansion Program – Warm Springs Extension” below. BART also receives two forms of ongoing subsidy. Two percent of San Mateo County’s Measure A half-cent sales tax, which is currently equal to approximately \$1.2 million per year, was allocated to BART for 25 years beginning in Fiscal Year 2009. BART also receives SamTrans’ annual Proposition 42 Traffic Congestion Relief Program (“TCRP”) increment, approximately \$0.1 million in Fiscal Year 2008 and a fixed amount of approximately \$0.8 million beginning in Fiscal Year 2009, until the Warm Springs Extension funding is completed. Proposition 42 dedicates revenues from the State’s share of the sales tax on gasoline to transportation projects and is subject to reduction or elimination by State budget action that reduces the sales tax. See “CAPITAL PROGRAMS – Funding Developments” herein.

*MTC MOU.* On June 28, 2006, BART reached agreement with MTC relating to \$60 million in funding previously made available to the District for the SFO Extension by MTC from certain bridge toll reserve funds held by MTC to fund rail extension projects in the East Bay. Such funding was a loan to the District, to be repaid by the District upon receipt of the final payment from the FTA under a full funding grant agreement (which final payment was received in June 2007). MTC agreed to extend the repayment period and amortize the principal for the loan over a nine-year term, charging 3% simple interest, with the final payment due in June 2014. As of February 28, 2010, the outstanding balance of the loan was \$37,000,000.

*Premium Fare Financing.* On October 31, 2002, the Association of Bay Area Governments (“ABAG”) issued BART SFO Extension Bonds (“Airport Premium Fare Bonds”), 2002 Series, in the amount of \$56,715,000. The Airport Premium Fare Bonds were issued to finance a portion of the costs of the SFO extension project, including all system-wide and associated improvements and expenditures related to the extension. The Airport Premium Fare Bonds are limited obligations of ABAG payable solely from and collateralized solely by amounts received from the District pursuant to a Pledge and Contribution Agreement, dated October 1, 2002, between ABAG and the District. The Airport premium Fare Bonds are not a general obligation of ABAG. The District’s obligation to make payments under the Pledge and Contribution Agreement is limited to and payable solely from and collateralized solely by a pledge of the premium fare imposed and collected by the District from passengers who board or depart the District’s rapid transit system at the San Francisco International Airport station. The total number of entries and exits from the San Francisco International Airport station for Fiscal Year 2009 was 3,900,177, which produced revenues sufficient to cover debt service on the Premium Fare Bonds. The District’s obligation to make such payments under the Pledge and Contribution Agreement is not a general obligation of the District. The payment of the principal and interest when due are insured by Ambac Assurance Corporation. As of February 28, 2010, the 2002 Airport Premium Fare Bonds consist of \$19,040,000 in serial bonds due August 1, 2010 through August 1, 2022, inclusive, with interest rates ranging from 3.25% to 5.00%, a \$11,230,000 term bond due August 1, 2026 with an interest rate of 5%, and a \$23,970,000 term bond due August 1, 2032 with an interest rate of 5%.

*Fleet Replacement Program.* This program consists of replacement of the District’s current fleet of A2, B2, C1 and C2 rail vehicles. The District has issued a Request for proposals for the Procurement of the Vehicles. Notice to Proceed is estimated to occur in 2011, and the first pilot car is estimated to be delivered for testing in December 2014. To set aside funding for this future need, the District and MTC entered into the BART Car Replacement Funding Exchange Agreement in 2006. Under the agreement, MTC agrees to program federal funds to eligible BART projects that are ready to be delivered within the year of MTC’s programming action. In exchange for MTC programming funds for ready-to-go BART projects, the District will deposit an equal amount of local unrestricted funds into a restricted account established to fund BART’s car replacement program. MTC is the exclusive administrator of the restricted account and any withdrawal of funds from the account requires prior approval from the MTC

Commission and the District's Board. In accordance with the agreement, MTC allocated Federal Section 5307 Grants of \$22,683,000 in Fiscal Year 2010, \$22,682,000 in Fiscal Year 2009, \$22,681,000 in Fiscal Year 2008 and \$22,680,000 in Fiscal Year 2007 to fund the District's preventative maintenance expenses. Accordingly, the District remitted to MTC the equivalent amount of its own funds, which was deposited by MTC to the restricted account. The federal grant is shown as nonoperating revenue – operating financial assistance and the District's remittance to MTC is shown as nonoperating expense in the District's financial statements. The restricted account for BART's car replacement program, which is excluded from the District's financial statements, showed a total cash and investment balance, at market value, of \$71,130,000 as of February 28, 2010. The total cost of the Fleet Replacement Program is expected to exceed \$3 billion. The first \$1 billion of such amount is planned by MTC to come from federal funds in its Resolution 3918, to be adopted by the MTC Commission in May, 2010. See "CAPITAL PROGRAMS – Funding Developments" herein.

## **THE BART SYSTEM**

### **General Description**

The BART System is an electrically powered rapid transit commuter rail system serving the residents of the San Francisco Bay Area. The BART System is currently comprised of 104 miles of double track (including some areas of multiple tracks) and 43 stations, 38 of which are located in the Three BART Counties and 5 of which are located in San Mateo County on the San Francisco Peninsula. BART is powered by an electric third rail at 1,000 volts AC. The rail right-of-way is fully protected and has no grade crossings. Automatic fare collection equipment is located in each station to vend and process passenger tickets. As of June 30, 2009, the District owned 669 rail cars. Trains are from three to 10 cars in length and contain one control equipped vehicle (an A-car or C-car) at each end with mid-train vehicles (B-cars or C cars) making up the remainder of each train. Control-equipped C-cars can be used as lead, mid-train, or trail vehicles. All station platforms are constructed to accommodate trains of up to 10 cars. Trains are operated from the lead A-car or C-car. Computers located along the right of way automatically control train movements. BART System train supervision is provided by the BART train control computer located at the BART Operations Control Center at the Lake Merritt station. Should the need arise, train operators aboard each train may override the automatic system. The District's 669 car operating fleet currently consists of 59 A-cars, 380 B-cars and 150 C-cars, and 80 C2 cars.

BART service lines run through the urban and suburban areas of the Three BART Counties and San Mateo County. Service patterns are largely dictated by the topography of the region. Lines run along the east and west sides of the San Francisco Bay, under San Francisco Bay and then traverse the hills and valleys of inland areas. The BART system radiates from the Oakland Wye, which is located under downtown Oakland. Lines running west from the Wye travel under San Francisco Bay, through downtown San Francisco and terminate at Daly City, Millbrae or the San Francisco International Airport. Other lines radiate out from the Oakland Wye and terminate in Richmond, Pittsburg/Bay Point, Dublin/Pleasanton or Fremont. A second wye is located on the San Francisco Peninsula between the San Bruno station, the Millbrae station and the San Francisco International Airport station. In addition to the two wyes, merges and diverges also occur at two other locations in Alameda County. For more detailed information regarding BART System routes, see the BART System map in the front portion of this Official Statement. Approximately one-third of the BART System is underground, one-third is aerial and one-third is at grade.

BART stations are spaced approximately one-half mile apart in downtown San Francisco and Oakland and approximately two to four miles apart in suburban areas. A number of BART stations located in downtown San Francisco provide intermodal transfers to the San Francisco Metropolitan Transportation Authority ("SFMTA") light rail, cable cars and buses. The Millbrae station provides



convenient transfers to the CalTrain commuter rail service, which provides commuter service along the San Francisco Peninsula and south to Gilroy, and the Richmond station provides intermodal transfers to the Capitol Corridor intercity rail service to Sacramento. The San Francisco International Airport station is located in the San Francisco International Airport. The Coliseum station in Oakland provides access to the Oakland-Alameda County Coliseum Complex where the Oakland Raiders, a professional football team, the Oakland Athletics, a professional baseball team, and the Golden State Warriors, a professional basketball team, play their home games.

In addition, a bus shuttle service is operated between BART Oakland Coliseum Station and the Oakland Airport by ShuttlePort under a contract with the Port of Oakland (the "Port"). The Port and BART have an agreement that the Port operates this service, and revenues and expenses are split between the Port and BART. The AirBART shuttle service has been serving Oakland Airport travelers, employees and other users since the late-1970s. For the Fiscal Year ending June 30, 2009, total AirBART revenue collected was \$2,393,679, operating and capital expenses were \$1,971,984, net revenues were \$421,695, and BART's share of net revenues net of BART's share of the Port's administrative cost was \$176,660. In calendar year 2009, AirBART carried 836,427 passengers, a decrease of 28.2% over calendar year 2008.

The BART Operations Control Center (the "OCC") controls and monitors all mainline activities and equipment, including safety-critical and emergency equipment, such as emergency telephones and fire alarm systems, responds to emergencies, manages delays, and controls the electrification grid. Operational functions performed in the OCC include the generation of daily train schedules, dispatching of trains from the ends of line and yards, keeping trains on schedule by adjusting the speeds between stations and/or dwell times at stations, control and monitoring of ventilation fans, dampers, sump pumps, traction power equipment, train location and other wayside systems equipment.

### **Revenue Hours**

BART revenue hours run from 4:00 a.m. to midnight Monday through Friday, 6:00 a.m. to midnight on Saturdays, and 8:00 a.m. to midnight on Sundays. The last trains depart each end of the line around midnight, so passengers can get anywhere in the BART system if they arrive at any station by midnight. Depending upon demand, holiday rail service is provided on a full or modified weekday schedule, a Saturday schedule or a Sunday schedule.

### **Passenger Fares**

BART rail fares are computed using a distance-based formula. Distance-based fares are then adjusted based on the scheduled travel time versus travel time based on a system wide average speed. In addition, surcharges apply to transbay trips and trips originating from or destined to stations located in San Mateo County, and a premium applies to trips to and from the San Francisco International Airport station. As of the date of this Official Statement, the transbay surcharge, applied to transbay trips, is equal to \$0.88; the Daly City surcharge, applied to trips between the Daly City station and San Francisco stations, is equal to \$1.02; and the San Mateo County surcharge, applied to trips beginning and ending at San Mateo County stations (except trips between the Millbrae station and the San Francisco International Airport station) and trips between San Mateo County stations (except Daly City) and San Francisco stations, is equal to \$1.28. In addition, a premium of \$4.00 is applied to trips to or from the San Francisco International Airport (SFO) station, which premium is reduced to \$1.50 for SFO employees using the Millbrae station. A capital surcharge equal to \$0.12 is applied to all trips within the three BART counties, including Daly City. Revenues resulting from such capital surcharge will be applied to fund capital programs previously funded from the operating budget.

The current minimum one-way fare is \$1.75 and the current maximum one-way fare is \$10.90. Fare increases during the District's history are summarized below. In May 2003, the Board of Directors approved a series of productivity-adjusted Consumer-Price Index-based fare increases to take effect in January of each even-numbered year from 2006 through 2012. The 3.7% increase effective January 1, 2006 was the first of these productivity-adjusted Consumer-Price Index-based fare increases. The second such increase of 5.4% was effective January 1, 2008. The third fare increase took effect July 1, 2009, and included a CPI based increase of 6.1% on all fares, an increase of the minimum fare from \$1.50 to \$1.75, and an increase of \$2.50 to the premium fare for trips to or from SFO, raising the premium fare to \$4.00.

#### **Average District Fare Increases**

Date	Average Increase
November 1975	21.0%
July 1980	34.9
September 1982	18.4
January 1986	30.0
April 1995	15.0
April 1996	13.0
April 1997	11.4
January 2003	5.0
January 2004	10.0
January 2006	3.7
January 2008	5.4
July 2009	6.1*

\* All fares increased by an average 6.1% with the exception of the 16.7% increase to the minimum fare and the 167% increase to the premium fare charged for trips to or from SFO Station.

The District currently offers fare discounts ranging from 6.25% to 62.5%. A discount of 6.25% is available in connection with purchases of two ticket denominations, \$48.00 and \$64.00. A discount of 62.5% is provided to persons with disabilities, children ages 5 through 12 (children under age 5 ride for free) and senior citizens age 65 and over. Proof of age or disability is required to be carried by seniors or persons with disabilities when using these discounted tickets. In addition, the District offers a 50% discount to middle and secondary school students. Such tickets may only be sold by a participating school to students of such school and may only be used for school-related weekday trips.

The rates and charges of BART are by law free from the jurisdiction and control of any regulatory agency other than BART, including the California Public Utilities Commission. As provided in the California Public Utilities Code, passenger fares for BART are established by a two-thirds vote of the Board of Directors and are required to be reasonable. Any Board of Supervisors of a county or city and county, or the city council of a municipality having territory located within the District, may file a request for a hearing before the Board of Directors regarding the reasonableness of any fares. The hearing must be held between 15 and 60 days from the date of the request and a decision by the Board of Directors must be rendered in writing within 30 days after the hearing. Thereafter, the decision may be reviewed by the courts through a writ of mandate.

As a condition to receiving assistance from the federal government, acting through the Federal Transit Administration, BART complies with the requirements of Title VI of the Civil Rights Act of 1964. Public hearings are held before any increase in fares or any substantial reduction in service is made. Such change is made only after proper consideration has been given to the views and comments expressed by the public, including those who are minority low-income, or have limited English proficiency, in public

meetings and at public hearings and after consideration has been given to the effects on energy conservation and the economic, environmental and social impact of such change.

## Ridership

Average weekday passenger trips for the Fiscal Years ended June 30, 2005 and through the third quarter (March 31, 2010) of Fiscal Year 2010 are set forth below.

	2005	2006	2007	2008	2009	2010 (9 mos)
East Bay	75,390	78,568	80,387	82,840	82,872	75,098
West Bay	87,800	91,948	99,238	106,482	107,089	94,286
Transbay	147,526	152,449	159,734	168,452	166,751	160,427
<b>Average Total Weekday Trips</b>	<b>310,717</b>	<b>322,965</b>	<b>339,359</b>	<b>357,775</b>	<b>356,712</b>	<b>329,811</b>
<b>Percentage Annual Change<sup>(1)</sup></b>	<b>1.4%</b>	<b>3.9%</b>	<b>5.1%</b>	<b>5.4%</b>	<b>(0.3%)</b>	<b>(7.5%)</b>

<sup>(1)</sup> Percentage Annual Change for Average Total Weekday Trips and for the change from the first 9 months of Fiscal Year 2009.

BART ridership grew steadily between Fiscal Year 2005 and Fiscal Year 2008, including a 5.4% increase in Fiscal Year 2008, partially attributed to high gas prices during that year. Ridership peaked in September 2008 with 380,166 average weekday trips. Ridership then fluctuated during the next Fiscal Year. Then, as the recession began and gas prices declined, ridership followed suit, bottoming out in the fall of 2009.

On the evening of October 27, 2009, high winds and heavy traffic created vibrations which caused a 5,000-pound steel beam and two steel tie rods that were holding together a cracked structural support to fail and crash down onto the upper deck of the San Francisco-Oakland Bay Bridge (the “Bay Bridge”). The bridge was abruptly shut down, leaving an estimated 280,000 weekday drivers who rely on the Bay Bridge no easy access into or out of San Francisco. BART responded by bringing in extra train operators and adding more 10-car trains to cope with the thousands of additional riders flocking to the system. As a result of the emergency closure, BART set its single day record ridership of 442,067 on October 29, 2009. The top three single day ridership records in BART’s 37-year history were set during this closure. The structural repairs were made and the Bay Bridge reopened to traffic six days later on November 2, 2009.

Since the beginning of Fiscal Year 2010, Transbay ridership has been the strongest market segment, due in part to the week-long Bay Bridge closure in October and early November 2009. Transbay trips, on average, have a higher net fare than other market areas (East Bay or West Bay) and are the longest trips.

## Parking Programs

The District provides a variety of options for passengers who drive to BART stations. As of the date of this Official Statement, parking is provided at 32 stations and the total number of parking spaces provided system-wide is approximately 46,400. Parking is provided in surface lots and in parking garages. The District commenced charging for parking to enhance revenues in 2005. The District offers a paid monthly reserved parking program system-wide and a paid airport/long term parking program at most of its stations. The monthly reserved parking program allows passengers to purchase guaranteed parking near the entrance to a station. Monthly parking fees vary from station to station within a range of \$30 to \$115.50 based on demand. The number of spaces set aside for monthly reserved parking under

current authorization cannot exceed 25% at East Bay stations and 40% at stations located on the west side of San Francisco Bay (the “West Bay stations”). The airport/long term parking program allows passengers traveling to either San Francisco International Airport or Oakland Airport to purchase permits to park their vehicles at some BART stations for periods of time greater than 24 hours. Long Term permits can be purchased via the BART web site for \$5.00/day for East Bay Stations and \$6.00/day for West Bay stations. At many stations, a number of spaces are set aside for carpoolers and for passengers who arrive at stations after 10 a.m.

Current parking programs include criteria-based daily weekday parking fees at selected stations, including Daly City, and a Single Day Reserved Program for East Bay stations.

The criteria for implementing daily weekday parking fees at an East Bay station is (i) parking at such station fills three or more days a week or (ii) the local government jurisdiction requests that the District implement a daily fee. Nineteen of twenty-six East Bay stations have met the criteria and have implemented a Single Day Reserved Parking Permit Program. These permits are available for purchase via the BART web site at a cost ranging from \$3.00 to \$6.00.

Parking Revenue for Fiscal Year 2009 was \$11.3 million. An additional \$1.5 million in citation revenue, which varies year-to-year, was collected in for Fiscal Year 2009.

### **Power Supply; Participation in NCPA’s Lodi Energy Center**

The operations of the BART System require a substantial amount of electricity. The District’s current annual electric energy requirement is approximately 390,000 megawatt hours and its current peak electric load is approximately 80 megawatts (“MW”).

The District traditionally purchased all of its electricity requirements from Pacific Gas & Electric Company (“PG&E”). In 1995, the California Legislature enacted statutory provisions authorizing the District to purchase electricity from federal power marketing agencies. Pursuant to this authorization, approximately three percent of the District’s electricity supply is provided by the Western Area Power Administration (“WAPA”) under a contract that runs through 2025. This power supply is provided by federal hydroelectric generating facilities at relatively inexpensive rates.

The District’s authority to purchase electricity from other supplies was expanded in 2004 to permit the District to obtain electrical power supply from local publicly-owned electric utilities. Pursuant to these provisions, the District has entered into long-term power supply agreements with NCPA for all of its electrical power supply requirements above the WAPA supplies. NCPA presently sells power to the District at wholesale market rates under a ten-year supply arrangement. These arrangements provide significant savings to the District compared to the cost of standard retail service from PG&E.

The District utilizes PG&E transmission and distribution facilities to deliver for its power supply.

The District has elected to participate in NCPA’s Lodi Energy Center. The District has authorized an initial Generation Entitlement Share (“GES”) of 6.6%, representing 18.5 MW of capacity from the plant. The District, pursuant to the power sale agreement, will have an unconditional obligation related to its group share of the cost of the project that is subject to a 35% maximum “step-up” provision. The electric energy available to the District from its GES is expected to meet about 30% of the District’s present annual energy requirements. The District’s participation in the Lodi Energy Center is expected to diversify its power supply portfolio and provide an efficient and reliable source of power at average cost lower than the market alternative.

## CAPITAL PROGRAMS

Federal transportation statutes require that the Metropolitan Transportation Commission (“MTC”), in partnership with state and local agencies, develop and periodically update a long-range Regional Transportation Plan (“RTP”), and a Transportation Improvement Program (“TIP”) which implements the RTP by programming federal funds to transportation projects contained in the RTP. In order to effectively execute these planning and programming responsibilities, MTC requires each transit operator in its region which receives federal funding through the TIP, prepare, adopt and submit to MTC a Short Range Transit Plan. In conforming with MTC requirements, the District periodically prepares short range transit plans (each a “Short Range Transit Plan” or “SRTP”) and capital improvement programs (each, a “Capital Improvement Program” or “CIP”), which detail the District’s efforts to provide safe, reliable and efficient transit service within the San Francisco Bay Area and frame the District’s challenges for the upcoming decade by focusing on the District’s strategic vision, operational requirements, capital requirements and underlying financial plans. The current Short Range Transit Plan (hereinafter referred to as the “Fiscal Year 08 SRTP”) and Capital Improvement Program (hereinafter referred to as the “Fiscal Year 08 CIP”) were adopted by the Board of Directors in 2007 and relate to Fiscal Year 2008 through Fiscal Year 2017. A revised version of the SRTP is currently under production and will be available in 2010.

Major program areas of the Fiscal Year 08 CIP include System Reinvestment, Earthquake Safety, Security, Service and Capacity Enhancement and System Expansion. The System Reinvestment Program consists of numerous infrastructure rehabilitation and replacement projects designed to improve the reliability of the District’s rail cars and other BART System elements. The Earthquake Safety Program is intended to address the earthquake risk from several major fault lines in the immediate vicinity of the BART rail lines. The Security Program is comprehensive in nature, covering various operating and capital programs, including the following categorical projects: surveillance, locks and alarms, structural augmentation, emergency communications and operations, detective systems and preparedness. The Service Capacity and Enhancement Program includes a variety of elements, including accessibility improvements to better accommodate disabled riders, general access to stations through a variety of modes, station area development to attract and accommodate increased ridership, and projects to increase the passenger-carrying capacity of the BART System, including station and line-haul capacity. The System Expansion Program consists of various extension projects being studied, designed and/or constructed within the BART System.

### **System Reinvestment Program**

**First Generation Reinvestment Program.** In 1995, the District initiated a comprehensive program of essential renovation which required \$1.5 billion to complete. This program (herein referred to as the “First Generation Reinvestment Program”) was funded from a variety of funding sources, including various federal, State, and local funding sources, and has been completed.

**Next Generation Renovation Program.** The Fiscal Year 2008 CIP, which covers the 25-year period from Fiscal Year 2008 through Fiscal Year 2032, includes a second program of renovation (herein referred to as the “Next Generation Renovation Program”) which is anticipated to touch every major subsystem essential to the operation of the BART System. This Program includes both one-time and ongoing activities, and includes several program categories in the CIP, including System Reinvestment, Service and Capacity Enhancement and Security. Funding will be derived from a multitude of sources, including annual Federal formula fund allocations, State and local funds, and allocations from BART’s own operating budget. BART is continuing to seek additional funding required for implementation of this Program. It is BART’s general policy not to enter into capital commitments without identified funding sources. Major elements of this Program are described below.

**Automatic Fare Collection Modernization/ TransLink® Implementation.** The Automatic Fare Collection Modernization Program (the “AFC Modernization Program”) provided for the complete renovation and replacement of fare collection equipment throughout the BART System, including ticket vendors, addfare machines, and faregates. The AFC Modernization Program also provided new bill to bill change machines for installation in each station, upgrades to the central Data Acquisition System and station infrastructure upgrades. The new fare collection equipment is compatible with MTC’s TransLink® Program, designed to enable a transit rider to utilize one ticket to access multiple transit systems within the San Francisco Bay Area. TransLink® has been operating in revenue service on BART gates since August 2009.

**Advanced Automatic Train Control.** This program involves the installation of new train control technology from the Bay Fair station to the Daly City station and is designed to enhance service by reducing run times and the headway time between trains in the most congested part of the BART System. Upon completion of a demonstration phase, issues involving the new technology’s integration with the existing train control system were identified. Currently the District and the technology’s supplier have been unable to resolve these issues and litigation is being pursued by the District. BART’s complaint states causes of action for rescission, breach of contract, contract termination, specific performance and declaratory relief. The technology supplier has counterclaimed for breach of contract, breach of warranties, negligent misrepresentation and prompt payment violations. The litigation is in the discovery phase. Mandatory mediation was conducted in late 2008. Trial is scheduled to start in August 2010.

**Train Control System.** The mainline Train Control System (“TCS”) has benefited from recent reinvestment by replacing original subsystems of SORS (Sequential Occupancy Release System), ATO (Automatic Train Operations), and an ongoing program to replace the relay-based interlocking equipment with microprocessor equipment. However, the underlying original track switch, track circuit and speed control system is well beyond its original design life of 30 years. TCS receives an annual allocation of funding from the FTA Section 5307 Formula Funding program, which will be the primary source of funds to design and implement an updated train control system.

**Vehicle Automatic Train Control.** Vehicle Automatic Train Control (“VATC”) receives critical speed commands from the wayside equipment controlling train speed and stopping. This system was developed by in-house staff and has been modified several times over its life. Recently, design engineering and implementation of an updated VATC has been funded from Federal formula funds for the redesign of printed circuit boards and software; the procurement of boards based on the new design will be completed as funds become available.

**Communications.** The backbone of the supervisory and control systems is the operation communication network. It consists of fiber optic cable plant and computer systems that control and route all commands to the field from the Operations Control Center. These computers, which are located throughout the system, have a limited service life and require periodic upgrading or replacement.

Replacement of the radio system will be necessary within the next ten years. This system is used for train operation, communications between central operations and wayside, and for District police. Certain improvements and updates have been implemented to date; full replacement will occur at such time that funds become available.

**Traction Power System.** The Traction Power System (“TPS”) consists of over 700 high voltage circuit breakers and switchgear, 114 transformer-rectifiers, and over 3 million linear feet of cabling, most of which will be at or exceed its life expectancy within the next 10 years. The Fiscal Year 06 CIP begun

to address this critical system need by staging a reinvestment program starting in 2006 to repair and replace this equipment with annual allocations from Federal formula funds.

**Wayside Facility Infrastructure.** This program consists of renovation of the system's backbone infrastructure including rail and tie replacement, ventilation fan and street grating renovation, and other wayside facilities that will require repair and renovation on an on going basis. Wayside Facilities which touch the mainline rail system receive an annual allocation of funding from the FTA Section 5307 Formula Funding program.

**Elevator/Escalator and Safety Systems.** Within the next ten years a new program of elevator/escalator overhaul or replacement will be required. Replacement of emergency lighting systems and fire alarm systems at stations is required to restore essential back-up service and provide reliable information to first responders. This program is eligible for funding from BART's share of State bond proceeds derived from Proposition 1B State Infrastructure Bond Measure ("Proposition 1B") funds, as described in "—Funding Developments – State Proposition 1B General Obligation Bonds" below.

**Structural and Architectural Repairs.** Age and weathering has damaged many of the architectural elements at the stations. Significant repairs are necessary to restore granite and concrete damage throughout the system and other structural elements that require repair or replacement. This program is eligible for funding from BART's share of Proposition 1B funds, as described in "—Funding Developments – State Proposition 1B General Obligation Bonds" below.

As noted in several of the program descriptions above, the District will continue its practice of making necessary investments in ongoing renovation and replacement of major components of the District's infrastructure as needed. Included as ongoing system reinvestment projects are the mainline projects of Rail/Wayside Infrastructure Replacement, Traction Power System Renovation, and Transbay Tube Cathodic Protection; the station projects of Station Re lighting, Parking Lot Re-lighting, and Station Re-roofing; and the controls and communications project of Train Control Renovation.

In addition, other projects are contemplated or underway to upgrade certain District systems that were not part of the First Generation Reinvestment Program, and cannot be postponed until the implementation of the Next Generation Renovation Program.

## **Funding Developments**

*State Proposition 1B General Obligation Bonds.* In November 2006, California voters approved several State general obligation bond propositions which provide funding for transportation infrastructure. Receipt of these funds is dependent on issuances by the State and allocation by the California Transportation Commission. Specifically, Proposition 1B identified BART as an eligible recipient of approximately \$240 million of these funds, of which \$200 million was directed by the BART Board to be used in station rehabilitation and modernization projects. The remaining \$40 million of this earmark will be used as "matching" funds for other regional bond funding to be allocated to the Oakland Airport Connector and Warm Springs expansion projects, described under "—Service and Capacity Enhancement Program" below. Other Proposition 1B funds may be made available on a competitive basis for other security, renovation access and transit-oriented development projects as the State develops expenditure plans and processes.

*MTC RTIP 2030.* BART continues to receive approximately \$50 million per year in capital renovation funds from the FTA Sections 5307 and 5309 Formula Funding programs, which are programmed regionally by MTC. Under its current policy, MTC funds only the District's highest scoring transit capital reinvestment needs in the MTC Regional Transportation Plan 2030 ("T2030"). Under

T2030, MTC and participating counties fund these from a combination of Federal formula funds, “STP/CMAQ” and State Transportation Improvement Program (“STIP”) funds. For the District, this means approximately 76% of the District’s 25-year system reinvestment needs are projected to be funded in T2030. This constitutes three main project areas: renovation or replacement of the District’s revenue vehicle fleet; renovation of various mainline structures (rail structures, fencing, remote monitoring equipment and power delivery systems); and train control systems (wayside and on-board controls and radios.) The remaining 24% of the District’s reinvestment needs in T2030, constituting \$1.4 billion, remain as District capital priorities but do not score high enough and are not funded by MTC and the counties under the T2030 financial forecast. Project needs such as station and yard renovation will have to be met with funding sources yet to be identified by the District. MTC and the District have already begun the process of implementing the first phase of the rail replacement funding plan by establishing a “sinking fund” to hold allocated funds until such time that they are needed. Even with this significant regional commitment, it will still be necessary for the District to seek revenue from other sources to meet overall program costs.

*State Transit Funding.* This year the Governor enacted the “gas tax swap” which decreases the sales tax and increases the excise tax on gasoline to provide the State with additional revenue to pay State general obligation bond debt service, and decreases the excise tax and increases the sales tax on diesel fuel, thereby providing approximately \$118 million in additional revenue for the Public Transportation Account to fund the State Transit Assistance Program beginning in fiscal year 2011-2012. The gas tax swap is revenue neutral, but will result in approximately \$22 million in additional funds per year to BART commencing in Fiscal Year 2011-12. In addition, the gas tax swap gives a one-time \$400 million appropriation to transit in this fiscal year and the next, through the State Transit Assistance (“STA”) program, which will result in BART receiving approximately \$26 million over fiscal years 2009-2010 and 2010-2011. While the newly approved STA legislation provides the District with an ongoing revenue stream, the funding is vulnerable to State budget diversions, and will be subject to annual appropriations by the legislature.

The District’s preliminary 2011-2012 budget allocates \$9 million of the fiscal year 2011 STA payment to increasing the District’s operating reserve to \$24 million and allocates \$5 million to the fiscal year 2011 projected deficit and \$5 million to restoring feeder bus subsidies.

### **Earthquake Safety Program**

The original components of the BART System, constructed in the 1960s, were designed to withstand much greater seismic stress than required by construction standards of the time. The 1989 Loma Prieta earthquake provided a significant test of that design. BART was back in service just hours after the event, while many roads, bridges, freeways, and other structures in the San Francisco Bay Area suffered major damage. With the San Francisco-Oakland Bay Bridge out of service, BART served as a vital link between San Francisco and the East Bay following the Loma Prieta earthquake. However, the epicenter of the Loma Prieta earthquake was located approximately 60 miles from most of the BART System. BART faces earthquake risk from several major fault lines in the immediate vicinity of BART rail lines.

In Fiscal Year 2001, BART embarked on a comprehensive study (the “Seismic Vulnerability Study”) to assess the vulnerability of, and evaluate the risk to, the District’s physical plant and systems from a major earthquake in the San Francisco Bay Area. The Seismic Vulnerability Study, developed by BART after more than a year of engineering analysis and presented to the Board of Directors on June 6, 2002, identified retrofit strategies to strengthen the BART System. In order to implement a retrofit strategy based on the Seismic Vulnerability Study, the Board of Directors adopted a resolution on July 25, 2002, placing a measure on the November 5, 2002 ballot seeking authorization to issue general obligation



bonds, in one or more series, in an amount not to exceed \$1.05 billion. The November 5, 2002 ballot measure failed to receive approval by at least a two-thirds vote in the Three BART Counties, receiving approval from 64.2% of the voters voting on the ballot measure.

Subsequently, on June 10, 2004, the Board of Directors adopted a General Obligation Bond Program Report, which defined a \$1.307 billion (which includes projected construction inflation costs through estimated completion) earthquake safety program (the “Measure AA Earthquake Safety Program”) based on the Seismic Vulnerability Study. The Measure AA Earthquake Safety Program is based on maintaining operability of the core components of the BART System and retrofitting the rest of the BART System to a life safety level. The Measure AA Earthquake Safety Program is designed (i) to protect aerial trackway structures, underground trackway structures, including the Transbay Tube, and at grade trackway structures, stations, and administrative, maintenance, and operations facilities and (ii) to provide additional retrofits to facilitate a rapid return to service in the core of the BART System, spanning from the west portal of the Berkeley Hills Tunnel to the Daly City Yard.

In order to fund a portion of the Measure AA Earthquake Safety Program, the Board of Directors adopted a resolution on June 10, 2004, placing Measure AA on the November 2, 2004 ballot seeking authorization to issue general obligation bonds, in one or more series, in an amount not to exceed \$980 million. Measure AA received approval by at least a two-thirds vote in the Three BART Counties, receiving approval from 68.8% of the voters voting on Measure AA.

Another major funding source for the Measure AA Earthquake Safety Program is a statutory designation contained in the Regional Measure 2 (“RM2”) program, which was approved by Bay Area voters in March 2004. Funded by an increase of toll revenues from the State-owned Bay Area toll bridges, RM2 provides \$143 million to the Measure AA Earthquake Safety Program, specifically to assist in the retrofit of the Transbay Tube. Other funding sources for the Measure AA Earthquake Safety Program include \$134 million of State Local Seismic Safety Retrofit Program funds and a \$50 million contribution from BART from sources to be identified by the District. The District will also seek Proposition 1B funds for increased State participation in the project.

The Program’s funding plan and scope have been changed due to current and projected cost savings from favorable construction bids on project components. The current budgeted value of the Earthquake Safety Program is \$1.22 billion. The Program will still be able to achieve its original objectives, as well as construct additional retrofits prescribed by the BART Board in January 2009.

### **Security Enhancement Program**

Prior to the terrorist attacks of September 11, 2001, the District had an active security program in place under the auspices of the BART Police Department. The security program also included full involvement by the various District operating departments. Subsequent to the terrorist attacks of September 11, 2001, this security program continued, with the BART Police Department currently numbering 215 sworn police officers. However, subsequent to the terrorist attacks of September 11, 2001, the District has made significant investments in security training for all employees, customer outreach, physical hardening of BART facilities, and the development/installation of electronic security enhancements. In addition, concerted efforts to enhance the security of certain components of the BART System are ongoing and involve cooperation with, among others, outside law enforcement agencies and the U.S. Department of Homeland Security. However, unlike an airport system, the BART System remains fundamentally open, and open and easy access to transit service and public facilities is essential to the success of any public, mass transit system, including BART. The District is continuing its efforts to make its facilities and riders as secure as possible under such circumstances. At present, the District anticipates that the majority of funding required for capital security improvements will need to be

obtained from external grant sources. The District has been very active in working with other transit agencies to develop a more focused program for funding transit security to replace the disjointed security grant structure currently in place. Despite the difficulties in competing for these grant funds, the District has been successful in obtaining and/or receiving programming commitments for funds totaling over \$25 million in the past two fiscal years.

### **Service and Capacity Enhancement Program**

Major elements of this program include station enhancements and upgrades, capacity projects, station access improvements and transit-oriented development projects.

*Station Enhancements and Upgrades.* Station enhancement and upgrade projects include capacity expansion and upgrade projects within the paid and unpaid areas of stations. Such projects may be either system wide projects or individual station projects, which are developed through a comprehensive planning process. Once projects are identified, grant funding is sought from a variety of sources to allow for project implementation. When grant funding is secured and identified for a particular project, such project is implemented. Projects identified, funded and implemented to date include the reconstruction of the station entrance plaza at the 16th/Mission Street station, streetscape improvements at the Concord station, and access and accessibility improvements at both the Glen Park and Balboa Park stations.

*Capacity Projects.* Capacity projects may be either system wide projects or station specific projects. Once projects are identified, grant funding is sought from a variety of sources to allow for project implementation. When grant funding is secured and identified for a particular project, such project is implemented. Station capacity projects identified, funded and implemented to date include the phase one expansion at the Balboa Park station, consisting of a new escalator, stairs, faregates and emergency exit improvements.

*Station Access Improvements.* During Fiscal Year 2000, the Board of Directors adopted the Access Management and Improvement Policy Framework (the "Access Improvement Policy"). The Access Improvement Policy called for the development of access goals, new partnerships with transit agencies, local communities and private entities, parking resource management and development of access improvements consistent with station area planning strategies. Pursuant to the Access Improvement Policy, station access improvement efforts continue.

BART has completed access plans for 17 stations. Each access plan is intended to guide investment decisions at the station for which it was developed. In addition, BART has developed Station Access Guidelines which map out how the District can optimize access to stations by all modes.

Ongoing access program projects are divided into six categories: Bicycle, Auto, Signage, System Accessibility and Americans with Disability Act ("ADA") Improvements, Transit Connectivity, and Pedestrian. A system wide Bicycle Plan was developed and distributed to the Board of Directors in September 2002. Bicycle related projects are implemented as grant funding is obtained. Auto-oriented access projects include, among other projects, the parking management programs described above under the caption "The BART System - Parking Programs," a partnership with the San Francisco based nonprofit City Car Share organization to provide affordable hourly car rentals, and the SMART Parking Pilot Program, a program developed as a result of cooperation among the District, Caltrans and The University of California, Berkeley, to provide potential BART passengers using California State Highway 24 with real-time parking availability at the Rockridge station. BART is also implementing daily parking fees at select stations, described under "THE BART SYSTEM—Parking Programs" above. Signage projects involve programs designed to enhance informational signage at and around stations to make

access to the stations and to activities surrounding the stations more accessible to BART passengers. System accessibility and ADA projects are designed to improve system accessibility for users with disabilities by incorporating ADA guidelines and regulations within the BART System. Such projects include parking and path improvements, ADA compatible signage and ADA-related elevator projects. Transit connectivity projects are designed to improve coordination with other transit agencies and include such projects as adjustment of service schedules and construction of intermodal facilities. Pedestrian access projects include pedestrian friendly amenities, including crosswalks, sidewalks, curb cuts and signage.

Implementation of System Access Improvements projects is dependent upon securing funding. When grant funding is secured and identified for a particular project, such project is implemented.

*Transit-Oriented Development.* During 2004, a policy review panel, comprised of representatives of the Board of Directors, ABAG, MTC, the Bay Area Air Quality Management District and the Center for Transit-Oriented Development, a national organization formed to address transit-oriented development issues, conducted a comprehensive review of BART development activity in order to revise existing BART policies regarding real estate development. On July 14, 2005, the Board of Directors adopted the revised “Transit-Oriented Development Policy” (the “TOD Policy”), which resulted from this review. The TOD Policy is intended to guide development on BART land, to provide for interface with private development adjacent to BART stations, and to assure that access to BART stations will be accommodated by all development around BART stations.

To date, BART and its development partners have completed residential and commercial projects at the Castro Valley, Richmond and Fruitvale stations. Projects at West Dublin/Pleasanton and Pleasant Hill are under construction. Other projects in various stages of development are slated for the Ashby, Coliseum, El Cerrito Plaza, MacArthur, Walnut Creek and West Oakland stations. Additional TOD activity has occurred at the Hayward and Dublin/Pleasanton stations through property exchanges with the local land use jurisdictions. The District continues to work closely with a variety of local jurisdictions, community groups and private development partners to advance such projects and to support their efforts to develop public and private funding plans for these projects. Participation in the planning and development process does not commit the District to funding any project.

## **System Expansion Program**

Planned or proposed extensions of the BART System include:

*West Dublin/Pleasanton Infill Station.* This new transit station, the West Dublin/Pleasanton Station (“WDP Station”), is located west of the eastern-most end station on the Dublin/Pleasanton line in Alameda County. Funding for construction of this station as well as two parking facilities, pedestrian bridges, a bus intermodal facility and related improvements comes from sales tax revenue bonds issued by the District in 2006, local agency grants and BART funds, which are proceeds from the joint development projects on the adjacent BART property. The WDP Station project is part of a larger public/private project that is currently expected to include residential, retail and hotel components on property adjacent to the WDP Station. The District has retained West Dublin/Pleasanton Station Venture Inc. to oversee the public project. The WDP Station will be located in the median of Interstate 580 (“I 580”) between the Cities of Dublin and Pleasanton. A parking garage will be located on either side of I 580 to serve the WDP Station, and the two parking garages will accommodate a total of approximately 1,100 cars. The parking garages will be connected to the WDP station by pedestrian bridges spanning the eastbound and westbound lanes of I-580. The WDP Station is currently under construction. Concerns with the welds on the pedestrian bridge structures required further construction and supervision, resulting in project delays. Completion of the construction of the public project is now scheduled for spring 2011.

*Oakland Airport Connector.* Since the early 1970s, the concept of an improved transit link between the Oakland International Airport (“OIA”) and the BART System has been explored, and various feasibility, engineering and environmental studies have been undertaken. As currently planned, the Oakland Airport Connector (“OAC”) project follows a 3.1-mile, aerial and at-grade alignment from the Coliseum BART station to the OIA, and is designed to accommodate a potential future intermediate station. The total cost to build the Project is approximately \$492 million. Although there is a strong local funding commitment from several sources, other funds are necessary to meet project funding requirements. Feasibility studies found that projected OAC ridership could generate sufficient revenue such that BART could contribute a portion of the funding to the project by issuing debt that would be paid back from the long-term revenue generated by the OAC ridership.

Due to the sudden 2008 economic downturn and financial crisis, a proposed OAC Public Private Partnership procurement ended in October with no proposals received. In February 2009, the MTC allocated \$70 million in American Reconstruction and Recovery Act (“ARRA”) funding to the project subject to a contract award being made prior to the end of 2009. In May the BART Board approved the OAC financial plan which assumed a conservative ridership estimate (90% confidence level), a \$6 fare, and a TIFIA loan of up to \$102 million. BART issued a Request for Qualification/Proposal to interested parties for a Design-Build construction and startup project followed by a 20 year Operations and Maintenance contract (DB+OM) in May 2009. Four proposals were received in October 2009. On December 10, 2009, the Board authorized the award of the DB Contract for \$361 million to Flatiron/Parsons JV and the 20 year OM Contract to Doppelmayr Cable Car Inc. subject to the FTA allocation of its funding. In February 2010, the FTA rescinded the allocation of \$70 million in ARRA funds. Flatiron/Parsons JV has extended their bid while staff is working with the funding partners to identify the funding necessary to award the contract.

*Warm Springs Extension.* This \$890 million extension will extend south 5.4 miles from the terminus at the Fremont Station to a station at Warm Springs in southern Alameda County. An optional station in Irvington, located north of Warm Springs, will be added if funding from the City of Fremont becomes available. The extension will be mostly at-grade, however, it will run beneath Fremont Central Park in a mile-long cut and cover subway. A Supplemental Environmental Impact Report was completed and the project was adopted by the Board of Directors in July 2003. Thereafter, an Environmental Impact Statement was completed and a Record of Decision was issued by the FTA in October 2006. The project funding plan presently includes substantial contributions from a variety of local and State sources and surplus revenues from the SFO Extension. The project originally was envisioned to be a single design build contract. However, in order to minimize the effects of construction cost escalation, the project is now planned to be delivered in two phases, with commencement of revenue service to Warm Springs in late 2014. The project broke ground in 2009.

*Silicon Valley Rapid Transit Project.* This potential extension would extend the BART to the cities of Milpitas, San Jose and Santa Clara in the County of Santa Clara. This project will extend the current system 16 miles along the existing Union Pacific Railroad corridor south of the future Warm Springs Station in Fremont. BART expects this extension will be financed and constructed by Santa Clara Valley Transportation Authority (“VTA”). On November 19, 2001, BART and VTA entered into a comprehensive agreement, which outlined the responsibilities of each entity concerning the construction, management, financing, operation and ongoing maintenance of this extension, and which requires the District and VTA to continue to work together to design and construct this extension.

When completed, the train service will be completely isolated from car traffic. The new line will include: six stations - one in Milpitas, four in San Jose and one in Santa Clara; a 5-mile tunnel in downtown San Jose; and a new maintenance and storage facility in Santa Clara. The project will be constructed in two segments. The first segment is a 10 mile extension of BART service with two stations

– one in Milpitas and one at Berryessa that is in San Jose. This first segment is a New Starts Candidate Project with construction anticipated to begin in 2011 and revenue service to start in 2018. The second segment with the remaining four stations will be constructed as soon after the first segment as funding is available. The estimated capital cost of the first segment, the two station extension, is \$2.108 billion in 2009 dollars and for the entire six station extension the cost is estimated at \$5.211 billion.

The Santa Clara Valley Transportation Authority (VTA) acquired the right-of-way in December 2002 from the Union Pacific Railroad (UPRR) securing a vital north/south transit corridor for Santa Clara County. The Freight Railroad Relocation (FRR) project spans approximately eight miles of railroad from Fremont to Milpitas and included eight creek crossing plus multiple intersecting road. The purpose of the FRR project is to relocate existing freight rail tracks to a parallel location within the railroad right-of-way and facilitate key maintenance activities. This project will help secure vital space for BART tracks be built alongside the existing railroad tracks.

As of October 2009, the first stage of the FRR was completed. During the winter of 2009-2010, work continued in the area, strengthening and stabilizing a bridge, which will allow BART to be built below. In April of 2010, the second stage of the work will resume. The FRR is expected to last until 2013.

*eBART/East Contra Costa Rail Extension.* The eBART extension, designed to improve transit service in the congested California State Highway Route 4 (“State Route 4”) corridor, consists of a 10 mile extension eastward from the Pittsburg/Bay Point BART station to the City of Antioch utilizing a Diesel Multiple Unit (DMU) technology. The eBART Project alignment will be in the median of State Route 4 with a transfer platform in the existing Pittsburg/Bay Point station BART tailtrack and will include stations at Railroad Avenue in Pittsburg and Hillcrest Avenue in Antioch. The eBART Project is estimated to cost approximately \$462 million (in 2012 dollars). Environmental review was completed and approved by the BART Board in April 2009. Final design is underway in cooperation with Caltrans and the Contra Costa Transportation Authority. The District plans to advertise the first construction contract for this project in second quarter of 2010, and break ground in the summer of 2010. Project service is expected to commence in 2015, but construction is dependent on the State Route 4 widening schedule. The project funding plan presently includes substantial contributions from Contra Costa County and various other local and State funding sources.

*Tri-Valley Rail Extension.* This proposed extension was the subject of a study directed by the Alameda County Congestion Management Agency and BART to provide an alternative to traffic congestion on Interstate 580 and to improve transit connectivity in the Tri-Valley area (the Dublin, Livermore and Pleasanton area). Bart released a Draft Program Environmental Impact Report in November, 2009, but no funding has yet been identified for this proposed extension.

## **DISTRICT FINANCIAL INFORMATION**

### **Historical Financial Results**

The table on the following page summarizes BART’s historical financial operating results for its General Operating Fund for the Fiscal Years ending June 30, 2005 through June 30 2009. This summary for the Fiscal Years ending June 30, 2005 through June 30, 2009 is derived from BART audited financial statements for the Fiscal Years indicated therein (excluding certain non-cash items and after certain other adjustments, as summarized in the footnotes to the table) and are qualified in their entirety by reference to such statements, including the notes thereto. The income and expenses reported in the audited financial statements were based on consolidated information which included transactions pertaining to Other District Funds - Capital Funds and Debt Service Funds. Generally, income and expenses associated with

the Other District Funds include investment income, interest expense and debt issue costs. However, in the table below summarizing historical financial operating results, only transactions related to the District's General Operating Fund are shown.

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**HISTORICAL FINANCIAL RESULTS OF GENERAL OPERATING FUND**  
(in thousands of dollars)

(Fiscal Years Ending June 30)

	2005	2006	2007	2008	2009
<b>Annual Passengers</b>	<b>92,756</b>	<b>96,852</b>	<b>101,704</b>	<b>107,488</b>	<b>106,874</b>
<b>Operating Revenues</b>					
Passenger Revenues	\$233,651	\$256,239	\$282,080	\$309,457	\$318,094
Investment Income <sup>(1)</sup>	2,120	4,548	5,434	4,581	1,069
Other	14,993	18,886	25,290	27,751	30,144
<b>Total Operating Revenues</b>	<b>\$250,764</b>	<b>\$279,673</b>	<b>\$312,804</b>	<b>\$341,789</b>	<b>\$349,307</b>
<b>Financial Assistance:</b>					
Sales Tax Revenues	\$178,392	\$191,680	\$198,805	\$202,632	\$184,286
Property Tax Revenues <sup>(2)</sup>	22,412	24,325	27,419	28,955	30,356
Other <sup>(3)(8)</sup>	16,680	15,749	55,546	57,617	34,068
<b>Total Financial Assistance</b>	<b>\$217,484</b>	<b>\$231,754</b>	<b>\$281,770</b>	<b>\$289,204</b>	<b>\$248,710</b>
<b>Total Operating Revenues and Financial Assistance</b>	<b>\$468,248</b>	<b>\$511,427</b>	<b>\$594,574</b>	<b>\$630,993</b>	<b>\$598,017</b>
<b>Operating Expenses:</b>					
Labor <sup>(4)</sup>	\$313,052	\$315,039	\$326,732	\$381,906	\$386,847
Electrical Power	18,104	20,861	34,776	34,636	36,784
Express Feeder Bus	2,429	0	0	0	833 <sup>(5)</sup>
Other Non-Labor	85,914	91,981	105,598	102,739	105,151
<b>Total Operating Expenses<sup>(6)</sup></b>	<b>\$419,499</b>	<b>\$427,881</b>	<b>\$467,106</b>	<b>\$519,281</b>	<b>\$529,615</b>
<b>Net Revenues</b>	<b>\$ 48,749</b>	<b>\$ 83,546</b>	<b>\$127,468</b>	<b>\$111,712</b>	<b>\$ 68,402</b>
<b>Bond Debt Service<sup>(7)</sup></b>	<b>\$ 54,979</b>	<b>\$ 58,198</b>	<b>\$ 65,802</b>	<b>\$ 61,263</b>	<b>\$ 65,312</b>
<b>Rail Car Replacement Funding Exchange<sup>(8)</sup></b>			<b>\$ 22,680</b>	<b>\$ 22,681</b>	<b>\$ 22,682</b>
<b>Excess Revenues/(Deficit)</b>	<b>\$ (6,230)</b>	<b>\$ 25,348</b>	<b>\$ 38,986</b>	<b>\$ 27,768</b>	<b>\$(19,592)<sup>(9)</sup></b>
<b>Operating Ratio<sup>(10)</sup></b>	<b>60%</b>	<b>65%</b>	<b>67%</b>	<b>66%</b>	<b>66%</b>
<b>Farebox Ratio<sup>(11)</sup></b>	<b>56%</b>	<b>60%</b>	<b>60%</b>	<b>60%</b>	<b>60%</b>

(1) Investment income amount in audited financial statements is higher due to inclusion of investment income from District Funds other than the District Operating Fund. Amounts reported in audited financial statements as "Other income (expenses)" under "Nonoperating revenues (expenses)" are also excluded from the above presentation because they pertain only to extraordinary transactions or those transactions associated with Other District Funds - i.e. debt issue and debt service costs.

(2) Excludes property tax revenue earmarked for the debt service of the General Obligation Bonds issued in 2005.

(3) Increase in Other Financial Assistance in 2007 were driven primarily by increase in State Transit Assistance (STA) (\$18.2M), increase in financial assistance from FTA related to the Rail Fund Swap with MTC (\$22.68M), other FTA financial assistance for preventive maintenance (\$4.2M), and offset by decrease in financial assistance from SAMTRANS (\$8.0M). The decrease in FY 2009 compared to 2008 was caused primarily by the significant reduction in the STA funds received. In FY 2008, the District recognized revenue of \$ 23.1M from STA funds.

- (4) The substantial increase in labor costs in FY 2008 from FY 2007 was largely due to the increase in postemployment benefit (PEB) expenses arising from the implementation of GASB 45, which required that OPEB costs be accounted for on an accrual instead of the pay as you go basis – see footnote 13 on Appendix B.
- (5) Relates to District's share of expenses paid to local operators associated with providing passenger access to BART not covered by STA funds. There was no Feeder Bus Expense prior to Fiscal Year 2009 due to availability of STA funds.
- (6) Amount reported is higher in audited financial statements because such amounts in the financial statements include depreciation expense.
- (7) "Bond Debt Service" reported above represents actual amount remitted to cover debt service (for principal and interest payments on debt paid from General Operating Fund, which excludes General Obligation Bonds), paid from revenues (sales tax, premium fare and financial assistance) recognized in the General Operating Fund. Prior to Fiscal Year 2006, bond debt service only includes remittances to the Trustees for sales tax revenue bonds. Beginning Fiscal Year 2006, the amount reported includes remittances to the Trustee for Sales Tax Revenue Bonds, Airport Premium Fare Bonds and payment of Construction Loan from MTC relating to the San Francisco Airport Extension Project. Amount in audited financial statements under "Interest Expense" represents interest expenses for all District debts, net of capitalizable interest expense. For a complete discussion of BART's long term debt, see Note 7 to the audited financial statements of the San Francisco Bay Area Rapid Transit District included as Appendix B to this Official Statement.
- (8) Rail Car Replacement Funding Exchange represents a transfer to MTC in exchange for the same amount in Federal preventive maintenance grant provided by MTC to the District. The Federal grant is shown as part of Financial Assistance – Other.
- (9) The deficit in revenues in FY 2009 was covered by the District's operating reserves and other available funds.
- (10) Operating Ratio is defined as the total operating revenues divided by the total operating expenses.
- (11) Farebox Ratio is defined as total passenger revenues divided by total operating expenses.

## Management's Discussion of Historical Financial Results

Through the end of Fiscal Year 2009, total passenger trips decreased to 106.9 million, a 1% decrease over the same period in Fiscal Year 2008. See also "The BART System – Ridership," above. Due to BART's program of regular, CPI-based fare increases BART's passenger ("farebox") revenues were maintained at 60% of its total revenues—one of the highest farebox recovery ratios of any major transit district nationally. Although the national recession impacted the Bay Area and BART riders, BART was able to retain many passengers through Fiscal Year 2009 due to high gasoline prices and continued construction on the San Francisco-Oakland Bay Bridge, which impacts auto traffic in the Transbay corridor.

In Fiscal Year 2009, total operating revenues increased by \$7,518,000 primarily due to an increase of \$8,630,000 in passenger fares due to a full year of the January 1, 2008 fare increase and an increase of \$958,000 in parking revenue, offset by a reduction in investment income discussed below.

Sales tax revenues decreased \$18,346,000 in Fiscal Year 2009 due to the economic slowdown, but property tax revenues increased by \$1,401,000 due to property reassessments from prior years. Investment income decreased by \$3,512,000 due to lower balances and yields, and State Transit Assistance (STA), at \$21,726,000 in Fiscal Year 2008, was completely eliminated in the Fiscal Year 2009 State budget process.

Operating expenses increased by \$10,334,000 in Fiscal Year 2009 due to an increase in employee salaries and benefits, costs of repairs and maintenance, and traction electrical supply costs.

The reduced sales tax revenues and other financial assistance required the District to resort to use of reserves to balance the Fiscal Year 2009 budget. The District accelerated the planned January 1, 2010 fare increase to take effect July 1, 2009 to offset the negative impact of the recession on revenues in Fiscal Year 2010.

In recent fiscal years the District has addressed its revenue constraints by not only seeking increases to revenue sources, but also by reducing expenses, including the number of operating positions and non-labor expenses. Operating positions budgeted for Fiscal Year 2005 through Fiscal Year 2010 declined by 204.4 positions over the six fiscal year period. Full time equivalent positions that were actually filled declined by 45.9 positions between June 2005 and December 2009.



Although the number of employees has been reduced in recent fiscal years, through Fiscal Year 2009, labor costs have increased due to previously negotiated wage increases and increases in pension and health care costs. However, labor expenses through the first two quarters of Fiscal Year 2010 were approximately the same as compared to the same period in Fiscal Year 2009, due to a strict hiring freeze, the elimination of 100 positions as part of the Fiscal Year 2010 budget process, no contractual wage increases in Fiscal Year 2010, and changes to benefits starting in Fiscal Year 2010.

In each Fiscal Year's budget process, management establishes an operating ratio goal (percentage of operating revenue to operating expense). Through the first two quarters of Fiscal Year 2010, the operating ratio was 72.3%, a level that exceeds that of most urban rail systems. The District's operating ratio has steadily increased over the years, going from 59.8% in Fiscal Year 2005 to 66.0% in Fiscal Year 2009.

See also "Management's Discussion and Analysis" set forth in Appendix B - "San Francisco Bay Area Rapid Transit District Report on Audits of Financial Statements for the Years Ended June 30, 2009 and 2008."

The District currently budgets approximately 400,000 megawatt hours of annual electric power supply to operate the BART System. Through the second quarter of Fiscal Year 2010, power-related expenditures amounted to \$20.8 million. For Fiscal Year 2011 and the following three fiscal years, the District has secured most of its power supply at a cost per megawatt hour that is significantly below the amount budgeted for Fiscal Year 2010. This will result in a decrease of approximately \$3.8 million in the cost of the District's electrical power supply from the Fiscal Year 2010 level. For power supply costs after this four-year period, the SRTTP forecasts that the cost will increase at the general rate of inflation through 2020. Increased power supply needs due to the Warm Springs, e-BART or San Jose extensions have not been factored into these estimates.

### **Adopted Budget for Fiscal Year 2010**

In June, 2009, BART's nine-member Board of Directors adopted an interim \$642 million, unbalanced budget for the Fiscal Year ending June 30, 2010 ("Fiscal Year 2010") while the District proceeded with labor negotiations with its five labor unions. The interim budget was revised and balanced upon the conclusion of the District's labor negotiations. This revised budget was adopted by the Board in January 2010 and addressed declines in operating sources due to the recession and savings resulting from the new labor contracts. The four year labor contracts produced a partial year of savings for Fiscal Year 2010 of \$11.3 million from lower medical and other benefit costs and work rule changes, including the elimination of 36 positions. However, these savings were more than offset by projected declines in revenue, primarily passenger revenue and sales tax, which are expected to generate revenues of \$329.4 million and \$162.5 million, respectively, for Fiscal Year 2010. There were other budget adjustments, both positive and negative (such as higher advertising revenue, lower parking and interest revenue, and lower than budgeted costs for a medical rate increase), which together resulted in a revised Fiscal Year 2010 deficit of \$25.2 million.

To address the projected deficit, staff proposed budget cuts of \$6.0 million (\$3.1 million in labor and \$2.9 million in non-labor) and the use of one-time ARRA grants and federal flexible funds with a net impact of \$19.2 million (\$17.8 million in grant funds and a reduction of matching funds of \$1.4 million in capital allocations). The value of both the contract savings and the proposed budget cuts will increase in Fiscal Year 2011 because a full twelve months of labor and benefit savings will be realized.

The proposed reductions included the elimination of 69 operating positions and the conversion of 5 positions to capital funding, in addition to the elimination of 100 positions in the Interim Budget and 36 positions as a result of the work rule changes. The total is thus 210 fewer operating positions for Fiscal Year 2010 as compared to Fiscal Year 2009.

The second measure to address the deficit was the use of one-time ARRA stimulus funds and federal “flexible” grants. Use of one-time funding was recommended to minimize impacts on customers and employees. The District has eliminated a large number of positions in the past seven years to address the prior “dot-com” recession. Maintaining service with substantially less staff requires carefully managed cuts in order to focus available resources where they are most needed. Use of the one-time funds helps the District to manage this process, in order to achieve as much of the staffing reduction through attrition as possible, and, by placing impacted employees in vacant positions not slated for elimination. Also, the use of one-time funds gives the District additional time to better gauge the effect of the recession on revenue sources, and the extent of any ongoing “structural” deficit from the vantage point of the end of Fiscal Year 2010.

### **Preliminary Budget for Fiscal Year 2011**

On March 31, 2010, the General Manager presented the Board of Directors a preliminary budget for fiscal year ending June 30, 2011 that projects a deficit of \$10.6 million prior to taking into account recommended budgetary solutions, primarily consisting of STA funding allocations. The preliminary budget includes proposed expense reductions of \$5.3 million in labor and non-labor expenses to address this deficit. The recently available STA funding is estimated to provide \$26.2 million to the District, less \$5 million to feeder bus operators not including a transfer to the Alameda-Contra Costa Transit District (“AC Transit”) for feeder bus service. Due to the availability of the STA funds to meet feeder bus payments, the District will not need to contribute \$2.5 million from other operating funds to feeder bus operators, making the net impact of the STA funds \$23.7 million. \$9.3 million of such amount is suggested to be utilized to replenish the District’s operating reserve to its policy level of 5% of annual operating expense or \$24 million. \$5.3 million of the STA funds would be allocated to address the budget deficit, leaving \$9.1 million (less an amount to be negotiated for AC Transit feeder bus service) remaining to be allocated during the budget process.

### **Risk Management and Insurance**

The District is partially self-insured for workers’ compensation, public liability and property damage claims. The District’s property is insured against flood damage but is not insured against earthquake damage, which is not currently commercially affordable. For workers compensation, the District purchases \$10 million of insurance above a self-insured retention of \$4 million per accident. For public liability, the District purchases \$95 million of insurance above a self-insured retention of \$5 million per occurrence. The District’s property is insured for \$70 million per occurrence for certain leased rail cars, \$65 million per occurrence for equipment in the operations control center and \$25 million per occurrence for other insured property. The self-insured retention for property is \$2.5 million per occurrence, except for losses at the Hayward Test Track where the self-insured retention is \$3 million per occurrence. Terrorism insurance coverage is provided for workers’ compensation and the first \$50 million of public liability.

The District’s self-insurance programs are administered by independent claims adjustment firms. Claim expenses and liabilities are reported when it is probable that a loss has occurred and the amount of that loss can be reasonably estimated. Liabilities are discounted at a 3% rate and are based, in part, upon the independent adjustment firms’ estimate of reserves necessary for the settlement of outstanding claims and related administrative costs, and included estimates of claims that have been incurred but not yet

reported. Such reserves are reviewed by professional actuaries and are subject to periodic adjustments as conditions warrant.

See also Note 8 to the audited financial statements of the District included as Appendix B to this Official Statement.

### **Investment Policy**

The investment of funds of BART are made in accordance with BART's investment policy, developed by BART's Controller/Treasurer and approved by the Board of Directors on October 23, 2003 (the "Investment Policy") and Section 53600 et seq. of the California Government Code. The Investment Policy is subject to revision by the Controller/Treasurer, subject to approval by the Board of Directors, at any time and is reviewed periodically to ensure compliance with the stated objectives of safety, liquidity, yield and current laws and financial trends.

All funds of BART and investment activities are governed by the Investment Policy, which sets forth the following primary objectives, in order of priority:

1. Preservation of capital.
2. Liquidity – funds shall be invested only until date of anticipated need or for a lesser period.
3. Yield – generation of a favorable return on investment without compromise of the first two objectives.

Set forth in the below table are the carrying values and types of investment securities in BART's General Fund as of March 31, 2010.

#### **INVESTMENT DISTRIBUTION as of March 31, 2010**

US Treasury Bills	\$225,828,000
Local Agency Investment Fund	20,000,000
Certificates of Deposit	608,000
Total	<u>\$246,436,000</u>

As of March 31, 2010, the average duration of the District's investments (average days to maturity) was between 60-180 days.

All amounts deposited in the Project Fund established in connection with the General Obligation Bonds will be invested at the direction of the District in Investment Securities as such term is defined in the Paying Agent Agreement entered into by the District in connection with the General Obligation Bonds. Investment Securities include guaranteed investment contracts.

All amounts held by the respective trustees for the Sales Tax Revenue Bonds and the Premium Fare Bonds in the funds and accounts established under the indentures pursuant to which such obligations were issued are invested at the direction of the District, subject to certain limitations contained in the applicable indenture.

## **Employee Retirement Benefits**

*The information concerning the California Public Employees' Retirement System ("CalPERS") set forth below is excerpted from publicly available sources which the District believes to be accurate, but the District cannot and does not guarantee such information as to accuracy and completeness. CalPERS should be contacted directly at CalPERS, Lincoln Plaza North, 400 Q Street, Sacramento, California 95814, Telephone: (888) 225-7377 for other information, including information relating to its financial position and investments.*

*Plan Description.* All eligible employees may participate in the Public Employees' Retirement Fund (the "Fund") administered by CalPERS under the Miscellaneous Plan and the Safety Plan of the District. The Safety Plan covers all sworn police officers of the District; all other District employees are covered by the Miscellaneous Plan. The Fund is an agent multiple-employer public sector employee defined-benefit retirement plan that acts as a common investment and administrative agent for approximately 2,626 local public agencies and school districts within the State of California, including the District. The Fund provides retirement, disability and death benefits based on the employee's years of service, age and compensation. Employees vest after five years of service and may receive retirement benefits at age 50. These benefit provisions and all other requirements are established by State statute and District contractual agreements.

*Annual Actuarial Valuation Reports.* CalPERS prepares an Annual Actuarial Valuation Report ("CalPERS Actuarial Report") for its members. The District receives the annual report for its Miscellaneous Plan, and a separate annual report for its Safety Plan. The latest CalPERS Actuarial Reports were received by the District in October 2009, which were based on financial data available from the District and from various CalPERS databases as of June 30, 2008. These Reports established the District's required employer contribution rates for Fiscal Year 2011, which are 9.446% of covered payroll for the Miscellaneous Plan and 32.321% of covered payroll for the Safety Plan. The Reports also included for District's Miscellaneous and Safety Plans the latest Schedule of Funding Progress, which shows a five-year history of the actuarial value of assets, actuarial accrued liability, their relationship, and the relationship of unfunded actuarial accrued liability to payroll, as discussed herein below.

The District's employer required contribution rates for Fiscal Year 2010 were determined by an actuarial valuation of the Plans as of June 30, 2007. The employer required contribution rates for Fiscal Year 2010 are 9.311% of covered payroll for the Miscellaneous Plan and 33.448% of covered payroll for the Safety Plan.

*Funding Policy.* CalPERS' funding policy for the Miscellaneous Plan and the Safety Plan (hereinafter sometimes referred to as the "CalPERS Plans") requires periodic contributions by the District based on CalPERS actuarially-determined amounts sufficient to accumulate the necessary assets to pay benefits when due as specified by contractual agreements between the District and its unions. The individual entry age normal method is used to determine the normal cost, and for the valuation year ended June 30, 2008, the average remaining amortization period is 13 years for the Miscellaneous Plan and 22 years for the Safety Plan. There are two components to this cost. The employer cost and the employee cost. District payment for the employer portion of the contributions for the Fiscal Year ended June 30, 2009 to cover normal cost and to amortize the unfunded actuarial accrued liability are 9.741% (9.850% in 2008) and 32.977% (32.249% in 2008) of covered payroll for the Miscellaneous Plan and the Safety Plan, respectively. In accordance with agreements with the labor organizations representing District employees and District policy applicable to non-represented employees, the District also pays the employee portion of the normal contributions, which are 7% of covered payroll for Miscellaneous Plan employees and 9% of covered payroll for Safety Plan personnel. Total covered payroll and all payroll of the District are shown below.

	<b>Fiscal Year 2009</b>	<b>Fiscal Year 2008</b>
Covered Payroll	\$242,071,000	\$233,027,000
All Payroll	\$278,804,000	\$266,229,000

In calculating the annual actuarially required contribution rates, the CalPERS actuary calculates, on the basis of certain assumptions, the actuarial present value of benefits that CalPERS will fund under the CalPERS Plans, which includes two components, the normal cost and the unfunded actuarial accrued liability (the “UAAL”). The normal cost represents the actuarial present value of benefits that CalPERS will fund under the CalPERS Plans that are attributed to the current year, and the UAAL represents the actuarial present value of benefits that CalPERS will fund that are attributed to past years. The UAAL represents an estimate of the actuarial shortfall between assets on deposit at CalPERS and the present value of the benefits that CalPERS will pay under the CalPERS Plans to retirees and active employees upon their retirement. The UAAL is based on several assumptions including, the rate of investment return, average life expectancy, average age of retirement, inflation, salary increases and occurrences of disabilities. In addition, calculation of the UAAL involves certain actuarial adjustments, including the actuarial practice of smoothing losses and gains over multiple years (which is described in more detail below). As a result, prospective investors are encouraged to consider the UAAL as an estimate of the unfunded actuarial present value of the benefits that CalPERS will fund under the CalPERS Plans to retirees and active employees upon their retirement, and not as a fixed or hard expression of the liability the District owes to CalPERS under the CalPERS Plans.

In calculating the UAAL in an actuarial valuation, the CalPERS actuary smooths gains and losses over multiple years using a smoothing technique that generally only recognizes one-fifteenth of the gain or loss realized in a given Fiscal Year. In each actuarial valuation, the CalPERS actuary calculates what was the expected actuarial value of the assets (the “Expected Value”) of the CalPERS Plans at the end of the Fiscal Year (which assumes, among other things, that the real rate of return during that Fiscal Year equaled the assumed rate of return of 7.75%).

In April 2004, the CalPERS Board approved a new set of actuarial assumptions to be used in the June 30, 2003 valuation, for the purpose of determining future employer contribution rates beginning Fiscal Year 2005. The inflation assumption was changed from 3.5% to 3%. This change impacted the inflation component of the annual investment return assumption, the long-term payroll growth assumption and the individual salary increase assumptions as follows:

- The annual assumed investment return has decreased from 8.25% to 7.75%.
- The long-term salary increase assumption has decreased from 3.75% to 3.25%.
- The inflation component of individual salary scales has decreased from 3.75% to 3.25%.

The change to the inflation assumption also impacted the cost of living adjustments and purchasing power protection allowances assumed in the actuarial valuations. These changes are reflected in the June 30, 2003 CalPERS actuarial report which was delivered in 2004 and affected District contribution rates starting in Fiscal Year ending June 30, 2006.

CalPERS approved additional changes in its actuarial policies in April 2005 to help reduce volatility in employer portion contribution rates for years beginning Fiscal Year 2007. Changes include: amortizing gains and losses over a rolling 30-year period, moving from a three-year to a 15 year smoothing methodology, revising the Expected Value corridor to not less than 80% or more than 120% of market value from a 90% 110% corridor, and the creation of a stabilization fund.

For complete updated inflation and actuarial assumptions, please contact CalPERS at the above referenced address.

The cost for the District's employer portion of the contributions for Fiscal Year 2010 (through January 31, 2010) was \$12,043,000 and \$3,559,000 for Miscellaneous Plan employees and Safety Plan employees, respectively. The significant actuarial economic assumptions that CalPERS used in determining the Fiscal Year 2010 District employer portion contributions included: an assumed rate of return on investment assets of 7.75%, annual payroll increases of 3.25%, of which 3.00% is attributable to inflation growth, an annual production growth of 0.25%, merit increases that vary by length of service, and no postretirement benefit increases.

*Schedule of Funding Progress.* The funding status applicable to the District's Plans at June 30, 2008 (the most current available for the Fund) is summarized as follows:

***Funded Status of the Miscellaneous Plan***  
(in thousands of dollars)

<b>Valuation Date</b>	<b>Entry Age Normal Accrued Liability</b>	<b>Actuarial Value of Assets</b>	<b>Unfunded Liability (Excess Assets)</b>	<b>Funded Status</b>	<b>Annual Covered Payroll</b>	<b>UAAL as a Percentage of Payroll</b>
6/30/06	\$1,227,056	\$1,162,531	\$64,524	94.7%	\$211,146	30.6%
6/30/07	1,307,372	1,263,851	43,521	96.7	210,109	20.7
6/30/08	1,391,792	1,349,563	42,229	97.0	218,889	19.3

Source: CalPERS Annual Valuation Report as of June 30, 2008.

***Funded Status of the Safety Plan***  
(in thousands of dollars)

<b>Valuation Date</b>	<b>Entry Age Normal Accrued Liability</b>	<b>Actuarial Value of Assets</b>	<b>Unfunded Liability (Excess Assets)</b>	<b>Funded Status</b>	<b>Annual Covered Payroll</b>	<b>UAAL as a Percentage of Payroll</b>
6/30/06	\$140,160	\$108,568	\$31,592	77.5%	\$15,155	208.5%
6/30/07	151,616	120,493	31,123	79.5	16,172	192.4
6/30/08	164,993	131,846	33,147	79.9	17,721	187.0

Source: CalPERS Annual Valuation Report as of June 30, 2008.

### **Money Purchase Pension Plan**

Most District employees participate in the Money Purchase Pension Plan, which is a supplemental retirement defined contribution plan. In January 1981, the District's employees elected to withdraw from the Federal Social Security System ("FICA") and established the Money Purchase Pension Plan. Pursuant to its collective bargaining agreements and District policy, the District contributes an amount equal to 6.65% of eligible employee's annual compensation (up to \$29,700 after deducting the first \$133 paid during each month) up to a maximum annual contribution of \$1,868. Up through December 31, 2009, the District contributed an additional 1.627% of payroll for non-represented employees, subject to the Internal Revenue Code Section 401(a)(17) limits on compensation which may be taken into account.

The District, as the result of labor contract negotiations in 2009 and budgetary restrictions, has suspended the 1.627% contributions for all employees through June 30, 2013. In Fiscal Years 2014 through 2034, the District's obligation to make these payments is contingent on the accuracy of the projected Annual Required Contribution (ARC) for retiree medical benefits that is contained in the current collective bargaining agreements. In addition, again as the result of labor contract negotiations, the District has suspended the "6.65%" contributions on behalf of employees represented by the BART Police Managers Association from January 1, 2010 through June 30, 2013 and will suspend the "6.65%" contributions on behalf of employees represented by the BART Police Officers Association from July 1, 2010 through June 30, 2013.

The District's total expense and funded contribution for this Plan for Fiscal Year 2009 was \$6,807,000 and for the Fiscal Year 2008 was \$6,811,000. The Money Purchase Pension Plan assets at June 30, 2009 and 2008 (excluded from the financial statements in Appendix B), as shown in the Plan administrator's unaudited report, were \$222,368,000 and \$260,878,000, respectively. At December 31, 2009, there were approximately 606 participants receiving benefits under this Plan.

The Plan issues a publicly available financial report that includes financial statements and required supplementary information. This report may be obtained by writing or calling: BART Investments Plans Committee, 300 Lakeside Drive, Oakland, California 94612, (510) 464-6238.

### **Postretirement Health Care Benefits**

*Postretirement Health Care Costs.* In addition to the retirement benefits described above and as specified in the District's contractual agreements, the District provides postretirement health care benefits assistance to employees. Most employees who retire directly from the District (or their surviving spouses) are eligible if the employee retires at or after age 50 with a minimum of 5 years of service with the District and elects to take an annuity from CalPERS within 120 days of leaving the District. Pursuant to a Keenan Associates report dated March 30, 2010 entitled "Post-Employment Benefit Valuation Report, under GASB 43/45 as of June 30, 2009" (the "Keenan Report"), 1,539 retirees and surviving spouses are provided this benefit. The District made payments in Fiscal Year 2009 on a pay-as-you-go basis, net of retirees' and surviving spouses' share, medical insurance premiums totaling \$12,561,000 in Fiscal Year 2009 and \$11,844,000 in Fiscal Year 2008, and life insurance premiums amounting to \$58,000 in Fiscal Year 2009 and \$57,000 in Fiscal Year 2008.

*Retiree Health Benefit Trust.* In 2004, the Government Accounting Standards Board ("GASB") issued Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions ("GASB 45"). GASB 45 requires the District to change its accounting for other postemployment benefits ("OPEB") from pay-as-you-go to an accrual basis. Pursuant to Section 53620 of the California Government Code, a local agency may create a trust to fund postretirement health benefits. The assets of such a trust will qualify as an offset against liability under GASB 45. On May 18, 2004, the District created the Retiree Health Benefit Trust for the San Francisco Bay Area Rapid Transit District (the "Health Benefit Trust") in order to provide a vehicle for prefunding of portions of retiree health benefits. Pursuant to the terms of the Health Benefit Trust, the assets of the Health Benefit Trust are to be held for the sole and exclusive purpose of providing benefits to participants and beneficiaries and to defray the reasonable expenses of administering the Health Benefit Trust and designated plans. Assets placed into the Health Benefit Trust cannot be used for any other purposes and are not available to satisfy general creditors of the District. The Health Benefit Trust is administered by a trustee appointed by the Board of Directors. The current trustee is the Controller/Treasurer of the District.

At December 31, 2009, assets held in the Health Benefit Trust included money market mutual funds, U.S. Treasury obligations, corporate obligations, foreign obligations, domestic common stocks, equity mutual funds, and foreign stocks with a fair market value of approximately \$87,672,000.

The District's collective bargaining agreements require that, beginning July 1, 2007, the District contribute into its Health Benefit Trust amounts that at a minimum, reflect an eight year "ramp up" to District payment of the full GASB 45-compliant annual required contribution ("ARC") beginning July 1, 2013 using an open group valuation method with a closed thirty year amortization schedule for unfunded liability ending June 30, 2034.

Funding projections are based on the Keenan Report, the most recent actuarial analysis prepared for the District. These funding projections are based on certain assumptions and are inherently subject to a variety of risks and uncertainties, including increases in the cost and duration of health care benefits, which could cause actual results to differ materially from those that have been projected. Pursuant to its labor agreements, effective January 1, 2010, the District's contribution toward medical coverage was limited to the highest Bay Area HMO rate under CalPERS minus the applicable retiree contribution. This negotiated limit as reflected in the Keenan Report reduced the actuarial accrued liability ("AAL") by approximately \$51.6 million and decreased the ARC from a previous valuation. The report also contained projected per capita claims cost updates based on Calendar Years 2009 and 2010 CalPERS premiums, further decreasing the AAL by approximately \$21.4 million. Changes to actuarial assumptions including lowered trend rates decreased the AAL by approximately \$36.3 million; and updating demographic information with information from the latest census increased the AAL by approximately \$2.2 million.

Following is the summary of results of the valuation:

### Summary of Results

	(in \$ Millions)		
	Retiree Medical Plan	Additional OPEB Plan	Total
<u>June 30, 2009 Valuation Results</u>			
Actuarial Accrued Liability	\$335	\$27	\$362
Actuarial Value of Assets	\$ 68	\$ 0	\$ 68
Unfunded Actuarial Accrued Liability	\$267	\$27	\$294
<u>Results for FYE 2011</u>			
ARC (Percentage of Pay)	11.77%	0.80%	12.57%
ARC (Dollar Amount)	\$29.4	\$2.0	\$31.4
Estimated BART Payments			
Benefit Payments from General Assets	\$12.9	\$0.6	\$13.5
Contributions to Trust	\$11.9	\$0.0	\$11.9
Total	\$24.8	\$0.6	\$25.4

Source: Keenan Report dated March 30, 2010.



**APPENDIX C**

**NCPA AUDITED FINANCIAL STATEMENTS  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009**

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**AND ASSOCIATED POWER CORPORATIONS**

**Reports on Audit of Combined Financial Statements  
and  
Supplementary Information**

**For the Year Ended June 30, 2009 and 2008**

**NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS**

**Reports on Audit of Combined Financial Statements  
And Additional Combining Information**

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**For the Year Ended June 30, 2009 and 2008**

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## INDEPENDENT AUDITOR'S REPORT

The Board of Commissioners  
Northern California Power Agency and Associated Power Corporations

We have audited the accompanying combined balance sheets of Northern California Power Agency and Associated Power Corporations (the Agency) as of June 30, 2009 and 2008 and the related combined statements of revenues, expenses and changes in net assets and cash flow for the years then ended. These financial statements are the responsibility of the Agency's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the combined financial statements referred to above present fairly, in all material respects, the combined financial position of the Agency as of June 30, 2009 and 2008 and the combined results of its operations and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The management's discussion and analysis preceding the combined financial statements is not a required part of the basic combined financial statements but is supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Moss Adams LLP

Portland, Oregon  
November 25, 2009

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

The following management's discussion and analysis of the Northern California Power Agency (the Agency) and its financial performance provides an overview of the Agency's financial activities for the years ended June 30, 2009 and 2008. This discussion should be read in conjunction with the Agency's financial statements and accompanying notes, which follow this section.

#### **BACKGROUND**

The Northern California Power Agency is a joint powers agency formed by member public entities under the laws of the State of California. The Agency is responsible for purchasing, generating, transmitting, and selling electrical energy and for providing other related services to its members as each may require. The Agency provides a portion of certain of its members' power needs and certain of its members also self-provide and or purchase power and transmission from other public and private sources.

The Agency is governed by a Commission comprised of one representative for each member. The Commission is responsible for the general management of the affairs, property, and business of the Agency. Under the direction of the General Manager, the staff of the Agency is responsible for providing various administrative, operating and planning services for the Agency.

The Agency's project construction and development programs have been individually financed by project revenue bonds that are collateralized by the Agency's assignment of all payments, revenues, and proceeds associated with its interest in each project. Each of the Agency's members may choose which projects in which it wishes to participate, as to each such project in which an Agency member participates, that member is known as a "project participant." Each project participant has agreed to pay its proportionate share of debt service and other costs of the related project, notwithstanding the suspension, interruption, interference, reduction or curtailment of output from the project for any reason (that is, the take-or-pay member agreements). Certain of the revenue bonds are additionally supported by municipal bond insurance credit enhancements.

Power sales by the Agency to its members for their resale include both sales of power to project participants generated by operating plants and power purchased from outside sources. Rates for power sales are designed to recover costs that include budgeted annual operating costs and debt service. Additional amounts for operating reserves or rate stabilization may be included in rates under the terms of bond indentures. The Agency's rates for electric service are not subject to the regulatory jurisdiction of the California Public Utilities Commission (CPUC) or the Federal Energy Regulatory Commission (FERC). Rather, the Agency's rates are established annually in connection with its budget, which is approved by its governing Commission.

Various legal and tax considerations caused the Agency to provide that separate not-for-profit corporations should be delegated by the Agency to own the geothermal electrical generating projects undertaken by the Agency ("the Associated Power Corporations"). The Associated Power Corporations, consisting of Northern California Municipal Power Corporation Nos. Two and Three, have delegated to the Agency the authority to construct, operate and manage their respective geothermal plants and related assets. The Agency, in return for financing the costs of acquisition and construction, acquires all the capacity and energy generated by the plants.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

Because the Agency is a separate, governmental and not-for-profit organization that serves its participating members, who are also the Agency's principal customers, the net results of operations flow through to its participating members as either net revenues or net expenses.

### **FINANCIAL REPORTING**

For accounting purposes, the Agency is a special-purpose governmental entity that is engaged in a business-type activity, principally as a supplier of wholesale electricity and transmission to its member participants. As such, the Agency's financial statements are presented as an enterprise type fund, that is, similar in most respects to the financial statements of a private sector for-profit entity involved in the same kind of business.

The records of the Agency and the Associated Power Corporations are maintained substantially in accordance with the FERC Uniform System of Accounts. Accounting principles generally accepted in the United States of America are applied by the Agency in conformance with pronouncements of the Governmental Accounting Standards Board (GASB) and, where not in conflict with GASB pronouncements, the Financial Accounting Standards Board (FASB) pronouncements issued on or before November 30, 1989. The combined financial statements encompass the Agency and Associated Power Corporations on an accrual accounting basis. All significant intercompany balances and transactions have been eliminated from the combined amounts reported.

In accordance with Statement of Financial Accounting Standards (SFAS) No. 71, "Accounting for the Effects of Certain Types of Regulation," the Agency has deferred the net of certain items of expense and revenue that otherwise would have been charged to operations because it is probable that such items will be recovered in the future years' operations. The Agency expects to recover these items in rates over the term of the related debt obligations it has issued.

### **COMBINED BALANCE SHEETS, COMBINED STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS, AND COMBINED STATEMENTS OF CASH FLOW**

The combined balance sheets include all the Agency's assets and liabilities, using the accrual method of accounting, as well as information about which assets can be used for general purposes and which assets are restricted as a result of bond covenants and other commitments. The combined balance sheets provide information about the nature and amount of resources and obligations at a specific point in time. The combined statements of revenues, expenses, and changes in net assets report all the revenues and expenses during the time periods indicated. The combined statements of cash flow report the cash provided and used by operating activities as well as other cash sources, such as investment income and debt financing; and, other cash uses such as payments for debt service and capital additions.

## MANAGEMENT'S DISCUSSION AND ANALYSIS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### FINANCIAL HIGHLIGHTS

The following is a summary of the Agency's combined financial position and results of operations for the years ended June 30, 2009, 2008, and 2007.

Condensed Balance Sheets	June 30,		
	(000's omitted)		
	2009	2008	2007
Assets			
Current assets	\$ 73,916	\$ 67,105	\$ 67,741
Restricted assets	196,508	169,678	193,740
Electric utility plant, net	335,481	344,171	375,441
Other assets & deferred charges	297,097	282,141	246,136
	<u>\$ 903,002</u>	<u>\$ 863,095</u>	<u>\$ 883,058</u>
Liabilities and Net Assets			
Long-term debt	\$ 594,851	\$ 593,696	\$ 628,183
Current liabilities	149,215	114,582	98,693
Non-current liabilities and deferred credits	126,922	128,913	131,685
Net assets	32,014	25,904	24,497
	<u>\$ 903,002</u>	<u>\$ 863,095</u>	<u>\$ 883,058</u>

Condensed Statements of Revenues, Expenses and Changes in Net Assets	Years Ended June 30,		
	(000's omitted)		
	2009	2008	2007
Sales for resale	\$ 350,755	\$ 311,374	\$ 310,084
Operating expenses	301,251	292,639	269,487
Net operating revenues	49,504	18,735	40,597
Other expenses	(30,632)	(28,783)	(27,155)
Future recoverable costs	(2,714)	24,911	(943)
Refunds to participants	(10,048)	(13,456)	(17,767)
Increase (decrease) in net assets	6,110	1,407	(5,268)
Net assets, beginning of year	25,904	24,497	29,765
Net assets, end of year	<u>\$ 32,014</u>	<u>\$ 25,904</u>	<u>\$ 24,497</u>



## MANAGEMENT'S DISCUSSION AND ANALYSIS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### 2009 Compared to 2008

#### ASSETS

##### Current Assets

The Agency's current assets increased \$6.8 million or 10.1% during 2009 primarily due to cash provided by operating, investing and non-capital financing activities offset by reductions in accounts and interest receivable.

##### Restricted Assets

Restricted assets increased \$26.8 million or 15.8% from the prior year. This is primarily a result of Geothermal Project construction fund and debt service reserve account additions of approximately \$18.9 million, a net increase of funds of \$5.6 million for the Lodi Energy Center, and a \$3.8 million scheduled increase in debt service funds offset by a reduction of approximately \$1.5 million of other reserves and deposits.

##### Electric Utility Plant, Net

The Agency has invested approximately \$335.5 million in plant assets and construction work in progress, net of accumulated depreciation, at June 30, 2009. Net utility plant makes up approximately 37.2% of the Agency's assets. The \$8.7 million decrease from the prior year is a result of capital additions of \$9.8 million and an increase in construction work in progress of \$15.2 million offset by \$33.7 million in depreciation, net of retirements. Net capital additions were primarily related to photovoltaic arrays and turbine upgrades to Geothermal assets.

##### Other Assets and Deferred Charges

Other assets and deferred charges increased \$15.0 million compared to 2008. This was primarily due to an \$18.6 million increase in preliminary survey and investigation costs related to the proposed Lodi Energy Center offset by decreases in other deferred expenses by a net of \$3.6 million due to depreciation and bond cost amortizations.

#### LIABILITIES

##### Long-Term Debt

Long-term debt increased \$1.2 million in 2009 as a result of scheduled principal payments of \$38.2 million, which was offset by the effects of the 2008 Hydroelectric Project bond refunding and 2009 Geothermal Project bond issuance.

In July 2008, the Agency refunded (or purchased from the liquidity providers) the 2002 Hydroelectric Refunding Revenue Bonds Series A & B and the 2003 Hydroelectric Refunding Revenue Bonds Series A & B with outstanding principal of \$140,200,000. In addition, the associated interest rate swaps were terminated. The refunding was completed through the issuance of \$128,005,000 fixed rate tax exempt debt (2008 Series C) and \$9,505,000 fixed rate taxable debt (2008 Series D) with yields of 2.78% to 4.48% with varying principal maturities ranging from \$690,000 to \$15,550,000 through July 1, 2024. The refunding is estimated to have increased project debt service by an estimated \$11.7 million over the next 15 years, which results in an estimated economic loss (difference between the present values of the old and new debt service payments) to the Agency of approximately \$5,500,000. Swap termination payments of \$22,000, \$30,000 and \$2,260,000 were paid to Citigroup Financial Products Inc., UBS AG, and Bank One (JP Morgan), respectively.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

#### **2009 Compared to 2008 - Continued**

In March 2009, the Agency issued \$35,610,000 of Geothermal Project 2009 Series A fixed rate tax exempt bonds for the purpose of providing funds to finance the costs of acquisition and construction of certain improvements to the project as well as make a contribution to the Debt Service Reserve Account and to pay the costs of issuance. The bonds have yields of 2.625% to 5.480% with varying principal maturities ranging from \$1,820,000 to \$3,480,000 through July 1, 2024.

#### **Current Liabilities**

Current liabilities increased by \$34.6 million in 2009. This is primarily due to: (1) a net increase in participant advances and other deposits of \$22.2 million, which is primarily related to the Lodi Energy Center; (2) an increase in accounts payable of \$10.5 million; (3) a scheduled increase of \$1.7 million in the current portion of long-term debt; and (4) an increase of \$0.3 million in operating reserves offset by a small decrease in accrued interest.

#### **Non-Current Liabilities and Deferred Credits**

Non-current liabilities and deferred credits decreased by \$2.0 million in 2009. This was primarily due to a \$1.8 million decrease resulting from the recognition of deferred revenues and a decrease of \$0.2 million in Agency held operating reserves.

### **CHANGES IN NET ASSETS**

The Agency is intended to operate on a not-for-profit basis. Therefore, net assets primarily represent differences between total revenues collected, using rates based on estimated operating expenses and debt service, and the total actual expenses incurred. In subsequent periods of operation, excess collections (net of encumbrances) may be refunded to participants or appropriated for other uses at the discretion of the Agency's governing Board of Commissioners. In the event the Agency incurs a net expense at year-end, the balance would be subject to recovery in participant rates under the terms of the related participating member agreements, see Notes A, B and D to Combined Financial Statements.

#### **Sales For Resale**

Sales for resale revenues for fiscal year 2009 were approximately \$39.4 million or approximately 12.6% greater than in the prior fiscal year. This was the net result of the following: (1) higher sales for resale revenues from Agency Participants by approximately \$45.0 million or 15.8%, which was caused by a scheduled increase in annual debt service requirements and greater reliance on power contracts due to dry year hydroelectric conditions; and (2) lower other third-party revenues from electric power, ancillary services, and reliability must run sources by \$5.6 million or 20.8%, which was caused by reduced availability of excess energy for sale from the Agency's power resources.

#### **Operating Expenses**

Operating expenses increased by approximately \$8.6 million or 2.9% in fiscal year 2009, as compared with the prior year. This was the net result of the following: (1) the transmission cost component increased by \$12.3 million or 32.8% primarily due to increased costs of transmission services from the Independent System Operator; (2) the cost of the purchased power component increased by \$1.8 million or 1.2%, largely due to the additional need for power previously noted above; (3) operations costs decreased \$5.5 million which reflects reduced natural gas purchases for generation and a reduction of well work over and drill rig modernization costs; (4) increases in maintenance and administrative and general expenses totaling approximately \$1.4 million were offset by a reduction of \$1.4 million in depreciation expense.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

#### **2009 Compared to 2008 - Continued**

##### **Other Expenses**

Other expenses increased approximately \$1.8 million or 6.4%. This net increase was primarily due to increased amortization of deferred charges. Interest expense, net of interest income remained relatively flat.

##### **Future Recoverable Costs**

Future recoverable costs decreased by about \$27.6 million primarily because of a scheduled increase of bond principal collections to offset expenses originally paid from bond proceeds, including depreciation and bond cost amortizations. The Agency expects to recover certain items of expense and revenue through rates over the remaining term of outstanding revenue bond obligations, see Note B to Combined Financial Statements.

##### **Refunds to Participants**

Refunds to participants are comprised primarily of the prior year's budget settlements as well as third party Reliability Must Run (RMR) revenues and interest income received on certain participant reserves. Refunds to participants in 2009 decreased by \$3.4 million from 2008. This was the net result of: (1) a decrease in budget settlements of \$0.5 million from the prior year; (2) lower third party revenues of \$0.9 million from RMR due to contract termination in December 2007; and, (3) a reduction of \$2.5 million of interest income in participant reserves, all of which offset increased transmission revenue refunds of \$.5 million.

#### **2008 Compared to 2007**

##### **ASSETS**

##### **Current Assets**

The Agency's current assets decreased \$0.6 million during 2008 primarily due to cash provided by operating, investing and non-capital financing activities offset by reductions in accounts and interest receivable.

##### **Restricted Assets**

Restricted assets decreased \$24.0 million or 12.4% from the prior year. This is primarily due to a scheduled reduction in Geothermal project debt service of approximately \$25.2 million and a \$1.2 million net increase in other restricted reserves.

##### **Electric Utility Plant, Net**

The Agency has invested approximately \$344.2 million in plant assets and construction work in progress, net of accumulated depreciation, at June 30, 2008. Net utility plant makes up approximately 40% of the Agency's assets. The \$31.3 million decrease from the prior year is a result of net capital additions of \$4.1 million offset by \$35.4 million in depreciation.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

#### **2008 Compared to 2007 - Continued**

##### **Other Assets and Deferred Charges**

Other assets and deferred charges increased \$36.0 million compared to 2007. This was primarily due to: (1) the change in deferred expense by a net of approximately \$23.8 million due to a scheduled reduction of bond principal collections to offset expenses originally paid from bond proceeds, including depreciation and bond cost amortizations; and (2) a \$12.6 million increase in preliminary survey and investigation costs related to the proposed Lodi Energy Center.

#### **LIABILITIES**

##### **Long-Term Debt**

Long-term debt decreased \$34.5 million in 2008 as a result of scheduled principal payments of \$37.1 million, net of amortization of bond premium/discount, which was offset by the effects of the 2008 Hydroelectric Project bond refunding.

As part of a refinancing plan in November 2004, the Agency entered into two forward starting interest rate swaps in an initial notional amount of \$85,160,000 and \$1,574,000. To complete the refinancing transaction and realize the debt service savings under the 2004 swap agreement, on April 2, 2008 the Agency completed a bond refunding of certain maturities of the 1998 Hydroelectric Refunding Series A bonds totaling \$85,870,000. This 2008 Hydroelectric Refunding and the associated interest rate swaps are estimated to have reduced project debt service by \$11.775 million over the next 24 years providing the Agency with an estimated economic gain (difference between the present values of the old and new debt service payments) of approximately \$5.875 million.

##### **Current Liabilities**

Current liabilities increased by \$15.9 million in 2008. This is primarily due to: (1) an increase in participant advances of \$17.8 million, which is primarily related to the proposed Lodi Energy Center; (2) an increase in accounts payable of \$3.3 million; and, (3) a scheduled increase of \$1.1 million in the current portion of long-term debt, all of which were offset by decreases in operating reserves of \$4.4 million and accrued interest of \$2.0 million.

##### **Non-Current Liabilities and Deferred Credits**

Non-current liabilities and deferred credits decreased by \$2.8 million in 2008. This decrease was due to a net decrease of \$1.2 million in Agency held operating reserves, and a \$1.6 million decrease resulting from the recognition of deferred revenues.

#### **CHANGES IN NET ASSETS**

##### **Sales For Resale**

Sales for resale revenues for fiscal year 2008 were approximately \$1.3 million or approximately .4% greater than in the prior fiscal year. This was the net result of the following: (1) higher sales for resale revenues from Agency Participants by approximately \$13.3 million or 4.9%, which was caused by greater reliance on power contracts due to dry year hydroelectric conditions; and (2) lower other third-party revenues from electric power, ancillary services, and reliability must run sources by \$12.0 million or 30.8%, which was caused by reduced availability of excess energy for sale from the Agency's power resources.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

#### **2008 Compared to 2007 - Continued**

##### **Operating Expenses**

Operating expenses increased by approximately \$23.2 million or 8.6% in fiscal year 2008, as compared with the prior year. This was the net result of the following: (1) the cost of the purchased power component increased by \$18.4 million or 13.6%, largely due to the additional need for power previously noted above; (2) the transmission cost component increased by \$4.9 million or 14.9% primarily due to increased costs of related ancillary services from the Independent System Operator; (3) maintenance decreased by \$2.4 million or 17.1% due to the effects of the maintenance reliability program; and, (4) increase of approximately \$1.3 million in administrative and general expense primarily due to increased regulatory compliance requirements while operations and depreciation remained relatively flat.

##### **Other Expenses**

Other expenses increased approximately \$1.6 million or 6.0%. This net increase was primarily due to reduced interest income resulting from declining interest rates earned on investments.

##### **Future Recoverable Costs**

Future recoverable costs increased by about \$25.9 million primarily because of a scheduled reduction of bond principal collections to offset expenses originally paid from bond proceeds, including depreciation and bond cost amortizations. The Agency expects to recover certain items of expense and revenue through rates over the remaining term of outstanding revenue bond obligations, see Note B to Combined Financial Statements.

##### **Refunds to Participants**

Refunds to participants are comprised primarily of the prior year's budget settlements as well as third party Reliability Must Run (RMR) revenues and interest income received on certain participant reserves. Refunds to participants in 2008 decreased by \$4.3 million from 2007. This was the net result of: (1) an increase in budget settlements of \$3.4 million over the prior year; (2) lower third party revenues of \$6.1 million from RMR due to contract termination in December 2007; (3) a decrease of \$1.9 million due to the one-time 2007 refund for the sale of a prior year's bankruptcy claim; and, (4) a reduction of \$.2 million of interest income in participant reserves.

## **OUTLOOK**

The Agency's vision is to provide reliable, affordable, and clean energy to our members in an environmentally responsible way. We partner with our state and federal governments to support forward thinking policies that promote clean energy sources, protect our environment, and reflect the interests of the consumers we serve.

The Agency is currently planning for construction of a state of the art combined cycle project; the cleanest and most efficient natural gas powered plant available. The facility will be located near our member community of Lodi. When completed, this facility will produce energy with 30% to 40% less GHG emissions than alternative market purchases, while promoting optimum reliability vital to supporting intermittent renewable resources. The plant is slated to become operational in 2012.

## **MANAGEMENT'S DISCUSSION AND ANALYSIS**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

#### **SUMMARY**

The management of the Agency is responsible for preparing the information in this management's discussion and analysis, combined financial statements and notes to combined financial statements. Financial statements were prepared according to accounting principles generally accepted in the United States of America, and they fairly portray the Agency's financial position and results of operations. The notes to the financial statements are an integral part of the basic financial statements and provide additional financial information.

## COMBINED BALANCE SHEETS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

	June 30,	
	2009	2008
	(000's omitted)	
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 57,223	\$ 44,427
Investments	8,027	13,186
Accounts receivable		
Participants	199	1,313
Other, net of doubtful accounts of \$7,466	1,960	1,843
Interest receivable	92	186
Inventory and supplies – at average cost	5,434	5,168
Prepaid expenses	981	982
TOTAL CURRENT ASSETS	73,916	67,105
RESTRICTED ASSETS		
Cash and cash equivalents	53,046	43,314
Investments	142,460	124,777
Interest receivable	1,002	1,587
TOTAL RESTRICTED ASSETS	196,508	169,678
ELECTRIC PLANT		
Electric plant in service	1,058,219	1,048,434
Less: accumulated depreciation	(739,666)	(705,989)
	318,553	342,445
Construction work-in-progress	16,928	1,726
TOTAL ELECTRIC PLANT	335,481	344,171
OTHER ASSETS AND DEFERRED CHARGES		
Unamortized excess cost on advance refunding of debt, net	91,821	91,598
Deferred expenses to be recovered in future years	161,572	165,565
Unamortized debt issuance expenses	11,615	11,505
Preliminary survey and investigation costs	32,089	13,473
TOTAL OTHER ASSETS AND DEFERRED CHARGES	297,097	282,141
TOTAL ASSETS	\$ 903,002	\$ 863,095

## COMBINED BALANCE SHEETS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

	June 30,	
	2009	2008
LIABILITIES	(000's omitted)	
CURRENT LIABILITIES		
Accounts payable	\$ 33,782	\$ 23,282
Member advances & other deposits	57,299	35,121
Operating reserves	3,250	2,986
Current portion of long-term debt	39,910	38,205
Accrued interest payable	14,974	14,988
TOTAL CURRENT LIABILITIES	149,215	114,582
NON-CURRENT LIABILITIES AND DEFERRED CREDITS		
Deferred revenues	42,457	44,258
Operating reserves	84,465	84,655
Long-term debt, net	594,851	593,696
TOTAL NON-CURRENT LIABILITIES AND DEFERRED CREDITS	721,773	722,609
TOTAL LIABILITIES	870,988	837,191
NET ASSETS		
Invested in capital assets, net of related debt	(40,329)	(45,978)
Restricted	52,244	49,372
Unrestricted	20,099	22,510
TOTAL NET ASSETS	32,014	25,904
Commitments and Contingencies (Note G)		
TOTAL LIABILITIES AND NET ASSETS	\$ 903,002	\$ 863,095



**COMBINED STATEMENTS OF REVENUES, EXPENSES  
AND CHANGES IN NET ASSETS**

**NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS**

	Years Ended June 30,	
	2009	2008
	(000's omitted)	
SALES FOR RESALE		
Participants	\$ 329,362	\$ 284,354
Other Third-Party	21,393	27,020
TOTAL SALES FOR RESALE	<u>350,755</u>	<u>311,374</u>
OPERATING EXPENSES		
Purchased power	155,486	153,701
Transmission	49,873	37,556
Operations	32,759	38,299
Depreciation	34,084	35,431
Administrative and general	16,629	16,135
Maintenance	12,420	11,517
TOTAL OPERATING EXPENSES	<u>301,251</u>	<u>292,639</u>
NET OPERATING REVENUES	49,504	18,735
OTHER (EXPENSES) REVENUES		
Interest expense	(30,281)	(34,125)
Interest income	4,449	8,592
Amortization of deferred charges	(6,446)	(4,690)
Other	1,646	1,440
TOTAL OTHER EXPENSES	<u>(30,632)</u>	<u>(28,783)</u>
FUTURE RECOVERABLE / REFUNDABLE AMOUNTS	(2,714)	24,911
REFUNDS TO PARTICIPANTS	<u>(10,048)</u>	<u>(13,456)</u>
INCREASE IN NET ASSETS	6,110	1,407
NET ASSETS, Beginning of year	<u>25,904</u>	<u>24,497</u>
NET ASSETS, End of year	<u>\$ 32,014</u>	<u>\$ 25,904</u>

# COMBINED STATEMENTS OF CASH FLOW

## NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

	Years Ended June 30,	
	2009	2008
	(000's omitted)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Received from participants	\$ 328,675	\$ 282,360
Received from others	21,276	27,839
Payments for employee services	(26,765)	(37,307)
Payments to suppliers for goods & services	(230,093)	(222,337)
NET CASH FROM OPERATING ACTIVITIES	93,093	50,555
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from maturities and sales of investments	256,752	286,748
Interest received on cash and investments	3,805	5,026
Purchase of investments	(268,056)	(267,211)
NET CASH FROM INVESTING ACTIVITIES	(7,499)	24,563
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>		
Expenditures for debt issuance costs	(3,191)	(701)
Acquisition and construction of electric plant	(25,050)	(4,161)
Interest paid on long-term debt	(31,223)	(35,574)
Principal repayment on long-term debt	(38,205)	(37,060)
Proceeds from bond issues	181,850	88,325
Payments to refund debt	(142,512)	(87,557)
NET CASH FROM CAPITAL AND RELATED FINANCING ACTIVITIES	(58,331)	(76,728)
<b>CASH FLOWS FROM NON-CAPITAL AND RELATED FINANCING ACTIVITIES</b>		
Advances from members	22,377	17,595
Other proceeds	1,446	1,638
Preliminary survey and investigation costs	(18,510)	(12,645)
Refunds to participants	(10,048)	(13,456)
NET CASH FROM NON-CAPITAL AND RELATED FINANCING ACTIVITIES	(4,735)	(6,868)
<b>INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	22,528	(8,478)
<b>CASH AND CASH EQUIVALENTS</b>		
Beginning of year	87,741	96,219
End of year	\$ 110,269	\$ 87,741

# COMBINED STATEMENTS OF CASH FLOW-Continued

## NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

	Years Ended June 30,	
	2009	2008
	(000's omitted)	
RECONCILIATION OF NET OPERATING REVENUES TO NET CASH FROM OPERATING ACTIVITIES		
Net operating revenues	\$ 49,504	\$ 18,735
Adjustments to reconcile net operating revenues to net cash from operating activities:		
Depreciation	34,084	35,431
	<u>83,588</u>	<u>54,166</u>
CASH FLOWS IMPACTED BY CHANGES IN		
Accounts receivable	997	407
Inventory and prepaids	(265)	(158)
Operating reserves	74	(5,581)
Deferred revenues	(1,801)	(1,584)
Accounts payable	10,500	3,305
NET CASH FROM OPERATING ACTIVITIES	<u>\$ 93,093</u>	<u>\$ 50,555</u>
CASH AND CASH EQUIVALENTS AS STATED IN THE COMBINED BALANCE SHEETS		
Cash and cash equivalents - current assets	\$ 57,223	\$ 44,427
Cash and cash equivalents - restricted assets	53,046	43,314
End of year	<u>\$ 110,269</u>	<u>\$ 87,741</u>

## NOTES TO COMBINED FINANCIAL STATEMENTS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

June 30, 2009 and 2008

#### NOTE A -- ORGANIZATION

**The Agency** Northern California Power Agency (Agency) was formed in 1968 as a joint powers agency of the State of California. The membership consists of eleven cities with publicly-owned electric utility distribution systems, one irrigation district, one public utility district, one port authority, a transit authority, and two other associate member entities. The Agency is generally empowered to purchase, generate, transmit, distribute, and sell electrical energy. Members participate in the projects of the Agency on an elective basis.

Various legal and tax considerations caused the Agency to provide that separate not-for-profit corporations should be delegated by the Agency to own the geothermal electrical generating projects undertaken by the Agency ("the Associated Power Corporations"). The Associated Power Corporations, Northern California Municipal Power Corporations Nos. Two and Three, have delegated to the Agency the authority to construct, operate and manage their respective geothermal plants and related assets. The Agency, in return for financing the costs of acquisition and construction, acquires all the capacity and energy generated by the plants. See Note D—Projects and Related Financing.

The Agency is governed by a Commission comprised of one representative for each member. The Commission is responsible for the general management of the affairs, property, and business of the Agency. Under the direction of the General Manager, the staff of the Agency is responsible for providing various administrative, operating and planning services for the Agency.

#### NOTE B -- SIGNIFICANT ACCOUNTING POLICIES

**Basis of Accounting and Principles of Combination** For accounting purposes, the Agency is a special-purpose governmental entity that is engaged in a business-type activity, principally as a supplier of wholesale electricity and transmission to its member participants. As such, the Agency's financial statements are presented as an enterprise type fund, that is, similar in most respects to the financial statements of a private sector for-profit entity involved in the same kind of business.

The records of the Agency and its Associated Power Corporations are maintained substantially in accordance with the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts. Accounting principles generally accepted in the United States of America are applied by the Agency in conformance with pronouncements of the Governmental Accounting Standards Board (GASB) and, where not in conflict with GASB pronouncements, the Financial Accounting Standards Board (FASB) pronouncements issued on or before November 30, 1989. The combined financial statements encompass the Agency and Associated Power Corporations on an accrual accounting basis. All significant intercompany balances and transactions have been eliminated from the combined amounts reported.

**Cash** Operating cash is maintained in interest-bearing depository accounts, which are fully collateralized, in accordance with state law. Cash balances are invested in either overnight repurchase agreements, which are fully collateralized by U.S. Government Securities, or in money market funds invested in short-term U.S. Treasury Securities. The Agency commingles operating cash for investment purposes only. Separate detailed accounting records are maintained for each account's related investments. All cash of the Agency is held by either the Agency's custodian or its primary bank and revenue bond trustee.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Cash Equivalents** Cash equivalents are short-term investments purchased with original maturities of 90 days or less. Cash equivalents consist primarily of portions of guaranteed investment contracts, U.S. Treasury and Agency Securities, California State Treasurer's pooled Local Agency Investment Fund (LAIF), and money market mutual funds.

**Restricted Cash and Investments** Long-term debt and other agreements require the maintenance of certain restricted asset accounts. Cash and investments held in these accounts are restricted for specific uses, including project construction, operations, debt service, and special reserve requirements. Investments are stated at cost adjusted for amortization of premiums and accretion of discounts, which approximates market.

**Accounts Receivable** Accounts receivable at June 30, 2009 and 2008 are recorded net of an allowance for doubtful accounts of \$7,466,000, which represents amounts owed to the Agency in connection with the bankruptcies of Pacific Gas & Electric Company and the California Power Exchange along with amounts owed by the Independent System Operator largely on behalf of PG&E. See Note G.

**Inventory and Supplies** Inventory and supplies consist primarily of spare parts for the maintenance of plant assets and are stated at average cost.

**Restricted Assets** Cash and cash equivalents, investments and related accrued interest which are restricted under terms of certain agreements, trust indentures or Commission actions limiting the use of such funds, are included in restricted assets.

**Electric Plant** Electric plant in service is recorded at historical cost. The cost of additions, renewals and betterments is capitalized; repairs and minor replacements are charged to operating expenses as incurred. The original cost of property retired, net of removal and salvage costs, is charged to accumulated depreciation. Depreciation expense is computed using the straight-line method over the estimated useful lives of the related assets. The provision for depreciation was approximately 3% of the average electric plant in service for the Agency during 2009 and 2008. Depreciation is calculated using the following estimated lives:

Generation and Transmission	25 to 42 years
General Plant	5 to 25 years
Transportation Equipment	5 years

A summary of changes in electric plant for the year ended June 30, 2009 is as follows:

	Balance June 30, 2008	Additions	Deletions	Balance June 30, 2009
	(000's omitted)			
Land and Land Rights	\$ 172,041	\$ -	\$ -	\$ 172,041
Structures and Leasehold Improvements	291,911	9,628	(1)	301,538
Reservoirs, Dams and Waterways	249,325	-	-	249,325
Equipment	333,272	527	(192)	333,607
Furniture and Fixtures	1,885	37	(214)	1,708
Total	1,048,434	10,192	(407)	1,058,219
Construction Work-In-Progress	1,726	25,008	(9,806)	16,928
Accumulated Depreciation	(705,989)	(34,084)	407	(739,666)
Electric Plant, Net	\$ 344,171	\$ 1,116	\$ (9,806)	\$ 335,481

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

A summary of changes in electric plant for the year ended June 30, 2008 is as follows:

	Balance June 30, 2007	Additions	Deletions	Balance June 30, 2008
	(000's omitted)			
Land and Land Rights	\$ 172,041	\$ -	\$ -	\$ 172,041
Structures and Leasehold Improvements	291,363	548	-	291,911
Reservoirs, Dams and Waterways	249,325	-	-	249,325
Equipment	331,543	1,840	(111)	333,272
Furniture and Fixtures	1,869	47	(31)	1,885
Total	1,046,141	2,435	(142)	1,048,434
Construction Work-In-Progress	-	1,726	-	1,726
Accumulated Depreciation	(670,700)	(35,431)	142	(705,989)
Electric Plant, Net	\$ 375,441	\$ (31,270)	\$ -	\$ 344,171

**Construction Work-In-Progress** Construction work-in-progress (CWIP) includes the cost of land, material, equipment, labor, interest (net of interest income), certain other financing costs incurred to facilitate the projects and an allocated portion of general and administrative expenses related to the development of electric plant. In addition, CWIP ultimately includes costs incurred during the test and start-up phase of projects prior to commencement of commercial operations.

**Preliminary Surveys and Investigations** Expenditures for preliminary surveys, plans and investigations (PS&I) are deferred until the ultimate feasibility of the contemplated project is determined. When a project is continued, these expenditures are capitalized as part of construction work-in-progress and the related advances provided by members to fund such expenditures are repaid out of the permanent financing of the project. If a project is abandoned, such expenditures and related advances are included in operations when such determination is made. Included in PS&I are costs related to emission credits acquired that may be necessary to operate a gas fired facility. Such credits have an indeterminate life and therefore will not be amortized.

**Unamortized Excess Cost on Advance Refunding of Debt** Gains and losses on refunding of debt are deferred as unamortized excess cost on advance refunding of debt and are amortized using the effective interest method over the shorter of the term of the original debt refunded or the term of the refunding debt obligation.

**Deferred Expenses/Revenues to be Recovered/Refunded in Future Years** In accordance with Statement of Financial Accounting Standards (SFAS) No. 71, "Accounting for the Effects of Certain Types of Regulation," the Agency has deferred the net of certain items of expense and revenue that otherwise would have been charged to operations because it is probable that such items will be recovered in the future years' operations. The Agency expects to recover these items in rates over the term of the related debt obligations it has issued. On an ongoing basis, the Agency reviews its operations to determine the continued applicability of these deferrals under SFAS No. 71.

The items of expense that have been deferred are those originally paid from bond proceeds, including depreciation, certain bond amortizations and interest paid from bond proceeds. Revenues used to acquire electric plant have also been deferred to future years. As of June 30, 2009 and 2008, the Agency had accumulated deferred expenses (net of revenues) to be recovered in future years of approximately \$119,115,000 and \$121,307,000, respectively.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Unamortized Debt Issuance Expenses** Debt issuance expenses are amortized over the term of the related issue. Amortization is computed using the effective interest method.

**Long-Term Debt** Long-term debt is stated net of unamortized discounts and premiums. Discounts and premiums are amortized over the term of the related obligation using the effective interest method. Amortization of debt discounts and premiums is included in total interest expense for the period, see Note D-Projects and Related Financing.

**Operating Reserves** The Agency has established various funded operating reserves for anticipated periodic operating costs and related liabilities including, but not limited to, scheduled maintenance other than ordinary repairs and replacements. Certain amounts funded each year are charged to operating expense because the rates established by the Agency for power sales to its members include these costs on a prospective basis. Changes to operating reserve levels are periodically authorized by the Agency's Commission during its annual budgeting process. A non-project specific, individual participant controlled, general operating reserve is also maintained for participating Agency members.

**Rates** Power sales to participants for their resale include both power generated by operating plants and power purchased from outside sources. Rates for power sales are designed to recover costs that include budgeted annual operating costs and debt service. Additional amounts for operating reserves or rate stabilization may be included in rates under the terms of bond indentures. During fiscal years 2009 and 2008, no amounts were specifically collected for rate stabilization.

The Agency's rates for electric service are not subject to the regulatory jurisdiction of the California Public Utilities Commission (CPUC) or FERC. Rather, the Agency's rates are established annually in connection with its budget, which is approved by its governing Commission.

**Power, Transmission and Fuel Forward Transactions** In the normal course of its business, the Agency is required to manage loads, resources, and energy price risk on behalf of its members. Consequently, the Agency buys and sells power, transmission, and fuel in wholesale markets as required. The Agency does not enter into such agreements solely for trading purposes. All such transactions are normal purchases and sales subject to settlement at the agreed to contract prices for quantities delivered. While authorized to transact forward purchase contracts for terms of up to five years, forward contract purchases at fiscal year ended June 30, 2009 were for periods not greater than two years duration beyond the current fiscal year. In the event of default, undelivered transactions are required to be marked-to-market subject to the following limitations. If the Agency, as buyer, is the defaulting entity, the Agency's termination settlement amount is capped at the agreed to contract cost for all future undelivered commodities. If the selling counterparty is the defaulting entity, the seller's termination settlement is not capped for all future undelivered commodities. The defaulting entity is also subject to resultant transmission charges, brokerage fees, attorney fees, and all other reasonable expenses. See Note G - Commitments and Contingencies, Power Purchase Contracts.

**Fair Values of Financial Instruments** The following methods and assumptions were used by the Agency in estimating its fair value disclosures for financial instruments:

*Cash and Cash Equivalents:* The carrying amount reported in the balance sheets for cash and cash equivalents approximates its fair value.

*Investments:* The fair values for investments are based on quoted market prices, see Note C.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

*Long-Term Debt:* The fair value of the Agency's long-term debt (including current maturities) as of June 30, 2009 and 2008 is estimated to be approximately \$948,714,000 and \$1,005,480,000, respectively. This estimate was developed using discounted cash flow analyses, based on current borrowing rates for tax-exempt securities with similar ratings and maturities.

*Interest Rate Swaps:* The net aggregate fair value of Interest Rate Swaps and related Swap Agreements at June 30, 2009 and 2008 was \$13,484,000 and \$10,948,000 due to counterparties, respectively. The fair values of Interest Rate Swaps entered into by the Agency were based on estimates as determined by the Agency's financial advisor, see Note D, Hydroelectric Project.

**Net Assets** The Agency classifies its net assets into three components; invested in capital assets net of related debt, restricted and unrestricted. These classifications are defined as follows:

*Invested in Capital Assets, Net of Related Debt* – This component of net assets consists of capital assets, net of accumulated depreciation reduced by outstanding debt balances, net of unamortized debt expenses and unspent bond proceeds.

*Restricted* – This component consists of net assets with constraints placed on their use. Constraints include those imposed by debt indentures and other agreements; grants, laws and regulations of other governments; or, by the Agency's governing Board of Commissioners.

*Unrestricted* – This component of net assets consists of net assets that do not meet the definition of "invested in capital assets, net of related debt" or "restricted".

The Agency and the Associated Power Corporations are intended to operate on a not-for-profit basis. Therefore, any balance of net assets represents differences between total revenues collected, using rates based on estimated operating expenses and debt service, and the total actual expenses incurred. In subsequent periods of operation, excess collections (net of encumbrances) that the participating members do not direct be held by or released to the Agency for expenditure by the Agency are refunded to the participating members. Estimated encumbrances at June 30, 2009 and 2008 were \$6,000,176 and \$6,691,000, respectively. In the event the Agency incurs a negative net assets balance, the balance would be subject to recovery in rates under the terms of the related take-or-pay member agreements, see Note D.

**New Accounting Standards** The Governmental Accounting Standards Board has issued GASB No. 53, Accounting and Financial Reporting for Derivative Instruments, which addresses the recognition, measurement, and disclosure of information regarding derivative instruments. The provisions of this statement, if applicable, become effective for the Agency in fiscal year 2010. The Agency is currently assessing the financial statement impact of adopting this statement.

**Use of Estimates in the Preparation of Financial Statements** The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Reclassifications** Certain restricted and unrestricted cash and related advance account balances in the prior year have been reclassified to conform to the 2009 presentation.



## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### NOTE C -- INVESTMENTS

The Agency is authorized to invest in obligations of the U.S. Government and its agencies and instrumentalities, in certificates of deposit, commercial paper, banker's acceptances, repurchase and reverse repurchase agreements, passbook savings account demand deposits, municipal bonds, the State Treasurer's LAIF pool, and in other instruments authorized by applicable sections of the Government Code of the State of California. The Agency's investments are stated at cost adjusted for amortization of premiums and accretion of discounts, which approximates market.

Investments at June 30, 2009			
<u>Description</u>	Carrying Value	Market Value	Wtd. Avg Maturity (In years)
	(000's omitted)		
U.S. Agencies	\$ 119,892	\$ 120,277	.45
Guaranteed Investment Contracts	19,351	19,351	.00
U.S. Treasury	11,244	11,242	.04
<b>TOTAL INVESTMENTS</b>	<b>\$ 150,487</b>	<b>\$ 150,870</b>	

Investments at June 30, 2008			
<u>Description</u>	Carrying Value	Market Value	Wtd. Avg Maturity (In years)
	(000's omitted)		
U.S. Agencies	\$ 112,125	\$ 112,224	.38
Guaranteed Investment Contracts	25,628	25,628	.00
Time Deposits	210	210	.16
<b>TOTAL INVESTMENTS</b>	<b>\$ 137,963</b>	<b>\$ 138,062</b>	

The Agency's investment policy requires investments that assure safety of the principal, liquidity to meet specific obligations of the Agency when due, and investment quality all in compliance with California State law and the Agency's revenue bond indentures. Generally, operating investment maturities are limited to one year and reserve funds to five year maturities, except for debt service reserve funds, which are allowed maturities up to fifteen years. All U.S. Government and U.S. Government Agency securities held by the Agency are either in effect or actually AAA rated.

Terms of long-term guaranteed investment contracts and other special contract deposits related to project financing and debt service are individually determined and approved by the Agency's Finance Committee and governing Commission. The Agency has two Geothermal Project related Guaranteed Investment Contracts (GICs), which are fully collateralized by AAA rated eligible securities as defined in the Geothermal Bond Indenture.

All securities owned by or held on behalf of the Agency are held by either the Agency's custodian, Union Bank of California, N.A., or its revenue bond trustee, U.S. Bank Trust, N.A.

# NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

## NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

### NOTE D -- PROJECTS AND RELATED FINANCING

**Financing Programs** The Agency's project construction and development programs have been individually financed by project revenue bonds that are collateralized by the Agency's assignment of all payments, revenues, and proceeds associated with its interest in each project. Each project participant has agreed to pay its proportionate share of debt service and other costs of the related project, notwithstanding the suspension, interruption, interference, reduction or curtailment of output from the project for any reason (that is, the take-or-pay member agreements).

Certain of the revenue bonds are additionally supported by municipal bond insurance credit enhancements.

Long-term debt and stated rates at June 30:	2009	2008
	(000's omitted)	
Geothermal Project		
1987 Refunding Series A		
Term, 5.00% matured 2009	\$ -	\$ 25,000
1993 Refunding Series A		
and Series B (relating to a like amount		
of Special Revenue Bonds)		
Serial, 5.80-5.85% due 2010-2011	52,345	52,345
2009 Series A		
Serial, 4.00-5.25% due 2012-2025	35,610	-
Total Geothermal Project	87,955	77,345
Hydroelectric Project		
1992 Refunding Series A		
Serial, 6.00% due 2009-2010	7,530	14,635
Term, 6.30% due 2019	36,770	36,770
1993 Refunding Series A		
Serial, 5.40% due 2009-2010	275	535
1998 Refunding Series A		
Serial, 5.00-5.25% due 2012-2019	60,060	60,060
Term, 5.00-5.20% due 2024-2033	137,440	137,440
2002 Refunding Series A & B		
Term, adjustable rate,		
Initially 1.55% due 2024	-	86,620
2003 Refunding Series A		
Term, adjustable rate,		
Initially 1.05% due 2025	-	49,130

# NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

## NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

Long-term debt and stated rates  
at June 30, continued:

	2009	2008
	(000's omitted)	
2003 Refunding Series B (Taxable) Term, adjustable rate, Initially 1.35% due 2014	\$ -	\$ 4,970
2008 Refunding Series A Term, adjustable rate, Initially 1.51% due 2033	85,160	85,160
2008 Refunding Series B (Taxable) Term, adjustable rate, Initially 2.87% due 2021	3,165	3,165
2008 Refunding Series C Serial, 4.00-5.00% due 2011-2025	128,005	-
2008 Refunding Series D (Taxable) Serial, 3.60-4.05% due 2010-2011	9,505	-
Total Hydroelectric Project	467,910	478,485
Combustion Turbine Project 1998 Refunding Series A Serial, 5.00% due 2009-2011	7,930	11,615
Transmission Project 1998 Refunding Series A Serial, 4.125-4.25% due 2009-2011	1,715	2,525
Capital Facilities Project 1999 Refunding Series A Serial, 4.125-5.25% due 2009-2017 Term, 5.00% due 2026	21,920 41,465	22,745 41,465
Total Capital Facilities Project	63,385	64,210
Total Long-Term Debt Outstanding	628,895	634,180
Less: Unamortized net (discount) and premium Current portion	5,866 (39,910)	(2,279) (38,205)
Total Long-Term Debt, Net	\$ 594,851	\$ 593,696

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

The Agency had the following long-term debt activity during FY 2009:

	Balance June 30, 2008	Additions	Payments & Amortizations	Balance June 30, 2009
	(000's omitted)			
Revenue Bonds	\$ 634,180	\$ 173,120	\$ (178,405)	\$ 628,895
Unamortized premiums and discounts	(2,279)	8,730	(585)	5,866
TOTAL	\$ 631,901	\$ 181,850	\$ (178,990)	\$ 634,761

The Agency had the following long-term debt activity during FY 2008:

	Balance June 30, 2007	Additions	Payments & Amortizations	Balance June 30, 2008
	(000's omitted)			
Revenue Bonds	\$ 668,785	\$ 88,325	\$ (122,930)	\$ 634,180
Unamortized premiums and discounts	(3,542)	-	1,263	(2,279)
TOTAL	\$ 665,243	\$ 88,325	\$ (121,667)	\$ 631,901

Debt service requirements for each of the next five years and in five-year cumulative increments thereafter as of June 30, 2009:

	Principal	Interest	Total
	(000's omitted)		
2010	\$ 39,910	\$ 30,315	\$ 70,225
2011	43,985	29,785	73,770
2012	18,955	27,411	46,366
2013	20,050	26,350	46,400
2014	22,590	25,337	47,927
2015-2019	130,530	107,455	237,985
2020-2024	160,375	70,190	230,565
2025-2029	112,440	32,141	144,581
2030-2033	80,060	9,384	89,444
	\$ 628,895	\$ 358,368	\$ 987,263

Interest includes interest requirements for fixed rate debt at their stated rate and variable rate debt covered by interest rate swaps at their fixed swap rate.

**Redemption Provisions** As set forth in the bond indentures, the term bonds are subject to redemption prior to maturity in varying amounts at specific dates. At the option of the Agency, the bonds are also subject to early redemption at specific redemption prices and dates.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Defeased Debt** Various bond refundings were undertaken to defease debt and realize future debt service savings. Debt was defeased by using the proceeds of the refunding issues and other available moneys to irrevocably place in trust cash and U.S. Government Securities, which together with interest earned thereon, will be sufficient to pay both the interest and the appropriate maturity or redemption value of the refunded bonds as required.

Accordingly, these defeased debt issues have been considered extinguished for financial reporting purposes. At year-end, the following defeased debt remained outstanding:

		2009	2008
		(000's omitted)	
Geothermal:	Project No. Three, 1987 Series A	\$ 52,080	\$ 52,080
	Project No. Three, 1993 Series A	40,230	40,230
		<u>92,310</u>	<u>92,310</u>
Hydroelectric:	Project No. One, 1985 Series A	12,150	12,150
	Project No. One, 1986 Series A	36,960	36,960
	Project No. One, 1998 Series A	-	85,870
		<u>49,110</u>	<u>134,980</u>
Total Defeased Debt Outstanding		<u>\$ 141,420</u>	<u>\$ 227,290</u>

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Geothermal Project** In addition to a federal geothermal leasehold, steam wells, gathering system and related facilities, the project consists of two electric generating stations (Plant 1 and Plant 2). Each plant has two 55 MW (nameplate rating) turbine generator units utilizing low temperature geothermal steam; associated electrical, mechanical and control facilities; a heat dissipation system; a steam gathering system; a transmission tap-line; and, other related facilities. Geothermal steam for the project is derived from the geothermal property, which includes well pads, access roads, steam wells and re-injection wells.

On behalf of its Geothermal Project Number 3, the Agency entered into an Investment Sale Agreement (Forward Purchase Contract) in connection with debt service payments on Geothermal Project Number 3 Revenue Bonds: \$147,150,000, 1993 Refunding Series A-1, A-2, A-3 and Series B; \$121,590,000, 1996 Refunding Series A; and, \$46,455,000, 1996 Refunding Series B. The Agency entered into this agreement to lock in a 6.775% fixed rate of interest on future deposits into the Geothermal Project's Debt Service Fund. The Agency will continue to make debt service payments to the bond trustee; however, under terms of the agreement the bond trustee is required to purchase eligible securities, as defined in the bond indenture, from the supplying financial institution at the fixed rate of return. These securities mature on or prior to the time the required debt service payments have to be made from the Debt Service Fund. The Investment Sale Agreement continues until July 1, 2010. In the event of a default or an early termination, the responsible party is required to make a termination payment to the other party.

In March 2009, the Agency issued \$35,610,000 of fixed rate tax exempt bonds for the purpose of providing funds to finance the costs of acquisition and construction of certain improvements to the project as well as make a contribution to the Debt Service Reserve Account and to pay the costs of issuance of the 2009 Series A Bonds. The bonds are of varying principal amounts ranging from \$1,820,000 to \$3,480,000 through July 1, 2024.

The capital improvements to be financed include a portion of the Geothermal Project capital improvement budget for the fiscal years 2008-2009 and 2009-2010 consisting primarily of the following projects:

- Unit 4 Steam Path Upgrade – includes the replacement of the existing Unit 4 turbine rotor with a new rotor designed for lower pressure and capable of generating the entire present day electrical output of the existing Units 3 and 4 (comprising the two generating units of Plant 2). The new turbine will allow for the shutdown of Unit 3, with no loss of gross generation.
- Middletown Booster Pump Solar Project – includes the design, permitting and construction of a 1MW photovoltaic solar project at the Middletown Treatment Plant in Lake County. The Middletown Booster Pump Station is part of the Southeast Geysers Effluent Pipeline Project, which delivers approximately 9 million gallons of treated wastewater daily to the Geysers Geothermal Project for injection into the steam field.
- Southeast Treatment Plant Solar Project – includes a 1 MW photovoltaic solar project located at the Clearlake Southeast Treatment Plant in Lake County. This solar project, completed in December of 2008, provides approximately 25% of the power needs for the existing pump station located at the treatment plant. The pump station is part of the Southeast Geysers Effluent Pipeline Project, which delivers approximately 9 million gallons of treated wastewater daily to the Geysers Geothermal Project for injection into the steam field.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Hydroelectric Project** The Agency contracted to finance, manage, construct, and operate Hydroelectric Project Number One for the licensed owner, Calaveras County Water District. In exchange, the Agency has the right to the electric output of the project for 50 years from February 1982. The Agency also has an option to purchase power from the project in excess of the District's requirements for the subsequent 50 years, subject to regulatory approval.

As part of a refinancing plan in November 2004, the Agency entered into two forward starting interest rate swaps in an initial notional amount of \$85,160,000 and \$1,574,000 as described on page 28. Payments under the swap agreements with Citigroup Financial Products, Inc. began on April 2, 2008. To complete the refinancing transaction and realize the debt service savings under the 2004 swap agreement, on April 2, 2008 the Agency completed a bond refunding of certain maturities of the 1998 Hydroelectric Refunding Series A bonds totaling \$85,870,000 maturing in 2023 to 2032. These fixed rate bonds were refinanced through the issuance of tax-exempt 2008 Hydroelectric Refunding Series A (\$85,160,000) bonds and taxable 2008 Hydroelectric Refunding Series B (\$3,165,000) bonds. Both issues are variable interest rate bonds bearing interest at weekly interest rates, payable semi-annually on July 1 and January 1 each year. To support this financing, the Agency entered into two irrevocable direct pay letter of credit agreements with Dexia Credit Local, which expire on April 2, 2013. The payment of principal and interest on these issues are not covered by any financial guaranty insurance policies. This 2008 Hydroelectric Refunding and the associated interest rate swaps are estimated to have reduced project debt service by \$11.775 million over the next 24 years providing the Agency with an estimated economic gain (difference between the present values of the old and new debt service payments) of approximately \$5.875 million.

In response to credit market upheavals and to ensure debt service certainty, in July 2008 the Agency refunded (or purchased from the liquidity providers) the 2002 Hydroelectric Refunding Revenue Bonds Series A & B and the 2003 Hydroelectric Refunding Revenue Bonds Series A & B with outstanding principal of \$140,200,000. In addition, the associated interest rate swaps were terminated on July 9, 2008. The refunding was completed through the issuance of \$128,005,000 fixed rate tax exempt debt (2008 Series C) and \$9,505,000 fixed rate taxable debt (2008 Series D) with yields of 2.78% to 4.48% with varying principal amounts ranging from \$690,000 to \$15,550,000 through July 1, 2024. The payment of principal and interest on these issues are covered by financial guaranty insurance policies issued by Assured Guaranty. The refunding is estimated to have increased project debt service by an estimated \$11.7 million over the next 15 years, which results in an estimated economic loss (difference between the present values of the old and new debt service payments) to the Agency of approximately \$5,500,000. Swap termination payments of \$22,000, \$30,000 and \$2,260,000 were paid to Citigroup Financial Products Inc., UBS AG, and Bank One (JP Morgan), respectively.

# NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

## NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

Associated Interest Rate Swaps starting April 2, 2008	2008 Hydroelectric Refunding Revenue Bonds Forward Starting Swaps			
	Series A		Series B (Taxable)	
Counterparty to Interest Rate Swap	Citigroup Financial Products Inc.		Citigroup Financial Products Inc.	
Notional Value of Interest Rate Swap	\$85,160,000		\$1,574,000	
Fair Value--Due from (to) Counterparty	(\$13,732,844)		\$248,545	
Credit Downgrade Required Collateral Posting:				
For Counterparty, Fair Value Above	\$10 million		\$10 million	
If S&P or Moody's Credit Rating falls to	A+/A1		A+/A1	
For Agency (Credit of Agency's Insurer				
National Public Finance Guarantee				
formerly MBIA), Fair Value Above	\$10 million		\$10 million	
If S&P or Moody's Credit Rating falls to	A+/A1		A+/A1	
Termination Date	July 1, 2032		July 1, 2032	
	Terms	Rates	Terms	Rates
Payments to (from) Counterparty	Fixed	3.819%	Fixed	-5.291%
Variable Payments (from) to Counterparty	54% LIBOR+.54%*	-1.396%	100% of LIBOR*	1.562%
Net Interest Rate Swap Payments		2.423%		-3.729%
Variable-Rate Bond Payments	SIFMA **	2.059%	SIFMA **	5.600%
Effective Interest Rate on Bonds		4.482%		1.871%

Average to Date: \* 1-Month London Inter-Bank Offered Rate \*\* Securities Industry and Financial Market Association Municipal Swap Index (formerly the Bond Market Association Municipal Swap Index)

The following swap agreement elements are common to all the interest rates swaps. The interest rate swaps expose the Agency to basis risk should the relationship between LIBOR and SIFMA converge, changing the synthetic rate on the bonds. If a change occurs that results in the rates moving to convergence, the expected cost savings of the swap may not be realized.

The value of the swaps noted above reflects the estimated fair value of the swaps at June 30, 2009 as determined by the Agency's financial advisor. A negative fair market value indicates the Agency had no market value credit risk while a positive fair market value indicates the value of the credit risk to which the Agency is exposed as of that date. The fair value of the swaps will change due to notional amount, amortizations, and interest rate changes.



## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

To mitigate the potential for credit risk, the swap counterparties are required by the agreement to post collateral should the fair value exceed certain thresholds as shown above. At June 30, 2009, credit ratings of the counterparties to the swaps were as follows:

Swap Counterparty & Agency's Insurer	Standard & Poor's	Moody's
Citigroup Financial Products Inc.	A+	A1
National Public Finance Guarantee formerly MBIA (the Agency's insurer)	Baa1	A

The swaps utilized the International Swap Dealers Association (ISDA) Master Agreement, which includes standard termination events, such as failure to pay and bankruptcy. However, an additional provision under the Schedule to the ISDA Master Agreement allows the swap to be terminated by the Agency if the counterparty's credit rating falls below A- by Standard & Poor's or A3 by Moody's. If a swap is terminated, the applicable bonds would no longer carry a synthetic fixed interest rate. In addition, if a swap has a negative fair value at the time of an early termination, the Agency would be liable to the counterparty for a payment equal to the swap's fair value.

**Combustion Turbine Project** The project consists of five combustion turbine units, each nominally rated at approximately 25 megawatts. Two such units are located in Roseville, two in Alameda and one in Lodi. The project provides capacity during peak load periods and emergency capacity reserves. Excess capacity and energy from the project are also sold to other entities from time to time.

**Transmission Project** The project was undertaken to meet certain obligations of the Agency under the Agency/PG&E Interconnection Agreement. The project includes an ownership interest in PG&E's 230 kV Castle Rock to Lakeville Substation Transmission Line in Sonoma County, additional firm transmission rights in that Transmission Line, and a central scheduling and dispatch facility in service at the Agency's headquarters in Roseville, California.

**Capital Facilities Project** The project consists of one 49.9 megawatt natural gas-fired steam injected combustion turbine generator unit located in Lodi, California. Wastewater is reclaimed from the City of Lodi's White Slough water pollution control facility, processed to eliminate contaminants, and used in the turbine to produce steam for power enhancement and emissions control.

**Future Power Supply Resources** The Agency is currently in the process of developing a potential new Agency project – the Lodi Energy Center. The Lodi Energy Center is proposed to be a 280 MW base load, combined cycle, natural gas-fired, combustion turbine generating station (one gas turbine and one steam turbine) to be located in Lodi, California. The Agency has developed a Second Phase Agreement that provides for the terms and conditions and allocation of costs among participating Agency members as well as other non-member public agency participants. The Second Phase Agreement has been executed by all parties and does not commit the parties to continue their participation beyond the development phase. The project is currently undergoing environmental review in the Application For Certification Process (AFC) at the California Energy Commission. Upon completion of the environmental review, construction is expected to begin with estimated commercial operation in spring 2012.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### NOTE E -- RETIREMENT PLAN

The Agency is a participant in the California Public Employees Retirement System (CALPERS) - Local Miscellaneous 2% at Age 60 Employees Plan, which is an agent multiple-employer public employee defined benefit pension plan. However, effective December 21, 2009 the Agency will participate in the CALPERS Local Miscellaneous 2.5% at Age 55 Employees Plan. CALPERS provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. CALPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute and Agency resolution. CALPERS issues a separate comprehensive annual financial report, which is available from the CALPERS' Executive Office, 400 P Street, Sacramento, California 95814.

The Agency makes the plan contributions required of its employees on their behalf and for their account. The Agency is required to contribute at an actuarially determined rate of annual covered payroll. The contribution requirements of plan members and the Agency are established and may be amended by CALPERS.

#### Summary of certain plan provisions and benefits in effect during fiscal year ended June 30, 2009:

Required service for eligibility	5 full-time years
Benefit payments (% of highest 36 consecutive months' annual salary)	Monthly for life
Minimum retirement age	50
Monthly benefit	1.092% @ age 50 to 2.418% @ age 63 & up
Required employee contribution rate	6.887%
Required employer contribution rates	7.397% normal service 10.513% prior service
Actuarial annual required contribution	\$2,890,336

Prior to inception of the current plan, the Agency agreed to pick up 50% of prior service cost for the then existing employees. The Agency has also agreed to pay all or a portion of the various employee groups' required annual contribution, which contributions totaled \$1,111,423 and \$1,014,616 for fiscal years 2009 and 2008, respectively. The Agency's annual required contribution was determined as part of a June 30, 2007, actuarial valuation using the entry age actuarial cost method. The primary actuarial assumptions included a 7.75% annual investment rate of return (net of administrative expenses); forecasted annual salary increases that vary by age, service and type of employment ranging from 3.25% to 14.45%; a 3.25% overall annual payroll growth; an individual salary growth of 3.00%; an annual production growth of .25%; and, an inflation component of 3.00%. A 15year rate smoothing approach is used to spread investment returns. At fiscal year end June 30, 2009, the Agency had 162 eligible active employees and 50 retirees drawing benefits under this program.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### Trend Information for Agency CALPERS Retirement Plan

Fiscal Year Ending	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
June 30, 2007	\$ 2,539,145	100.0%	-
June 30, 2008	2,692,579	100.0%	-
June 30, 2009	2,890,336	100.0%	-

#### Funded Status of the Agency CALPERS Retirement Plan

Actuarial Valuation Date	Actuarial Accrued Liability (a)	Actuarial Value of Assets (b)	Actuarial Accrued Unfunded Liability (a) - (b)	Funded Ratio (b) / (a)	Annual Covered Payroll (c)	Unfunded Actuarial Accrued Liability as % of Payroll [(a) - (b)] / (c)
June 30, 2005	\$ 44,110,675	\$ 17,734,386	\$ 26,376,289	40.2%	\$ 14,101,610	187.0%
June 30, 2006	49,211,093	23,829,467	25,381,626	48.4%	14,326,365	177.2%
June 30, 2007	54,443,624	28,955,468	25,488,156	53.2%	15,378,571	165.7%

Initial unfunded liabilities are amortized over a closed period that depends on the plan's date of entry. The unfunded actuarial accrued liability is being amortized as a level percentage of projected payroll on a closed basis. All changes in liability due to plan amendments, changes in actuarial assumptions, or changes in actuarial methodology are amortized separately over a 20-year period. The average remaining amortization period at the June 30, 2007 valuation date was approximately 29 years. All gains or losses are amortized over a rolling period, which results in an amortization of about 6% of unamortized gains or losses each year. If the plan's accrued liability exceeds the actuarial value of plan assets, the amortization payment on the total unfunded liability may not be lower than the payment calculated over a 30-year amortization period. CALPERS actuarial valuations become available approximately two years after the Agency's fiscal year-end.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### NOTE F -- OTHER POST EMPLOYMENT BENEFITS (OPEB)

The Agency is a member of the State of California CALPERS medical insurance plan. In connection with this plan, the Agency provides medical insurance to all active employees and their families, as well as all qualified retirees (and spouses), subject to certain limitations. The Agency has maintained an actuarially based restricted fund for the sole purpose of paying medical insurance premiums for qualified retired employees (and spouses) participating in the CALPERS medical plan. In 2007 the Agency became a participant in the CALPERS Pre-funding OPEB Plan, which is an irrevocable multi-employer trust and plan consisting of an aggregation of single-employer plans, with pooled administrative and investment functions. The Agency transferred the CALPERS medical plan assets to the CALPERS Pre-funding OPEB Plan in August 2007. The Agency makes actuarially determined Annual Required Contributions (ARC) to the OPEB Plan. The ARC represents the forecast funding level to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed 30 years. Actuarial valuations of the fund are obtained every two years.

Effective January 1, 2009, the eligibility and vesting schedule of the plan was changed for new employees.

#### Summary of certain plan provisions and benefits in effect during fiscal year ended June 30, 2009:

<u>For Employees Hired:</u>	<u>Prior to January 1, 2009</u>	<u>On or After January 1, 2009</u>
Required service for eligibility	5 full-time years	10 full-time years
Minimum retirement age	50	50
Benefit payments	Monthly for life	Monthly for life
Vesting for eligible employees	100% at age 50	50% at 10 years; 5%/year after
Maximum monthly benefit	PERS Choice Premium	PERS Choice Premium
Actuarial annual required contribution (ARC)	\$900,135	TBD

The annual required contribution and funded status of the OPEB Plan were determined based on current cost trends of the CALPERS health plans in which the employees currently participate. The June 30, 2008 actuarial valuation was prepared on the basis of the OPEB assumption model, as prescribed by the CALPERS Board, in effect at the time of the valuation. Therefore, the significant actuarial methods and assumptions contained therein are consistent with those used in the Retirement Plan as previously described above. At fiscal year end June 30, 2009, the Agency had 160 active eligible employees and 64 retirees drawing benefits under this program.

#### Trend Information for the OPEB Plan

Fiscal Year Ending	Annual OPEB Cost	Percentage of OPEB Cost Contributed	Net OPEB Obligation
June 30, 2007	\$ 1,009,018	100.0%	-
June 30, 2008	900,135	100.0%	-
June 30, 2009	718,982	100.0%	-

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### Funded Status of the OPEB Fund

Actuarial Valuation Date	Actuarial Accrued Liability (a)	Actuarial Value of Assets (b)	Actuarial Accrued Unfunded Liability (a) - (b)	Funded Ratio (b) / (a)	Annual Covered Payroll (c)	Unfunded Actuarial Accrued Liability as % of Payroll [(a) - (b)] / (c)
June 30, 2006	\$14,308,186	\$10,357,611	\$3,950,575	72.39%	\$13,928,832	28.4%
June 30, 2007	17,232,609	11,400,322	5,832,287	66.16%	14,740,187	39.6%
June 30, 2008	16,114,250	12,213,980	3,900,270	75.80%	15,491,511	25.2%

The funded status of the plan and the annual required contributions are subject to periodic revision based on actual results, changes in assumptions or plan provisions, and new estimates of expected future circumstances. Actuarial valuations are performed every two years.

#### NOTE G -- COMMITMENTS AND CONTINGENCIES

**Power Exchange Agreement** On behalf of certain of its members, the Agency has a seasonal exchange agreement with Seattle City Light for 60 megawatts of summer capacity and 90,580 megawatt hours of energy in exchange for a return of 46 megawatts of capacity and 108,696 megawatt hours of energy in the winter. The agreement terminates in May 2014.

**Power Purchase Contracts** The Agency had commitments of approximately \$108.6 million in connection with various power purchase contracts as of June 30, 2009. The contracts, extending through June 2010, are normal purchases at agreed to contract prices for fixed quantities of energy. Certain of the Agency's members have individually entered into certain other long-term contracts, which the Agency dispatches and schedules for them. See Note B -- Summary of Significant Accounting Policies.

**Combustion Turbine Fuel Supply Agreements** The Agency has entered into the following agreements to provide natural gas fuel supply for use in combustion turbines:

- A 30-year agreement terminating in November 2023 with the Pacific Gas Transmission Company and its partners in a gas pipeline between Alberta, Canada and northern California. The estimated minimum annual gas transmission commitment is approximately \$1.5 million.
- An agreement with Constellation New Energy Gas Division to provide natural gas and act as the Agency's natural gas operating agent. The contract automatically renews each January 1<sup>st</sup> unless terminated earlier by six months written notice by either party. The Agency had approximately \$5.0 million of gas purchase commitments at June 30, 2009. The commitments, extending through September 2012, are normal purchases at agreed to prices for fixed quantities of gas.

**Western Area Power Administration Base Resource** A number of the Agency's members, who have an aggregate 17.53465% share of the Base Resource Contract with the Western Area Power Administration to receive electric power from the Central Valley Project in California, have assigned their shares to the Agency in order to create a power resource portfolio for the mutual benefit of participating Agency members. The assignments terminate the earlier of December 31, 2024 or 60 days after Western approves a reassignment.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

**Geothermal Royalties** Under terms of federal geothermal leasehold agreements, the Agency is required to pay royalties to the United States (U.S.) on the value of geothermal steam produced. Currently, the effective rate of such royalties is 3.6% of an amount based on the Agency's monthly weighted average cost of third-party wholesale electricity purchases made by Agency members participating in the Geothermal Project. The U.S. Department of the Interior, Minerals Management Service maintains the right to periodically review and withdraw their approval or to change this methodology should operations, market conditions, or Federal regulations change.

**Geothermal Steam Production & Decommissioning** Steam for the Agency's geothermal plants comes from lands in the Geysers area, which, are leased by the Agency from the federal government. The Agency operates these steam-supply areas. Operation of the geothermal plants at high generation levels, together with high steam usage by others in the same area, resulted in a decline in the steam production from the steam wells at a rate greater than expected. As a result, by April 1988, for the purpose of slowing the decline in the steam field capability, the Agency changed its steam field production from base-load to load-following and reduced average annual generation. These changes were effective in reducing the decline in steam production.

Beginning in 1991, along with other steam field operators in the area, the Agency began implementing various operating strategies to further reduce the rate of decline in steam production. The Agency has modified both steam turbine units at Plant 1 and the associated steam collection system to enable generation with lower pressure steam at higher mass-flow rates to optimize the utilization of the available steam resource.

The Agency also entered into agreements with other producers in the Geysers area to finance and construct the Southeast Geysers Effluent Pipeline Project, which was completed in September 1997 and began operating soon thereafter. The 26-mile pipeline collects wastewater from Lake County Sanitation District treatment plants at Clearlake and Middletown and delivers the wastewater to the Agency and the other Geysers steam field operator for injection into the steam field. A second pipeline enhancement project to further augment the wastewater injection program was completed in 2004.

Based on current operating protocols and forecasted operations, the Agency expects both the average and peak capacity to continue to decrease, reaching approximately 72 MWG by FY 2031.

Under terms of the federal geothermal leasehold agreements, which became effective August 1, 1974, the leasehold had a 10-year primary term with provision for renewal as long thereafter as geothermal steam is produced or utilized, but not longer than 40 years. At the expiration of that period, if geothermal steam is still being produced, the Agency has preferential right to renew the leasehold for a second term. The leasehold also requires the Agency to remove its leasehold improvements including the geothermal plants and steam gathering system when and if the Agency abandons the leasehold. These decommissioning costs are currently estimated to total approximately \$24.1 million. The Agency has begun collecting a reserve of about one percent per annum of the expected decommissioning costs until the debt service on the Project has been fully paid, that is, after 2010. The decommissioning cost plan will be re-evaluated at that time.

## NOTES TO COMBINED FINANCIAL STATEMENTS - Continued

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

#### CLAIMS AND LITIGATION

**Bankruptcies Related to Electric Industry Restructuring** In March 1998, the California Independent System Operator (ISO) and the California Power Exchange (PX) became operational. During the next several years, the California deregulated electricity and natural gas markets became increasingly dysfunctional until in January 2001, the PX suspended operations and in March 2001 filed for Chapter 11 bankruptcy protection. The Agency filed a proof of claim in the PX bankruptcy case for ISO and PX energy sales and has reserved its right to make further claims in the case. A plan of liquidation has been confirmed in the PX case. However, distribution to creditors in both the PX bankruptcy and the past PG&E bankruptcy cases are awaiting resolution of various related proceedings at the FERC. The Agency has established a reserve for substantially all of the aforementioned known past PX and PG&E bankruptcy claims pending future recovery.

**Market Redesign and Technology Upgrade (MRTU)** MRTU was an overhaul of the California deregulated electricity market. Under MRTU the Independent System Operator (ISO) is required, among other things, to perform effective congestion management; create a day-ahead market for energy; automate real-time dispatch to balance the system and manage congestion; ensure consistency in the allocation of transmission resources and the pricing of transmission service and energy. The new markets have been operational for six months, and so far the impacts have been manageable. While certain refinements to the market are required, the proposals to do so are not yet fully formulated, so that it is not possible to predict the ultimate financial impacts thereof to the Agency.

**California Energy Crisis** Several investor owned utilities and the California Electricity Oversight Board are among the plaintiffs in consolidated matters against the Agency and other municipal and governmental electric power producers in several legal venues. Plaintiffs allege damages and request refunds arising out of power sold to them during the California energy crises of 2000-2001 under tariffs filed for the California Independent System Operator and the California Power Exchange with the Federal Energy Regulatory Commission in the wholesale markets operated by those entities. In 2005, the United States Court of Appeals for the Ninth Circuit held, as contended by the Agency, that FERC cannot order refunds for sales by governmental power producers such as the Agency, and in 2007 the U.S. Supreme Court declined to review that holding.

Following that decision, three investor owned utilities brought breach of contract actions against approximately 15 California and other western state public entities, including the Agency, in the Superior Court in Los Angeles, California. Although there are nine causes of action in the case, it is proceeding under a breach of contract theory. Management of the Agency is aggressively opposing the litigation, which is set for trial in May 2010.

Related appeals, claims and filings in federal and state courts have continued and those proceedings are pending. Because so many overlapping claims are pending at the Ninth Circuit, that Circuit has instituted extraordinary efforts to attempt to obtain settlement in all cases arising out of the California Energy Crisis. The Agency has been and is participating in these efforts.

As a consequence, the extent of the exposure to the Agency under these proceedings is very uncertain, but is currently estimated to be less than \$10 million. However, the complexity and uncertainty of these proceedings are such that the Agency's exposure potentially could be significantly higher or lower.

## **NOTES TO COMBINED FINANCIAL STATEMENTS - Continued**

### **NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS**

**Other Legal Matters** The Agency is engaged in various legal proceedings before federal and state courts and various administrative tribunals incidental to the Agency's operations.

Based on its review of the aforementioned proceedings with outside legal counsel, the Agency believes that the ultimate aggregate liability, if any, resulting from these proceedings will not have a materially adverse effect on the combined financial position or results of operations of the Agency.

**Other Factors Affecting the Electric Utility Industry** Electric industry market participants, such as the Agency and its members, continue to face numerous potential risks and uncertainties including, but not limited to, significant volatility in energy prices and increased transmission and ancillary services costs; new federal and state renewable energy, operating efficiency, and environmental standards; and, global pressures on economic and financial market conditions. The Agency and its members continue to study and to take various actions in an effort to mitigate and manage these risk and uncertainties. However, the Agency cannot predict either the ultimate outcome of these ongoing changes or whether such outcome will have a material adverse effect on its financial position or results of operations.



**INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION**

The Board of Commissioners  
Northern California Power Agency and Associated Power Corporations

Our report on our audit of the combined financial statements of Northern California Power Agency and Associated Power Corporations for the year ended June 30, 2009 appears on page 1. The audit was conducted for the purpose of forming an opinion on the basic combined financial statements taken as a whole. The supplementary information as of and for the year ended June 30, 2009 on pages 38 through 42 is presented for purposes of additional analysis and is not a required part of the basic combined financial statements. Such information has been subjected to the audit procedures applied in the audit of the basic combined financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic combined financial statements taken as a whole.

*Moss Adams LLP*

Portland, Oregon  
November 25, 2009

OTHER FINANCIAL INFORMATION

COMBINING BALANCE SHEETS

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS

(000's omitted)

June 30, 2009										
GENERATING & TRANSMISSION RESOURCES										
ASSETS	Geothermal	Hydroelectric	Multiple		CT		Purchased		Associated	
			Capital	Facilities	No. One	Transmission	Power & Transmission	Member Services	Other Agency	Combined
CURRENT ASSETS										
Cash & cash equivalents	\$ 1	\$ -	\$ 1	\$ 1	\$ 1	\$ -	\$ -	\$ -	\$ 57,220	\$ 57,223
Investments	-	-	-	-	-	-	-	-	8,027	8,027
Accounts receivable	-	-	-	-	-	-	-	-	-	-
Participants	-	-	-	-	-	-	50	-	149	199
Other, net of \$7,466 in doubtful accounts	2	29	1	1	3	-	1,355	(1,675)	2,245	1,960
Interest receivable	-	-	-	-	-	-	22	-	70	92
Inventory and supplies	2,395	995	642	1,402	-	-	-	-	-	5,434
Prepaid expenses	336	315	26	54	-	-	-	-	250	981
Due from Agency and other programs*	10,139	6,671	2,019	543	99	99	28,585	5,904	(53,960)	-
TOTAL CURRENT ASSETS	12,873	8,010	2,689	2,003	99	99	30,012	4,229	14,001	73,916
RESTRICTED ASSETS										
Cash & cash equivalents	17,251	17,207	773	771	153	153	3,189	2,266	11,436	53,046
Investments	30,982	15,648	7,509	5,379	669	669	9,879	6,991	65,403	142,460
Interest receivable	905	22	5	19	-	-	-	-	51	1,002
TOTAL RESTRICTED ASSETS	49,138	32,877	8,287	6,169	822	822	13,068	9,257	76,890	196,508
ELECTRIC PLANT										
Electric plant in service	536,518	392,346	64,512	53,227	7,736	7,736	-	52	3,828	1,058,219
Less accumulated depreciation	(479,536)	(177,242)	(28,476)	(45,827)	(7,222)	(7,222)	-	(20)	(1,343)	(739,666)
Construction work-in-progress	56,982	215,104	36,036	7,400	514	514	-	32	2,485	318,553
	16,433	492	3	-	-	-	-	-	-	16,928
TOTAL ELECTRIC PLANT	73,415	215,596	36,039	7,400	514	514	-	32	2,485	335,481
OTHER ASSETS AND DEFERRED CHARGES										
Unamortized excess cost on advance refunding of debt, net	-	90,065	1,756	-	-	-	-	-	-	91,821
Deferred expenses to be recovered in future years	5,922	141,941	17,098	(3,664)	275	275	-	-	-	161,572
Unamortized debt issuance expenses	683	9,729	1,052	121	30	30	-	-	-	11,615
Preliminary survey & investigation costs	-	101	-	-	-	-	-	31,988	-	32,089
TOTAL OTHER ASSETS AND DEFERRED CHARGES	6,605	241,836	19,906	(3,543)	305	305	-	31,988	-	297,097
TOTAL ASSETS	\$ 142,031	\$ 498,319	\$ 66,921	\$ 12,029	\$ 1,740	\$ 1,740	\$ 43,080	\$ 45,506	\$ 93,376	\$ 903,002

\* Eliminated in Combination

## COMBINING BALANCE SHEETS

## (000's omitted)

**\* Eliminated in Combination**

# OTHER FINANCIAL INFORMATION

## COMBINING STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS

### NORTHERN CALIFORNIA POWER AGENCY AND ASSOCIATED POWER CORPORATIONS

(000's omitted)

	For the Year Ended June 30, 2009									
	GENERATING & TRANSMISSION RESOURCES									
	Multiple			CT			Purchased		Associated	
	Geothermal	Hydroelectric	Capital Facilities	No. One	Transmission	Power & Transmission	Member Services	Other Agency	Combined	
SALES FOR RESALE										
Participants	\$ 55,211	\$ 44,627	\$ 12,665	\$ 7,789	\$ -	\$ 183,362	\$ 25,608	\$ 100	\$ 329,362	
Other	2,861	-	-	-	-	18,520	12	-	21,393	
TOTAL SALES FOR RESALE	58,072	44,627	12,665	7,789	-	201,882	25,620	100	350,755	
OPERATING EXPENSES										
Purchased power	-	-	-	-	-	150,478	5,008	-	155,486	
Transmission	-	-	-	-	-	49,873	-	-	49,873	
Depreciation	19,676	9,726	2,203	2,127	168	-	6	178	34,084	
Operations	16,005	2,770	4,530	731	(838)	266	9,295	-	32,759	
Administrative and general	3,358	3,530	469	518	-	434	7,965	355	16,629	
Maintenance expenses	4,550	4,566	1,827	1,311	-	-	166	-	12,420	
Intercompany (sales) purchases, net *	(493)	164	169	165	-	-	(5)	-	-	
TOTAL OPERATING EXPENSES	43,096	20,756	9,198	4,852	(670)	201,051	22,435	533	301,251	
NET OPERATING REVENUES	14,976	23,871	3,467	2,937	670	831	3,185	(433)	49,504	
OTHER REVENUES (EXPENSES)										
Interest expense	(3,529)	(23,194)	(3,128)	(384)	(1)	(24)	(21)	-	(30,281)	
Interest income	1,117	374	230	149	-	1,141	145	1,293	4,449	
Amortization of deferred charges	(1,468)	(4,779)	(116)	(64)	(19)	-	-	-	(6,446)	
Other	1,208	79	19	2	-	1	57	280	1,646	
TOTAL OTHER REVENUES (EXPENSES)	(2,672)	(27,520)	(2,995)	(297)	(20)	1,118	181	1,573	(30,632)	
FUTURE RECOVERABLE/(REFUNDABLE) AMOUNTS	(5,083)	3,564	1,329	(1,874)	(650)	-	-	-	(2,714)	
REFUNDS TO PARTICIPANTS	(1,529)	(695)	(717)	(182)	-	(2,152)	(3,480)	(1,293)	(10,048)	
INCREASE (DECREASE) IN NET ASSETS	5,692	(780)	1,084	584	-	(203)	(114)	(153)	6,110	
NET ASSETS										
Beginning of year	8,302	3,560	(640)	(46)	-	11,003	4,040	(315)	25,904	
End of Year	\$ 13,994	\$ 2,780	\$ 444	\$ 538	\$ -	\$ 10,800	\$ 3,926	\$ (468)	\$ 32,014	

\* Eliminated in Combination

OTHER FINANCIAL INFORMATION

COMBINING STATEMENTS OF CASH FLOW

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS

(000's omitted)

For the Year Ended June 30, 2009											
GENERATING & TRANSMISSION RESOURCES											
	Geothermal	Hydroelectric	Multiple Capital Facilities		CT		Transmission	Purchased Power & Transmission	Associated Member Services	Other Agency	Combined Total
			No.	One	No.	One					
CASH FLOWS FROM OPERATING ACTIVITIES:											
Received from participants	\$ 53,737	\$ 44,450	\$ 12,682	\$ 7,606	\$ -	\$ -	\$ 183,362	\$ 25,610	\$ 1,228	\$ 328,675	
Received from others	2,862	(27)	-	1	-	-	18,162	10	268	21,276	
Payments for employee services	(8,327)	(3,364)	(1,530)	(1,084)	-	-	-	(9,229)	(3,231)	(26,765)	
Payments to suppliers for goods & services	(15,321)	(5,550)	(5,334)	(1,550)	838	-	(197,369)	(13,174)	7,367	(230,093)	
Payments from(to) other programs *	493	(164)	(169)	(165)	-	-	-	5	-	-	
NET CASH FROM OPERATING ACTIVITIES	33,444	35,345	5,649	4,808	838	-	4,155	3,222	5,632	93,093	
CASH FLOWS FROM INVESTING ACTIVITIES											
Proceeds from maturities & sales of investments	42,965	27,787	5,931	3,375	714	-	19,604	-	156,376	256,752	
Interest received	946	187	159	118	3	-	922	59	1,411	3,805	
Purchase of investments	(46,757)	(32,732)	(5,737)	(3,580)	(741)	-	(18,757)	(7,009)	(152,743)	(268,056)	
Payments from(to) other programs *	-	-	-	-	-	-	-	-	-	-	
NET CASH FROM INVESTING ACTIVITIES	(2,846)	(4,758)	353	(87)	(24)	-	1,769	(6,950)	5,044	(7,499)	
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES											
Expenditures for debt issuance costs	(493)	(2,698)	-	-	-	-	-	-	-	(3,191)	
Acquisition and construction of electric plant	(24,357)	(447)	(90)	-	-	-	-	-	(156)	(25,050)	
Principal repayment on long-term debt	(25,000)	(7,885)	(825)	(3,685)	(810)	-	-	-	-	(38,205)	
Interest paid on long-term debt	(3,675)	(23,765)	(3,206)	(488)	(89)	-	-	-	-	(31,223)	
Proceeds from bond issues	36,597	145,254	-	-	-	-	-	-	-	181,851	
Payments to refund debt	-	(142,512)	-	-	-	-	-	-	-	(142,512)	
Payments from(to) other programs *	(31)	-	-	-	76	-	(24)	(21)	-	-	
NET CASH FROM CAPITAL AND RELATED FINANCING ACTIVITIES	(16,959)	(32,053)	(4,121)	(4,173)	(823)	-	(24)	(21)	(156)	(58,330)	
CASH FLOWS FROM NON-CAPITAL AND RELATED FINANCING ACTIVITIES											
Advances from members	-	-	-	-	-	-	(949)	23,326	-	22,377	
Preliminary survey and investigation costs	-	(101)	-	-	-	-	-	(18,409)	-	(18,510)	
Other proceeds	1,007	79	19	2	-	-	1	57	280	1,445	
Refunds to Participants	(1,529)	(695)	(717)	(182)	-	-	(2,153)	(3,479)	(1,293)	(10,048)	
Payments from(to) other programs *	2,390	1,736	(1,205)	(369)	9	-	(3,113)	851	(299)	-	
NET CASH FROM NON-CAPITAL AND RELATED FINANCING ACTIVITIES	1,868	1,019	(1,903)	(549)	9	-	(6,214)	2,346	(1,312)	(4,736)	
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS											
Cash and cash equivalents beginning of year	15,507	(447)	(22)	(1)	-	-	(314)	(1,403)	9,208	22,528	
CASH & CASH EQUIVALENTS end of year	1,745	17,654	796	773	153	-	3,503	3,669	59,448	87,741	
	\$ 17,252	\$ 17,207	\$ 774	\$ 772	\$ 153	\$ 153	\$ 3,189	\$ 2,266	\$ 68,656	\$ 110,269	

\* Eliminated in Combination

OTHER FINANCIAL INFORMATION

COMBINING STATEMENTS OF CASH FLOW

NORTHERN CALIFORNIA POWER AGENCY  
AND ASSOCIATED POWER CORPORATIONS  
(000's omitted)

For the Year Ended June 30, 2009									
GENERATING & TRANSMISSION RESOURCES									
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Transmission	Purchased Power & Transmission	Associated Member Services	Other Agency	Combined
\$	14,976	\$ 23,871	\$ 3,467	\$ 2,937	\$ 670	\$ 831	\$ 3,185	\$ (433)	\$ 49,504
	19,676	9,726	2,203	2,127	168	-	6	178	34,084
	34,652	33,597	5,670	5,064	838	831	3,191	(255)	83,588
	-	(27)	-	1	-	(358)	(3)	1,384	997
	(240)	30	(1)	1	-	-	-	(55)	(265)
	465	1,650	-	31	-	-	-	(2,072)	74
	(1,475)	(176)	18	(183)	-	-	4	11	(1,801)
	42	271	(38)	(106)	-	3,682	30	6,619	10,500
\$	33,444	\$ 35,345	\$ 5,649	\$ 4,808	\$ 838	\$ 4,155	\$ 3,222	\$ 5,632	\$ 93,093

\$	1	\$ -	\$ 1	\$ 1	\$ -	\$ -	\$ -	\$ 57,220	\$ 57,223
	17,251	17,207	773	771	153	3,189	2,266	11,436	53,046
\$	17,252	\$ 17,207	\$ 774	\$ 772	\$ 153	\$ 3,189	\$ 2,266	\$ 68,656	\$ 110,269

RECONCILIATION OF NET OPERATING REVENUES TO  
NET CASH PROVIDED BY OPERATING ACTIVITIES

Net operating revenues	
Adjustments to reconcile net operating revenues to net cash from operating activities:	
Depreciation	
Cash flows impacted by changes in:	
Accounts receivable	
Inventory and prepaids	
Operating reserves	
Deferred revenues	
Accounts payable	
Net cash from operating activities	

CASH AND CASH EQUIVALENTS AS STATED IN THE  
COMBINED BALANCE SHEETS:

Cash and cash equivalents - current	
Cash and cash equivalents - restricted	

## **APPENDIX D**

### **BOOK-ENTRY ONLY SYSTEM**

#### **General**

The Depository Trust Company (“DTC”), New York, New York will act as securities depository for the Issue One 2010 Series Bonds. The Issue One 2010 Series Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Issue One 2010 Series Bond certificate will be issued for each maturity of the Issue One 2010 Series Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Issue One 2010 Series Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Issue One 2010 Series Bonds on DTC’s records. The ownership interest of each actual purchaser of each Issue One 2010 Series Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Issue One 2010 Series Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Issue One 2010 Series Bonds, except in the event that use of the book-entry system for the Issue One 2010 Series Bonds is discontinued.

To facilitate subsequent transfers, all Issue One 2010 Series Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Issue One

2010 Series Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Issue One 2010 Series Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Issue One 2010 Series Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Issue One 2010 Series Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Issue One 2010 Series Bonds, such as redemptions, tenders, defaults, and proposed amendments to the bond documents. For example, Beneficial Owners of Issue One 2010 Series Bonds may wish to ascertain that the nominee holding the Issue One 2010 Series Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Issue One 2010 Series Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Issue One 2010 Series Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Issue One 2010 Series Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions and dividend payments on the Issue One 2010 Series Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from NCPA or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or NCPA, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of NCPA or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Issue One 2010 Series Bonds at any time by giving reasonable notice to NCPA or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Issue One 2010 Series Bond certificates are required to be printed and delivered.



NCPA may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Issue One 2010 Series Bond certificates will be printed and delivered to DTC.

**NCPA and the Trustee will not have any responsibility or obligation to any DTC Participant, any Beneficial Owner or any other person claiming a beneficial ownership interest in the Issue One 2010 Series Bonds under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Trustee as being a Owner with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment by DTC or any DTC Participant of any amount in respect of the principal of, redemption premium, if any, or interest on the Issue One 2010 Series Bonds; any notice which is permitted or required to be given to Owners; any consent given or other action taken by DTC as a Owner; or any other procedures or obligations of DTC under the book-entry system.**

**So long as Cede & Co. is the registered owner of the Issue One 2010 Series Bonds, as nominee of DTC, references herein to the Owners or registered owners of the Issue One 2010 Series Bonds will mean Cede & Co., as aforesaid, and will not mean the Beneficial Owners of the Issue One 2010 Series Bonds.**

The foregoing description of the procedures and record-keeping with respect to beneficial ownership interest in the Issue One 2010 Series Bonds, payment of principal, premium, if any, interest and other payments on the Issue One 2010 Series Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Issue One 2010 Series Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

### **Discontinuation of DTC Services**

In the event that (a) DTC determines not to continue to act as securities depository for the Issue One 2010 Series Bonds or (b) NCPA determines to remove DTC from its functions as a depository, DTC's role as securities depository for the Issue One 2010 Series Bonds and use of the book entry system will be discontinued. If NCPA fails to select a qualified securities depository to replace DTC, NCPA will cause the Trustee to execute and deliver new Issue One 2010 Series Bonds in fully registered form in such denominations numbered in the manner determined by the Trustee and registered in the names of such persons as are requested in a written request of NCPA. The Trustee will not be required to deliver such new Issue One 2010 Series Bonds within a period of less than 60 days from the date of receipt of such written request of NCPA. Upon such registration, such persons in whose names the Issue One 2010 Series Bonds are registered will become the registered owners of the Issue One 2010 Series Bonds for all purposes.

In the event that the book entry system is discontinued, the following provisions would also apply: (a) Issue One 2010 Series Bonds may be exchanged for a like aggregate principal amount of Issue One 2010 Series Bonds of the same Series and maturity in other authorized denominations, upon surrender thereof at the Principal Corporate Trust Office; (b) the transfer of any Issue One 2010 Series Bonds may be registered on the books maintained by the Trustee under the Indenture only upon the surrender thereof to the Trustee together with a duly executed written instrument of transfer satisfactory to the Trustee executed by the Owner or his duly authorized attorney; (c) for every exchange or transfer of Issue One 2010 Series Bonds, NCPA or the Trustee may make a charge sufficient to reimburse it for any tax, fee or

other governmental charge required to be paid with respect to such exchange or transfer; (d) all interest payments on the Issue One 2010 Series Bonds will be payable on their respective interest payment dates to the owners thereof as appear on the registration books maintained by the Trustee on the records dates indicated in the Indenture; and (e) all payments of principal or redemption price of the Issue One 2010 Series Bonds will be payable upon presentation and surrender thereof at the principal corporate trust office of the Trustee.

## APPENDIX E

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

#### Certain Definitions

**“Accountant’s Certificate”** shall mean a certificate signed by an independent certified public accountant of recognized national standing, or a firm of independent certified public accountants of recognized national standing, selected by NCPA.

**“Account”** shall mean any account in any Fund held and maintained under the Indenture.

**“Act”** shall mean the Joint Exercise of Powers Act, constituting Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended and supplemented.

**“Additional Bonds”** shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to the Indenture to pay the Indenture Group A Participants’ GES of the Costs of Construction of the Project, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture.

**“Authorized Denominations”** shall mean, unless otherwise provided with respect to a Series of Bonds in the Supplemental Indenture authorizing such Series, \$5,000 and any integral multiple thereof.

**“Authorized NCPA Representative”** shall mean the General Manager, the Assistant General Manager, Finance and Administrative Services, the Chief Financial Officer, the Treasurer-Controller, the Secretary, or an Assistant Secretary of NCPA and any other officer or employee of NCPA authorized to perform the specific acts or duties to be performed by resolution duly adopted by NCPA.

**“Blended Treasury Yield”** shall mean, with respect to the Issue One 2010 Series B Bonds of each maturity to be redeemed, the yield computed by the linear interpolation of two Market Treasury Yields such that the theoretical maturity that corresponds to the interpolated Market Treasury Yield equals the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. The first Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no later than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed; and the second Market Treasury Yield will be based on an actively traded U.S. Treasury security or U.S. Treasury index whose maturity is closest to but no earlier than the date corresponding to the remaining average life of the Issue One 2010 Series B Bonds of such maturity to be redeemed. Notwithstanding the foregoing, if the date that corresponds to the remaining average life of the Issue One 2010 Series B Bonds of a particular maturity to be redeemed is later than the latest maturity of any actively traded U.S. Treasury security or U.S. Treasury index, then the Blended Treasury Yield shall be the Market Treasury Yield of the actively traded U.S. Treasury security or U.S. Treasury index having such latest maturity.

**“Bond”** or **“Bonds”** shall mean any bond or bonds, as the case may be, authenticated and delivered under and pursuant to the Indenture.

**“Bond Counsel”** shall mean an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by NCPA.

**“Bond Register”** shall mean the registration books for the ownership of the Bonds maintained by the Trustee pursuant to the Indenture.

**“Business Day”** shall mean, unless otherwise specified with respect to a Series of Future Bonds in the Supplemental Indenture authorizing such Series, any day other than a Saturday, Sunday or other day on which the New York Stock Exchange or banks are authorized or obligated by law or executive order to close in New York, New York, or any city in which is located the Principal Corporate Trust Office of the Trustee.

**“Code”** shall mean the Internal Project Revenue Code of 1986, as amended from time to time. Each reference to a section of the Code in the Indenture shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applicable to the Bonds or the use of proceeds thereof, and also includes all amendments and successor provisions unless the context clearly requires otherwise.

**“Commission”** shall mean the NCPA Commission, as constituted from time to time, or if said NCPA Commission shall be abolished, such other entity or entities succeeding to the principal functions thereof or to whom the power and duties granted or imposed by the Act and the Joint Powers Agreement shall be given.

**“Construction Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Cost of Issuance Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service”** shall mean, as of any date of calculation, with respect to any period, an amount equal to the sum of (i) interest accruing during such period on the Outstanding Bonds (net of the Subsidy for such period), except to the extent that such interest is to be paid from deposits into the Debt Service Fund from Bond proceeds or the investment earnings thereon, provided, however that in determining Debt Service with respect to any Bonds during a period that such Bonds bear interest at a variable rate and the amount of such interest has not been determined, interest on such Bond during such period shall be the maximum interest rate applicable to such Bond and (ii) that portion of each Principal Installment for the Outstanding Bonds which would accrue during such period if each such Principal Installment were deemed to accrue daily in equal amounts from the next preceding Principal Installment due date for such Bonds (or, if there shall be no such preceding Principal Installment due date, from a date one year preceding the due date of such Principal Installment or from the date of issuance of the Bonds, whichever date is later).

**“Debt Service Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service Reserve Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Debt Service Reserve Requirement”** shall mean, as of any date of calculation: (i) with respect to the Participating Bonds Debt Service Reserve Account, the amount specified in the Supplemental Indenture authorizing the issuance of the initial Series of the Participating Bonds; (ii) with respect to the Issue One 2010 Series Debt Service Reserve Account, an amount equal to 50% of the greatest amount of Debt Service for the Issue One 2010 Series Bonds coming due in the then current or any future Fiscal Year; and (iii) with respect to any Series Debt Service Reserve Account other than the Issue One 2010 Series Debt Service Reserve Account, the amount, if any, specified as such in the Supplemental Indenture establishing such Series Debt Service Reserve Account.

**“Defeasance Securities”** shall mean direct obligations of, or obligations guaranteed by, the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

**“Depository”** shall mean any bank or trust company organized under the laws of any state of the United States, or any national banking association, which is willing and able to accept the office on reasonable and customary terms, authorized by law to act in accordance with the provisions of the Indenture.

**“DTC”** shall mean The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns. References in the Indenture to DTC shall include any nominee of DTC in whose name any Bonds are then registered.

**“Event of Default”** shall have the meaning given to such term under the Indenture.

**“Extraordinary Event”** shall mean the determination by an Authorized NCPA Representative that a material adverse change has occurred to Section 54AA or Section 6431 of the Code (as such Sections were added by Section 1531 of the American Recovery and Reinvestment Act of 2009 pertaining to “Build America Bonds”) or there is any guidance published by the IRS or the U.S. Treasury with respect to such Sections or any other determination by the IRS or the U.S. Treasury, which determination is not the result of any act or omission by NCPA to satisfy the requirements to qualify to receive the thirty-five percent cash Subsidy payment from the U.S. Treasury, pursuant to which NCPA’s thirty-five percent cash Subsidy payment from the U.S. Treasury is reduced or eliminated.

**“Financial Guaranty”** shall mean one or more of the following to be delivered to the Trustee pursuant to the Indenture: (i) either (A) an irrevocable, unconditional and unexpired letter of credit issued by a banking institution with credit ratings not below the credit ratings of the Bonds at the time such letter of credit is issued; or (B) an irrevocable and unconditional policy of insurance in full force and effect issued by a municipal bond insurer with credit ratings not below the credit ratings of the Bonds at the time such policy of insurance is issued; and (ii) in each case providing for the payment thereunder of sums for the payment of Principal Installments with respect to, and interest on, Bonds as required by the Indenture.

**“Fund”** shall mean a fund established pursuant to the Indenture or a Supplemental Indenture.

**“Future Bonds”** shall mean Additional Bonds and Refunding Bonds issued pursuant to the Indenture after the issuance of the Issue One 2010 Series Bonds.

**“Indenture”** shall mean the Indenture of Trust, dated as of June 1, 2010, by and between NCPA and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with the terms thereof.

**“Interest Payment Date”** shall mean, with respect to the Issue One 2010 Series Bonds, June 1 and December 1 of each year, commencing December 1, 2010, and with respect to a Series of Future Bonds the dates specified as, or determined as provided in, such in the Supplemental Indenture authorizing such Series.

**“Investment Securities”** shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of NCPA’s funds:

(1) Direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America);

(2) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies, which obligations are backed by the full faith and credit of the United States of America:

Export-Import Bank;  
Farm Credit System Financial Assistance Corporation;  
Rural Economic Community Development Administration;  
Federal Financing Bank;  
Federal Housing Administration (FHA);  
General Services Administration;  
Government National Mortgage Association (GNMA or “Ginnie Mae”);  
U.S. Maritime Administration;  
U.S. Department of Housing and Urban Development (PHA’s);  
Small Business Administration;

(3) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies, which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- Federal Home Loan Bank System – senior debt obligations;
- Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”) – Senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P;
- Federal National Mortgage Association (FNMA or “Fannie Mae”) – senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P;
- Resolution Funding Corp. (REFCORP) obligations;
- Government Sponsored Agencies –senior debt obligations;

(4) Money market funds registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, and having a rating by S&P of AAAm G or AAAm or higher;

(5) Commercial paper rated, at the time of purchase, “P-1” by Moody’s or “A 1+” by S&P and which matures not more than 270 days after its date of purchase;

(6) U.S. dollar denominated deposit accounts, federal funds or bankers’ acceptances with domestic commercial banks, which have a rating on their short-term certificates of deposit (on the date of purchase) of “A-1” or “A-1+” by S&P and “P-1” by Moody’s and which mature no more than 360 days after their date of purchase (ratings on holding companies are not considered as the rating of the bank);

(7) General obligations of any state, which are rated A2 or higher by Moody’s and A or higher by S&P;

(8) Pre-refunded municipal obligations defined as follows: any bonds or other obligations of any state or any agency, instrumentality or local governmental unit of any state, which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in a notice, and which are:

- (a) Rated, based on an irrevocable escrow account or fund, in the highest rating category of S&P and Moody’s; or

(b) Fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in clause (1) hereof, which escrow may be applied only to the payment of such principal or and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to irrevocable instructions, as appropriate, and which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (8) on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(9) Investment agreements or guaranteed investment contracts supported by appropriate opinions of counsel;

(10) California State Local Agency Investment Fund, a pooled investment fund managed by the State of California Treasurer's office meeting all legal guidelines and requirements for the investment of California public agency funds;

(11) Shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California which invests exclusively in investments permitted by Section 53635 of Title 5, Division 2, Chapter 4 of the Government Code of the State of California, as it may be amended; provided that such shares are held in the name and to the credit of the Trustee; and

(12) Any other form of investment (including repurchase agreements).

**"IRS"** shall mean the Internal Revenue Service of the U.S. Department of the Treasury.

**"Issue One 2010 Continuing Disclosure Agreement"** shall mean the Continuing Disclosure Agreement, dated June 24, 2010, between NCPA and the Trustee as Dissemination Agent, in connection with the Issue One 2010 Series Bonds pursuant to Rule 15c2-12 of the Securities and Exchange Commission.

**"Issue One 2010 Series A Bonds"** shall mean the Bonds authorized by the Indenture.

**"Issue One 2010 Series A Debt Service Account"** shall mean the Account so designated in the Debt Service Fund established pursuant to the Indenture.

**"Issue One 2010 Series B Bonds"** shall mean the Bonds authorized by the Indenture.

**"Issue One 2010 Series B Debt Service Account"** shall mean the Account so designated in the Debt Service Fund established pursuant to the Indenture.

**"Issue One 2010 Series Bonds"** shall mean the Issue One 2010 Series A Bonds and the Issue One 2010 Series B Bonds.

**"Issue One 2010 Series Debt Service Reserve Account"** shall mean the Account so designated in the Debt Service Reserve Fund established pursuant to the Indenture.

**"Market Treasury Yield"** shall mean, with respect to the Issue One 2010 Series B Bonds, that yield, assuming semiannual compounding based upon a 360-day year consisting of twelve 30-day months, which is equal to:

(i) the yield for the applicable maturity of an actively traded U.S. Treasury security, reported, as of 11:00 a.m., New York City time, on the Valuation Date on the display designated as “Page PX1” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in U.S. Treasury securities); or

(ii) if the yield described in (i) above is not reported as of such time or the yield reported as of such time is not ascertainable, the most recent yield data for the applicable U.S. Treasury maturity index from the Federal Reserve Statistical Release H.15 Daily Update (or any comparable or successor publication) reported, as of 11:00 a.m., New York City time, on the Valuation Date; or

(iii) if the yields described in (i) and (ii) above are not reported as of such time or the yields reported as of such time are not ascertainable, the yield for the applicable maturity of an actively traded U.S. Treasury security shall be based upon the average of yield quotations for such security (after excluding the highest and lowest quotations) as of 3:30 p.m., New York City time, on the Valuation Date received from no less than five primary dealers in U.S. government securities selected by NCPA.

Each yield quotation for each actively traded U.S. Treasury security required in (i) and (iii) above shall be determined using the average of the bid and ask prices for that security.

**“Member”** shall mean a party to the Joint Powers Agreement other than NCPA.

**“Moody’s”** shall mean Moody’s Investors Service, Inc., and its corporate successors.

**“NCPA”** shall mean the Northern California Power Agency, a joint exercise of powers agency created pursuant to the Act.

**“Opinion of Bond Counsel”** shall mean a written opinion signed by Bond Counsel.

**“Option Bonds”** shall mean Bonds which by their terms may be tendered by and at the option of the Owner thereof for purchase prior to the stated maturity thereof.

**“Outstanding,”** when used with reference to Bonds, shall mean, as of any date, Bonds theretofore, or thereupon being, authenticated and delivered under the Indenture except:

(i) Bonds cancelled by the Trustee, or delivered to the Trustee for cancellation, at or prior to such date;

(ii) Bonds paid or deemed paid pursuant to the Indenture; and

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture.

**“Owner”** shall mean the person registered as the owner of a Bond in the Bond Register.

**“Parity Debt”** shall mean: (i) bonds, notes, bond anticipation notes, or other evidences of indebtedness issued by, or loans taken out by, or Public Finance Contracts entered into by, NCPA to: (i) finance or refinance the Indenture Group A Participants’ shares of the Costs of Construction of the Project; or (ii) provide credit enhancement for, or economically modify NCPA’s payment obligations with respect to, such bonds, notes, bond anticipation notes, other evidences of indebtedness or loans, in each case satisfying the requirements of the Indenture.



**“Participating Bonds”** shall mean all Future Bonds other than Bonds authorized by a Supplemental Indenture that provides that such Bonds are not Participating Bonds in accordance with the provisions of the Indenture.

**“Participating Bonds Debt Service Account”** shall mean the Account so designated established in the Debt Service Fund pursuant to the Indenture.

**“Participating Bonds Debt Service Reserve Account”** shall mean the Account so designated established in the Debt Service Reserve Fund pursuant to the Indenture.

**“Pledged Power Sales Agreement Rights”** shall mean: (i) subject to the application of the Project Revenues relating to Indenture Group A to such purposes and on such terms as provided in the Power Sales Agreement, all amounts on deposit in the Indenture Group A Revenue Account; and (ii) all of NCPA’s rights under the Power Sales Agreement with respect to the Indenture Group A Participants including without limitation: (A) NCPA’s rights to the payments required to be made by the Indenture Group A Participants in accordance with or pursuant to any provision of the Power Sales Agreement; (B) NCPA’s right to receive all other Project Revenues related to Indenture Group A including Project Revenues received pursuant to actions taken upon a default by an Indenture Group A Participant; and (C) all of NCPA’s right, title and interest in, to and under the Power Sales Agreement with respect to the obligations of the Indenture Group A Participants, including NCPA’s rights to enforce the obligations of the Indenture Group A Participants under the Power Sales Agreement.

**“Power Sales Agreement”** shall mean the Lodi Energy Center Power Sales Agreement, dated as of May 24, 2010, among NCPA and the Participants, as the same may be amended and supplemented in accordance with its terms and the terms of the Indenture.

**“Principal Corporate Trust Office”** shall mean: (i) so long as U.S. Bank National Association is serving as Trustee under the Indenture, its Principal Corporate Trust Office located at 100 Wall Street, New York, New York or such other corporate trust office as shall be specified by U.S. Bank National Association; and (ii) the corporate trust office specified as such by any successor Trustee.

**“Principal Installment”** shall mean, as of any date of calculation, (i) the principal amount of Outstanding Bonds due on a certain future date for which no Sinking Fund Installments have been established and (ii) the unsatisfied balance (determined as provided in the Indenture) of any Sinking Fund Installments due on a certain future date for Outstanding Bonds.

**“Rebate Fund”** shall mean the Fund so designated established in the Indenture.

**“Rebate Instructions”** shall mean those calculations and written directions required to be delivered to the Trustee by NCPA pursuant to the Indenture.

**“Rebate Requirement”** shall mean the Rebate Requirement as defined in the Tax Certificate.

**“Refunding Bonds”** shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to the Indenture to refund Bonds or Parity Debt, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture.

**“Revolving Construction Amount”** shall mean with respect to the Initial Facilities, \$1,000,000; and with respect to any Financed Capital Improvement the amount, if any, specified as such in a Supplemental Indenture.

**“S&P”** shall mean Standard & Poor’s Rating Services and its corporate successors.

**“Securities Depository”** shall mean DTC and its successors and assigns or if (i) the incumbent Securities Depository resigns from its functions as depository of the Bonds or (ii) NCPA discontinues use of the incumbent Securities Depository pursuant to the Indenture, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the Bonds and which is selected by NCPA.

**“Series”** when used with reference to the Bonds, shall mean all of the Bonds authenticated and delivered on original issuance and identified pursuant to the Indenture (including any Supplemental Indenture) as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Indenture (including any Supplemental Indenture), regardless of variations in maturity, interest rate, Sinking Fund Installments, or other provisions.

**“Series Debt Service Reserve Account”** shall mean the Issue One 2010 Series Debt Service Reserve Account and each other Account within the Debt Service Reserve Fund with respect to a Series of Future Bonds that are not Participating Bonds.

**“Sinking Fund Installment”** shall mean each amount to be applied to the mandatory redemption (or payment at maturity) of Bonds as follows: (i) with respect to the Issue One 2010 Series A Bonds maturing on June 1, 2025, each amount so designated in the Indenture; (ii) with respect to the Issue One 2010 Series B Bonds maturing on June 1, 2040, each amount so designated in the Indenture; and (iii) with respect to the specified maturity or maturities of each Series of Future Bonds, each amount so designated in the Supplemental Indenture authorizing such Series of Future Bonds.

**“Subsidy”** shall mean with respect to Taxable Subsidy Bonds, a payment from the United States with respect to such Taxable Subsidy Bonds or the interest thereon or other benefit from the United States (such as a tax credit) in connection with such Taxable Subsidy Bonds.

**“Subsidy Contingency Fund”** shall mean the Fund so designated established pursuant to the Indenture.

**“Subsidy Contingency Requirement”** shall mean, as of any date of calculation, an amount equal to 35% of the amount of interest on the Issue One 2010 Series B Bonds scheduled to be paid on the next Interest Payment Date.

**“Supplemental Indenture”** shall mean any indenture supplemental to or amendatory of the Indenture as theretofore in effect, entered into by NCPA and the Trustee in accordance with the Indenture.

**“Taxable Bond”** shall mean Bonds, other than Taxable Subsidy Bonds, the interest on which is not excluded from gross income for federal income tax purposes.

**“Taxable Subsidy Bond”** shall mean Bonds, the interest on which is not excluded from gross income for federal income tax purposes and as to which NCPA or an Owner of a Bond is entitled to receive a Subsidy.

**“Tax Certificate”** shall mean, with respect to a Series of Bonds, the Tax Certificate relating to the requirements of the Code signed by NCPA on the date of original issuance of the Bonds of such Series.

**“Tax-Exempt Bond”** shall mean Bonds the interest on which is excluded from gross income for federal income tax purposes.

**“Tax Status”** shall mean with respect to a Bond which is a Tax-Exempt Bond, the exclusion from gross income for federal income tax purposes of interest on such Bond and with respect to a Bond which is Taxable Subsidy Bond, the right of NCPA or the Owner of a Bond to receive a Subsidy with respect to such Bond.

**“Trustee”** shall mean U.S. Bank National Association, and its corporate successor or successors and any other entity which may at any time be substituted in its place as successor Trustee pursuant to the Indenture.

**“Trust Estate”** shall mean (a) the Pledged Power Sales Agreement Rights and (b) subject to the provisions of the Indenture permitting the application and release thereof for the purposes and on the terms and conditions set forth therein, all amounts on deposit in the Funds established pursuant to the Indenture, other than the Rebate Fund, including the investments, if any, thereof; provided that the pledge of the Pledged Power Sales Agreement Rights shall be on a parity with any pledge thereof securing the payment of Parity Debt.

**“U.S.”** shall mean the United States of America.

**“Valuation Date”** shall mean, with respect to Issue One 2010 Series B Bonds to be redeemed pursuant to the Indenture, the Business Day preceding the date on which notice of such redemption is given pursuant to the Indenture.

#### **Pledge Effected by the Indenture**

The Bonds shall be special, limited obligations of NCPA payable solely from the funds available from the Trust Estate and secured as to the payment of the principal and redemption price thereof and interest thereon in accordance with their terms and the provisions of the Indenture solely by the pledge of the Trust Estate, which pledge is subject to the application of the Trust Estate for the purposes and on the terms and conditions contained in the Power Sales Agreement and the Indenture; provided, however, that the pledge of that portion of the Trust Estate constituting the Pledged Power Sales Agreement Rights shall be on a parity with any pledge of the Pledged Power Sales Agreement Rights securing the payment of Parity Debt.

The Trust Estate shall immediately be subject to the lien of such pledge without any other further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against NCPA, irrespective of whether such parties have notice thereof. Any moneys withdrawn from any Fund or Account and not deposited into the Debt Service Fund or the Debt Service Reserve Fund, except as otherwise provided in the Indenture, shall be released from the pledge made pursuant to the Indenture. Upon the payment, or provision for the payment in accordance with the Indenture, of all the Bonds, the Trust Estate, including the Pledged Power Sales Agreement Rights, shall be released from the pledge made pursuant to the Indenture.

The Bonds shall not constitute a charge against the general credit of NCPA and are not secured by a legal or equitable pledge of, or charge or lien upon, any property of NCPA or any of its income or receipts except the Trust Estate to the extent set forth in the Indenture. Neither the faith and credit nor the taxing power of the State of California or any public agency thereof or any Member of NCPA or any Participant is pledged to the payment of the principal or redemption price of, or interest on, the Bonds. Neither the payment of the principal or redemption price of, or interest on, the Bonds constitutes a debt,

liability or obligation of the State of California or any public agency thereof (other than the special obligation of NCPA as provided in the Indenture) or any Member of NCPA or any Participant. Neither the members of the Commission nor any officer or employee of NCPA shall be individually liable on the Bonds, or the interest thereon, or in respect to any undertakings by NCPA under the Indenture.

Nothing contained in the Indenture shall be construed to prevent NCPA from providing credit enhancement or liquidity support for all or any portion of the Bonds of any Series in addition to the pledge of the Trust Estate.

### **General Provisions for Issuance of Bonds**

All (but not less than all) the Bonds of each Series shall be executed by NCPA for issuance under the Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to NCPA or upon its order, but only upon the receipt by the Trustee of the following items (upon which the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Bonds have been satisfied):

(1) With respect to the Issue One 2010 Series Bonds, an executed counterpart of the Indenture, certified by an Authorized NCPA Representative to be in full force and effect;

(2) An Opinion of Bond Counsel to the effect that (i) the Indenture, as supplemented by any Supplemental Indenture pursuant to which such Series of Bonds is to be issued, constitutes the valid and binding obligation of NCPA; (ii) the Bonds of such Series constitute the valid and binding special, limited obligations of NCPA; and (iii) that the Indenture creates a valid pledge of the Trust Estate to secure the payment of the principal of and interest on the Bonds, subject to the application thereof on the terms and conditions contained the Power Sales Agreement and the Indenture; provided, however, that such Opinion of Bond Counsel may include such exceptions and qualifications as shall be acceptable to the initial purchaser or purchasers of the Bonds of such Series;

(3) A written order as to the delivery of such Bonds, signed by an Authorized NCPA Representative;

(4) Except in the case of the Issue One 2010 Series Bonds, an executed counterpart of the Supplemental Indenture authorizing such Bonds, certified by an Authorized NCPA Representative to be in full force and effect, which shall, among other provisions, specify: (i) the authorized Principal Amount of the Bonds of such Series, and the Series designation of such Bonds; (ii) the purposes for which such Series of Bonds is being issued, which shall be one of the purposes specified in the Indenture; (iii) the date, and the maturity date or dates, of the Bonds of such Series; (iv) the interest rate or rates on the Bonds of such Series, and the Interest Payment Dates therefor (or the manner for determining such interest rates and Interest Payment Dates); (v) if other than \$5,000 or any integral multiple thereof, the Authorized Denominations of, and the manner of dating, numbering and lettering, the Bonds of such Series; (vi) the redemption price or Prices, if any, and, subject to the Indenture, the redemption terms for the Bonds of such Series; (vii) the Sinking Fund Installments, if any, for the Bonds of such Series, provided that each Sinking Fund Installment, if any, shall fall upon an Interest Payment Date for such Bonds; (viii) if so determined by NCPA, provisions for the sale of the Bonds of such Series; (ix) if any of the Bonds of such Series are Option Bonds, the terms and conditions of the exercise by the Owners of such Bonds of the purchase option granted with respect to such Bonds; (x) the application of the proceeds of the sale of such Bonds including the amount, if any, to be deposited in the Funds and Accounts; (xi) the forms of the Bonds of such Series and of the Trustee's certificate of

authentication thereon; and (xii) the Funds and Accounts, if any, created under such Supplemental Indenture and the deposits to, and application of moneys in, such Funds and Accounts;

(5) The amount, if any, necessary for deposit in the Account in the Debt Service Reserve Fund related to such Series of Bonds so that the amount in such Account shall equal the applicable Debt Service Reserve Requirement calculated immediately after the authentication and delivery of such Series of Bonds;

(6) The amount necessary for deposit in the Subsidy Contingency Fund related to the Issue One 2010 Series B Bonds so that the amount in such Fund shall equal the Subsidy Contingency Requirement calculated immediately after the authentication and delivery of such Series of Bonds;

(7) Except in the case of the Issue One 2010 Series Bonds, a certificate of an Authorized NCPA Representative stating that NCPA is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Indenture or in any of the documents or proceedings authorizing or controlling any outstanding Parity Debt and applicable to NCPA; provided, however, that in the case of Refunding Bonds such certificate may state that upon the application of the proceeds of such Refunding Bonds in accordance with the Supplemental Indenture authorizing their issuance, NCPA shall not be in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Indenture and applicable to NCPA or in any of the documents or proceedings authorizing or controlling any outstanding Parity Debt and applicable to NCPA; and

(8) Such further documents, moneys and securities as are required by the provisions of the Indenture or any Supplemental Indenture entered into pursuant to the Indenture.

All the Bonds of each Series of like maturity shall be identical in all respects, except as to denominations, numbers and letters, Owners, interest rate, and Interest Payment Dates. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to the Indenture.

### **Additional Bonds**

One or more Series of Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of paying all or a portion of the Indenture Group A Participants' GES of the Costs of Construction of the Project, including any Capital Improvement thereto.

The proceeds, including any accrued interest, of the Additional Bonds of each Series shall be applied simultaneously with the delivery of such Bonds as provided in the Supplemental Indenture authorizing such Series of Bonds.

### **Refunding Bonds**

One or more Series of Refunding Bonds may be issued, authenticated and delivered upon original issuance (i) to refund all or any portion of an Outstanding Bond or Outstanding Bonds; provided that the unrefunded portion of any Bond refunded in part shall be in an Authorized Denomination or (ii) to refund any Parity Debt. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding including providing amounts for the costs of issuance of such Refunding Bonds, capitalized interest thereon, and the making of any deposits into the

Funds and Accounts required by the provisions of the Supplemental Indenture authorizing such Series of Refunding Bonds.

Refunding Bonds of each Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by the Indenture) of an Opinion of Bond Counsel to the effect that the Bonds (or portions thereof) or Parity Debt, as applicable, to be refunded are deemed paid pursuant to the Indenture or the proceedings authorizing such Parity Debt, as applicable. The Trustee may conclusively rely upon an Opinion of Bond Counsel in determining whether the conditions precedent for the issuance and authentication of such Series of Refunding Bonds have been satisfied.

The proceeds, including any accrued interest, of the Refunding Bonds of each Series shall be applied simultaneously with the delivery of such Bonds as provided in the Supplemental Indenture authorizing such Series of Refunding Bonds.

### **Parity Debt**

The payment of Parity Debt may be secured by a pledge of the Pledged Power Sales Agreement Rights on a parity with the pledge hereunder securing the payment of Debt Service on the Bonds; provided, that:

(a) The Trustee shall have received a copy of the proceedings authorizing such Parity Debt, certified by the Secretary or an Assistant Secretary of NCPA.

(b) Any debt service reserve for such Parity Debt shall not exceed the Debt Service Reserve Requirement for the Participating Bonds Debt Service Reserve Account or the Issue One 2010 Series Debt Service Reserve Account, whichever is greater.

(c) The Trustee shall have received a certificate of an Authorized NCPA Representative stating that NCPA is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Indenture or in any of the documents or proceedings authorizing or controlling any outstanding Parity Debt and applicable to NCPA; provided, however, that in the case of any Parity Debt issued for the purposes set forth in the Indenture, such certificate may state that upon the application of the proceeds of such Parity Debt in accordance with the proceedings authorizing such Parity Debt, NCPA is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Indenture or in any of the documents or proceedings authorizing or controlling any outstanding Parity Debt and applicable to NCPA.

(d) In the case of Parity Debt under a Public Finance Contract that is a swap, hedge or other instrument that economically modifies NCPA's payment obligations with respect to Bonds, the phrase "debt service" when used in the Indenture with respect to such Parity Debt shall refer to the scheduled net payments payable by NCPA under the Public Finance Contract and not to any settlement amounts due upon the early termination thereof. In the case of Parity Debt under a Public Finance Contract that provides credit enhancement or liquidity support for Bonds, the phrase "debt service" when used in the Indenture with respect to such Parity Debt shall refer to the scheduled principal and interest payments owed by NCPA under the Public Finance Contract and not to amounts due upon an acceleration of maturity.

### **Debt Service Reserve Accounts for Future Bonds**

Each Series of Future Bonds shall constitute Participating Bonds unless the Supplemental Indenture authorizing such Series of Future Bonds provides that such Series of Future Bonds shall not be

Participating Bonds. If one or more Series of Future Bonds which are not Participating Bonds are to be secured by a Series Debt Service Reserve Account, the Supplemental Indenture authorizing such Series of Future Bonds shall provide for the establishment of such Series Debt Service Reserve Account and specify the Debt Service Reserve Requirement for such Series Debt Service Reserve Account.

### **The Issue One 2010 Series B Bonds as Build America Bonds**

The Issue One 2010 Series B Bonds are being issued as Taxable Subsidy Bonds constituting direct payment Build America Bonds for purposes of the American Recovery and Reinvestment Act of 2009. All Subsidy payments received by NCPA or the Trustee in connection with the Issue One 2010 Series B Bonds shall be deposited in the Issue One 2010 Series B Debt Service Account.

### **Conditions to Expenditure of Proceeds of Issue One 2010 Series Bonds**

Notwithstanding anything to the contrary contained in the Indenture, the Trustee shall not release any proceeds of the Issue One 2010 Series Bonds (other than to pay principal of and interest on the Issue One 2010 Series Bonds when due) until NCPA has provided the Trustee with written notice to the effect that one or more trustees hold sufficient moneys in construction funds which NCPA may access with requisitions similar to the requisitions described in the Indenture to pay Costs of Construction of the Initial Facilities, which together with the proceeds of Issue One 2010 Series Bonds deposited in the Construction Fund, and the estimated investment income to be deposited into the Construction Fund and such other construction funds as specified by NCPA, shall be an amount not less than the than the Initial Estimate of the Costs of Construction of the Initial Facilities. Upon receipt of such notice the Trustee shall disburse proceeds of the Issue One 2010 Series Bonds as provided in the Indenture.

### **Funds and Accounts**

The following Funds and Accounts are established pursuant to the Indenture and are to be held and maintained by the Trustee:

- (1) Construction Fund, which shall consist of: (i) the Issue One 2010 Series A Account, (ii) the Issue One 2010 Series B Account and (iii) such other Accounts in the Construction Fund as shall be established in the Supplemental Indenture authorizing each Series of Future Bonds as to which any of the proceeds are to be deposited in the Construction Fund;
- (2) Costs of Issuance Fund;
- (3) Debt Service Fund, which shall consist of (i) the Participating Bonds Debt Service Account, (ii) the Issue One 2010 Series A Debt Service Account, (ii) the Issue One 2010 Series B Debt Service Account and (iv) such other Accounts in the Debt Service Fund as shall be established in the Supplemental Indenture authorizing a Series of Future Bonds that are not Participating Bonds;
- (4) Debt Service Reserve Fund, which shall consist of (i) the Participating Bonds Debt Service Reserve Account, (ii) the Issue One 2010 Series Debt Service Reserve Account, and (iii) such other Series Debt Service Reserve Accounts as shall be established in connection with Future Bonds by NCPA that are not Participating Bonds pursuant to the Indenture;
- (5) Subsidy Contingency Fund; and

(6) Rebate Fund.

**Construction Fund**

(a) There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of the Indenture, and there may be paid into the Construction Fund any moneys received for or in connection with the Project from any other source, unless required to be otherwise applied as provided by the Indenture. Amounts in the Construction Fund shall be applied to the Indenture Group A Participants' GES of the Costs of Construction of the Project in the manner provided in the Indenture.

(b) The Trustee shall make payments from the Construction Fund, except payments and withdrawals pursuant to paragraphs (c) and (d) below, in the amounts, at the times, in the manner and on the other terms and conditions set forth in the Indenture. The Trustee shall make payments from the Construction Fund with respect to the Indenture Group A Participants' GES of the Costs of Construction of the Initial Facilities and each Financed Capital Improvement. Before any such payment from the Construction Fund shall be made, there shall be filed with the Trustee a requisition therefor, signed by an Authorized NCPA Representative. Subject to the provisions of paragraph (c) below, each such requisition shall state, in respect of the payment to be made (i) the name and address of the person, firm or corporation to whom payment is due, (ii) the amount of such payment, (iii) the particular item of the Costs of Construction to be paid and that such payment in the stated amount is a proper charge against the Construction Fund and that no part of such payment shall be applied to any item which has previously been paid as a Cost of Construction, and (iv) the Account in the Construction Fund from which such amounts are to be paid. The Trustee shall promptly issue its check to NCPA in the amount of each such requisition or, if requested pursuant to any such requisition, shall by interbank transfer or other method arrange to promptly make each payment required by such requisition. NCPA shall apply, or cause to be applied, all such moneys received to the payment of the Costs of Construction identified in the requisition relating to such moneys.

(c) The Trustee shall pay from the Construction Fund to NCPA, upon its requisition therefor signed by an Authorized NCPA Representative, the amount of the Revolving Construction Amount, such amount to be used by NCPA to establish a revolving fund for the purpose of paying such items of the Indenture Group A Participants' GES of the Costs of Construction of the Initial Facilities and each Financed Capital Facility as cannot conveniently be paid as in the Indenture otherwise provided. NCPA shall apply the moneys in such revolving fund to pay the Indenture Group A Participants' GES of the Costs of Construction of the Initial Facilities or a Financed Capital Improvement, as applicable, as cannot conveniently be paid as provided in paragraph (b) above. NCPA shall keep records of all disbursements from such revolving fund which shall indicate (i) the name and address of the person, firm or corporation to whom payment is due, (ii) the amount of such payment, (iii) the particular item of the Costs of Construction to be paid. At any time during the construction of the Initial Facilities or a Financed Capital Improvement, as applicable, that the balance of such revolving fund is less than the Revolving Construction Amount, NCPA may submit a requisition for payments from the Construction Fund as provided in paragraph (b) above for reimbursement of the amount of payments of the Costs of Construction made from such revolving fund (and not previously reimbursed to such revolving fund) to the extent necessary to make the balance in such revolving fund equal the Revolving Construction Amount. Each such requisition shall contain the information as to the Costs of Construction sought to be reimbursed to such revolving fund specified for requisitions in paragraph (b) above, be signed by an Authorized NCPA Representative, and shall certify that each such amount sought to be reimbursed to such revolving fund was necessary for the payment of an item of the Indenture Group A Participants' GES of the Costs of Construction and that such expense could not conveniently be paid except from such revolving fund.



(d) Notwithstanding any of the other provisions of the Indenture, to the extent that other moneys are not available therefor, including amounts in the Cost of Issuance Fund, amounts in the Construction Fund shall be applied to the payment of Debt Service on the Bonds when due.

(e) The completion of the construction of the Initial Facilities and any Capital Improvement shall be evidenced by a certificate or certificates signed by an Authorized NCPA Representative which shall be filed with the Trustee, stating (i) the date of such completion and (ii) the amount, if any, required in the opinion of the signer or signers for the payment of any remaining part of the Indenture Group A Participants' GES of the Costs of Construction thereof. Upon the filing of such certificate, the balance, if any, in the separate Account in the Construction Fund established with respect to each Series of Bonds to pay the Costs of Construction of the Initial Facilities or such Capital Improvement, as applicable, which is in excess of the amount, if any, stated in such certificate shall be transferred to the Account in the Debt Service Reserve Fund relating to such Series of Bonds, if and to the extent necessary to make the amount of such Account equal to the applicable Debt Service Reserve Requirement, and any balance shall be paid over or transferred to the Account in the Debt Service Fund relating to such Series of Bonds for application as directed by an Authorized NCPA Representative. If subsequent to the filing of such certificate it shall be determined that any amounts in an Account in the Construction Fund relating to a Series of Bonds and specified in such certificate as being required for the payment of any remaining part of the Indenture Group A Participants' GES of the Costs of Construction are no longer so required, such fact shall be evidenced by a certificate or certificates of an Authorized NCPA Representative which shall be filed with the Trustee stating such fact and any amount shown therein as no longer being required for such purpose shall be transferred to the Account in the Debt Service Reserve Fund relating to such Series of Bonds, if and to the extent necessary to make the amount of such Account equal to the applicable Debt Service Reserve Requirement, and any balance shall be paid over or transferred to the Account in the Debt Service Fund relating to such Series of Bonds for application as directed by NCPA.

#### **Payments From the Indenture Group A Revenue Account**

As soon as practicable in each month, but in any case no later than the last Business Day of such month, after making the transfers from the Indenture Group A Revenue Account required by Section 21.2 and Section 21.3 of the Power Sales Agreement, NCPA shall withdraw moneys from the Indenture Group A Revenue Account and deposit in the following Funds and Accounts, in the following order, the amounts set forth below:

(a) (i) Subject to the provisions of the Indenture: (A) in the Participating Bonds Debt Service Account the amount necessary so that the balance in said Account shall equal the Debt Service to accrue on the Participating Bonds to the last day of such month; (B) in the Issue One 2010 Series A Debt Service Account the amount necessary so that the balance in said Account shall equal the Debt Service to accrue on the Issue One 2010 Series A Bonds to the last day of such month; (C) in the Issue One 2010 Series B Debt Service Account the amount necessary so that the balance in said Account shall equal the Debt Service to accrue on the Issue One 2010 Series B Bonds to the last day of such month; and (D) in each Account in the Debt Service Fund established for a Series of Future Bonds the amount, if any, required so that the balance in said Account shall equal the Debt Service to accrue on such Series of Future Bonds to the last day of such month; provided that, for the purposes of computing the amount on deposit in any such Account, there shall be excluded from the balance of such Account: (1) the amount, if any, set aside in such Account from the proceeds of Bonds for the payment of the principal, redemption price, or interest on Bonds, less that amount of such proceeds to be applied in accordance with the Indenture to the payment of the principal, redemption price or interest accrued and unpaid and to accrue on applicable Bonds to the last day of the then current calendar month; and (2) the amount, if any, set aside in any such Account for the payment of Principal Installments or redemption price of, or interest on, the applicable Bonds which are then due and payable; and (ii) deposit in any fund or account created to

pay debt service on Parity Debt the amount, if any, required so that the balance therein shall equal the payments coming due therein to the last day of such month; provided that if the amount available in the Indenture Group A Revenue Account in any month is insufficient to make all deposits required by this paragraph, then the available amounts in the Indenture Group A Revenue Account shall be deposited in each Account in the Debt Service Fund and the funds or accounts created to pay debt service on Parity Debt pro rata based on the amounts due.

(b) Subject to the provisions of the Indenture, in each Account in the Debt Service Reserve Fund, the amount, if any, required so that the amount in such Account is equal to the applicable Debt Service Reserve Requirement and the amount, if any, necessary to reimburse each drawing on a Financial Guaranty related to each Account in the Debt Service Reserve Fund and to pay any interest or other amounts due with respect to a Financial Guaranty related to each Account in the Debt Service Reserve Fund and to deposit in the debt service reserve, if any, established for Parity Debt the amount required to be deposited in such debt service reserve pursuant to the instrument or proceedings authorizing such Parity Debt; provided that if the amount available in the Indenture Group A Revenue Account in any month is insufficient to make all deposits required by this paragraph, then the available amounts in the Indenture Group A Revenue Account shall be deposited into each Account in the Debt Service Reserve Fund and the debt service reserves for Parity Debt pro rata based on the amounts due.

(c) Subject to the provisions of the Indenture, in the Subsidy Contingency Fund, the amount, if any required so that the amount in such Fund is equal to the Subsidy Contingency Requirement on any Interest Payment Date.

#### **Application of Debt Service Fund**

The Trustee shall pay from the Participating Debt Service Account: (i) on each Interest Payment Date for any of the Outstanding Participating Bonds the interest on such Participating Bonds payable on such due date; (ii) on each due date therefor, the Principal Installments on Outstanding Participating Bonds payable on such due date; and (iii) on any redemption date for Outstanding Participating Bonds, the amount required for payment of the redemption price and any unpaid accrued interest on the Participating Bonds then to be redeemed.

The Trustee shall pay from the Issue One 2010 Series A Debt Service Account in the Debt Service Fund: (i) on each Interest Payment Date for any of the Outstanding Issue One 2010 Series A Bonds the interest on such Issue One 2010 Series A Bonds payable on such due date; (ii) on each due date therefor, the Principal Installment on Outstanding Issue One 2010 Series A Bonds payable on such due date; and (iii) on any redemption date for Outstanding Issue One 2010 Series A Bonds, the amount required for payment of the redemption price and any accrued interest on the Issue One 2010 Series A Bonds then to be redeemed.

The Trustee shall pay from the Issue One 2010 Series B Debt Service Account in the Debt Service Fund: (i) on each Interest Payment Date for any of the Outstanding Issue One 2010 Series B Bonds the interest on such Issue One 2010 Series B Bonds payable on such due date; (ii) on each due date therefor, the Principal Installment on Outstanding Issue One 2010 Series B Bonds payable on such due date; and (iii) on any redemption date for Outstanding Issue One 2010 Series B Bonds, the amount required for payment of the redemption price and any unpaid accrued interest on the Issue One 2010 Series B Bonds then to be redeemed.

The Trustee shall pay from the each Debt Service Account in the Debt Service Fund established for a Series of Future Bonds which are not Participating Bonds: (i) on each Interest Payment Date for any of the Outstanding Bonds of such Series the interest on such Future Bonds payable on such due date; (ii)

on each due date therefor, the Principal Installment on Outstanding Bonds of such Series payable on such due date; and (iii) on any redemption date for Outstanding Bonds of such Series, the amount required for payment of the redemption price and any accrued interest on the such Bonds then to be redeemed.

Amounts accumulated in the applicable Account in the Debt Service Fund with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) may, and if so directed in writing by an Authorized NCPA Representative shall, be applied by the Trustee, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, to (i) the purchase of Bonds of the Series and maturity for which such Sinking Fund Installment was established, or (ii) the redemption at the applicable sinking fund redemption price of such Bonds, if then redeemable by their terms. All purchases of any Bonds pursuant to this paragraph shall be made at prices not exceeding the applicable sinking fund redemption price of such Bonds plus accrued interest, and such purchases shall be made by the Trustee as directed by NCPA. The applicable sinking fund redemption price (or principal of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the applicable Account in the Debt Service Fund until such Sinking Fund Installment due date, for the purpose of calculating the amount in such Account.

If directed in writing by an Authorized NCPA Representative on or prior to the 45th day next preceding any Sinking Fund Installment due date for a Series and maturity of the Bonds, there shall be applied as a credit against such Sinking Fund Installment, and there shall be deemed to constitute part of the Account in the Debt Service Fund related to such Bonds for the period commencing eleven months from such Sinking Fund Installment due date until such Sinking Fund Installment due date for the purpose of calculating the amount of such Fund, the principal amount of any Bonds of the Series and maturity for which such Sinking Fund Installment was established which have been purchased or redeemed and cancelled or delivered to the Trustee for cancellation on or prior to the 45th day next preceding such Sinking Fund Installment due date and not previously applied as a credit against a Sinking Fund Installment.

No later than the 30th day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption on such due date, by giving notice as provided in the Indenture, Bonds of the maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment due date) in such amount as shall be necessary to complete the retirement of Bonds in an amount equal to the unsatisfied balance of such Sinking Fund Installment. The Trustee shall pay out of the Debt Service Fund on such redemption date (or maturity date), the amount required for the redemption of the Bonds so called for redemption (or for the payment of the Bonds then maturing).

The amount, if any, deposited in each applicable Account in the Debt Service Fund from the proceeds of Bonds for the purpose of paying interest on Bonds shall be set aside in such Fund and applied to the payment of interest on Bonds as provided in the Indenture or in any Supplemental Indenture.

In the event of the refunding of one or more Bonds (or portions thereof), the Trustee shall, upon the written direction of an Authorized NCPA Representative, withdraw from the applicable Account or Accounts in the Debt Service Fund amounts accumulated therein with respect to Debt Service on the Bonds being refunded and deposit such amounts with itself as Trustee to be held for the payment of the principal or redemption price, as applicable, of, and interest on, the Bonds (or portions thereof) being refunded; provided, that such withdrawal shall not be made unless (i) immediately thereafter the Bonds (or portions thereof) being refunded shall be deemed to have been paid pursuant to the Indenture, and (ii) the amount remaining in such applicable Account or Accounts in the Debt Service Fund after such withdrawal shall not be less than the requirement of such Account or Accounts.

Any provision of the Indenture to the contrary notwithstanding, so long as there shall be held in an Account in the Debt Service Fund an amount sufficient to pay in full the Bonds related to such Account in accordance with their terms (including principal or applicable sinking fund redemption price and interest thereon), no deposits shall be required to be made into such Account in the Debt Service Fund.

#### **Application of Debt Service Reserve Fund**

(a) If on the last Business Day of any month the amount in an Account in the Debt Service Fund shall be less than the amount required to be in such Account pursuant to the Indenture with respect to the related Bonds, the Trustee shall apply amounts from the related Account in the Debt Service Reserve Fund to the extent necessary to make good the deficiency.

(b) Except as provided in paragraph (e) below, whenever the moneys on deposit in an Account in the Debt Service Reserve Fund shall exceed the applicable Debt Service Reserve Requirement, such excess shall be applied to the reimbursement of each drawing on a Financial Guaranty related to such Account and to the payment of interest or other amounts due with respect to such a Financial Guaranty to the extent payable from such Account and any remaining moneys shall be deposited in the Indenture Group A Revenue Account.

(c) Whenever the amount in an Account in the Debt Service Reserve Fund (excluding Financial Guaranties), together with the amount in the related Account in the Debt Service Fund and available for such purposes, is sufficient to pay in full all Outstanding Bonds related to such Accounts in accordance with their terms (including principal or applicable sinking fund redemption price and interest thereon), the funds on deposit in such Account in the Debt Service Reserve Fund shall be transferred to the related Account in the Debt Service Fund and applied to the payment or redemption of the related Bonds.

(d) In the event of the refunding of a Bond or Bonds (or portions thereof), the Trustee shall, upon the written direction of an Authorized NCPA Representative, withdraw from the Account in the Debt Service Reserve Fund relating to the Bond or Bonds (or portions thereof) being refunded any or all of the amounts on deposit therein (excluding Financial Guarantees) and deposit such amounts with itself as Trustee to be held for the payment of the principal or redemption price, as applicable, of, and interest on, such Bond or Bonds (or portions thereof) being refunded; provided, that such withdrawal shall not be made unless (i) immediately thereafter the Bond or Bonds (or portions thereof) being refunded shall be deemed to have been paid pursuant to the Indenture, and (ii) the amount remaining in the related Account in the Debt Service Reserve Fund after such withdrawal, taking into account any deposits to be made to such Account in connection with such refunding, shall not be less than the applicable Debt Service Reserve Requirement for such Account.

(e) In lieu of the deposits and transfers to any Account in the Debt Service Reserve Fund required by the Indenture, NCPA may cause to be deposited in any Account in the Debt Service Reserve Fund a Financial Guaranty or Financial Guaranties with procedural terms satisfactory to the Trustee in an amount equal to the difference between the applicable Debt Service Reserve Requirement and the funds, if any, then on deposit in such Account or being deposited in such Account concurrently with such Financial Guaranty or Guaranties.

No deposit of a Financial Guaranty shall be made in any Account in the Debt Service Reserve Fund pursuant to the Indenture unless the Trustee shall have received prior to such deposit (i) an opinion of counsel to the effect that such Financial Guaranty has been duly authorized, executed and delivered by the issuer thereof and is valid, binding and enforceable in accordance with its terms and (ii) in the event

such issuer is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to NCPA and the Trustee that such Financial Guaranty has been duly authorized, executed and delivered by the issuer thereof and is valid, binding and enforceable in accordance with its terms under the applicable foreign law; provided that such opinion (a) may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and (b) need not express any opinion as to the availability of any specific remedy.

For the purposes of the Indenture, in computing the amount on deposit in an Account in the Debt Service Reserve Fund, a letter of credit, a surety bond or an insurance policy shall be valued at the amount available to be drawn or payable thereunder on the date of computation. The Trustee shall draw upon or otherwise take such action as is necessary in accordance with the terms of the Financial Guaranties credited to an Account in the Debt Service Reserve Fund to receive payments with respect to such Financial Guaranties (including the giving of notice as required thereunder): (i) on any date on which moneys will be required to be withdrawn from the applicable Account in the Debt Service Reserve Fund and applied to the payment of a Principal Installment or redemption price of, or interest on, any Bonds secured by such Account and such withdrawal cannot be met by amounts on deposit in the related Account in the Debt Service Reserve Fund; (ii) unless a Financial Guaranty expires on the final maturity date for the then Outstanding Bonds secured by the Account in the Debt Service Reserve Fund to which such Financial Guaranty is credited, on the first Business Day which is at least thirty (30) days prior to the expiration date of each Financial Guaranty, in an amount equal to the deficiency which would exist in the Account in the Debt Service Reserve Fund to which such Financial Guaranty is credited if the Financial Guaranty expired, unless a substitute Financial Guaranty with an expiration date not earlier than 180 days after the expiration date of the expiring Financial Guaranty is acquired prior to such date or NCPA deposits funds in the related Account in the Debt Service Reserve Fund, on or before such date, such that the amount in the related Account in the Debt Service Reserve Fund on such date (without regard to such expiring Financial Guaranty) is at least equal to the applicable Debt Service Reserve Requirement.

If at any time a Financial Guaranty is delivered pursuant to the Indenture there shall be any amount in the applicable Account in the Debt Service Reserve Fund in excess of the applicable Debt Service Reserve Requirement, such excess amount may be applied to the cost of acquiring such Financial Guaranty and, to the extent not so applied, shall be transferred to the applicable Account in the Debt Service Fund and applied as directed in writing by an Authorized NCPA Representative.

### **Subsidy Contingency Fund**

NCPA shall file (or cause to be filed) with the Trustee a copy of each completed Form 8038-CP (Return for Credit Payments to Issuers of Qualified Bonds), or the then-current form designated by the U.S. Treasury, filed by or on behalf of NCPA setting forth the amount of the Subsidy payable by the U.S. Treasury with respect to each Interest Payment Date on the Issue One 2010 Series B Bonds. The Trustee shall not be responsible for filing the Form 8038-CP (or any successor form) with respect to any Interest Payment Date on the Issue One 2010 Series B Bonds.

If on any Interest Payment Date, the Subsidy for such Interest Payment Date shall not have been received by the Trustee, the Trustee shall transfer amounts from the Subsidy Contingency Fund equal to the expected amount of the Subsidy payment that had not been received to the Issue One 2010 Series B Debt Service Account in the Debt Service Fund. If the Subsidy for such Interest Payment Date is subsequently received, the Trustee shall deposit the Subsidy directly into the Subsidy Contingency Fund to the extent of any deficiency therein, otherwise the Subsidy amount (or portion thereof) shall be deposited into the Issue One 2010 Series B Debt Service Account.

Whenever the moneys on deposit in the Subsidy Contingency Fund shall exceed the Subsidy Contingency Requirement, such excess shall be deposited in the Indenture Group A Revenue Account.

### **Application of Rebate Fund**

Amounts on deposit in the Rebate Fund shall be applied as provided in the Tax Certificate and in the Indenture under the caption entitled “Particular Covenants of NCPA – Tax Matters.”

### **Investment of Certain Funds**

Moneys held in the Debt Service Fund shall be invested and reinvested by the Trustee to the fullest extent practicable in securities described in clauses (1), (2), (3), or (9) of the definition of “Investment Securities” in the Indenture which mature not later than such times as shall be necessary to provide moneys when reasonably expected to be needed for payments to be made from such Fund. Moneys held in the Debt Service Reserve Fund and the Subsidy Contingency Fund shall be invested and reinvested by the Trustee to the fullest extent practicable in securities described in clauses (1), (2), (3), or (9) of the definition of “Investment Securities” in the Indenture which mature or which may be drawn upon not later than such times as shall be necessary to provide moneys when reasonably expected to be needed for payments to be made from such Fund, but in any event not later than five years from the time of such investment except that the maturity of any security described in clause (9) of the definition of Investment Securities in the Indenture may mature not later than thirty years from the time of such investment. Moneys held in the Construction Fund and in the Cost of Issuance Fund may be invested and reinvested in Investment Securities which mature or which may be drawn upon not later than such times as shall be necessary to provide moneys when reasonably expected to be needed for payments to be made from such Funds. The Trustee shall make all such investments of moneys held by it and shall sell or otherwise liquidate any such investment and take all actions necessary to draw funds under any such investment, including the giving of necessary notices of the drawing of any moneys under any investment in securities described in clause (9) of the definition of “Investment Securities” in the Indenture, in each case in accordance with directions of an Authorized NCPA Representative and which directions shall be written.

Except as otherwise provided in Rebate Instructions, interest or other income (net of that which (i) represents a return of accrued interest paid in connection with the purchase of any investment or (ii) is required to effect the amortization of any premium paid in connection with the purchase of any investment) earned on any moneys or investments in the Funds and Accounts created under the Indenture shall be paid into the Debt Service Fund and applied as directed by an Authorized NCPA Representative; provided, that: (i) all such interest or other income earned on any moneys or investments in an Account in the Construction Fund shall be credited to such Account; (ii) all such interest or other income earned on any moneys or investments in the Debt Service Reserve Fund and the Subsidy Contingency Fund shall be applied to the Issue One Series B Account of the Construction Fund, on or before the later of (a) June 1, 2012 or (b) the date on which NCPA provides the Trustee a certificate or certificates signed by an Authorized NCPA Representative evidencing completion of the construction of the Initial Facilities and any Capital Improvement, and after such date, (iii) all such interest or other income earned on any moneys or investments in any Fund established pursuant to the Indenture shall be applied as provided in the Indenture; and (iv) all such interest or other income earned on moneys in the Rebate Fund shall be applied as provided in the Indenture.

In making any investment in any Investment Securities with moneys in any Fund established under the Indenture, NCPA and the Trustee may combine such moneys with moneys in any other Fund or Account but solely for the purposes of making such investment in such Investment Securities and provided that any amount so combined shall be separately accounted for.

Nothing in the Indenture shall prevent any Investment Securities acquired as investments of moneys in any Fund or Account from being issued or held in book-entry form on the books of the Department of the Treasury or the Federal Reserve System of the United States of America.

## **Covenants**

**Payment of Bonds.** NCPA shall duly and punctually pay or cause to be paid, but solely from the sources pledged therefor, the principal or redemption price, if applicable, of every Bond, and the interest thereon, at the dates and places and in the manner mentioned in the Bonds according to the true intent and meaning thereof.

**Extension of Payment of Bonds.** NCPA shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds, or the time of payment of any claims for interest on any Bonds, by the purchase or funding of such Bonds or claims for interest or by any other arrangement and in case the maturity of any of the Bonds, or the time for payment of any claims for interest on any Bonds, shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under the Indenture, to the benefit of the Indenture or to any payment out of the Trust Estate except subject to the prior payment of (a) the principal of all Bonds Outstanding the maturity of which has not been extended, and (b) such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest.

**Offices for Servicing Bonds.** NCPA shall at all times maintain one or more agencies where Bonds may be presented for payment and shall at all times maintain one or more agencies where Bonds may be presented for registration, transfer or exchange, and where notices, demands and other documents may be served upon NCPA in respect of the Bonds or the Indenture. NCPA appoints the Trustee as the party for the service upon NCPA of such notices, demands and other documents. The Trustee shall continuously maintain or make arrangements to provide such services.

**Further Assurance.** At any and all times NCPA shall, as far as it may be authorized by law, comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, pledging, assigning and confirming in all and singular the pledge of the Trust Estate hereunder.

**Power to Issue Bonds and to Pledge Trust Estate.** NCPA represents and warrants that it is duly authorized under all applicable laws to create and issue the Bonds, to enter into the Indenture, to pledge the Trust Estate as security for the payment of the Bonds in the manner and to the extent provided by such pledge and all action on the part of NCPA to that end has been duly and validly taken. The Bonds and the provisions of the Indenture are and shall be the valid and legally enforceable obligations of NCPA in accordance with their terms and the terms of the Indenture. NCPA shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate and all the rights of the Owners of the Bonds under the Indenture against all claims and demands of all persons whomsoever.

**Power to Establish Charges and Collect Amounts.** NCPA has, and shall have as long as any Bonds are Outstanding, good right and lawful power to establish charges and cause to be collected amounts with respect to the Project, subject only to the terms of the Power Sales Agreement.

**Creation of Liens on Trust Estate.** NCPA shall not issue any bonds, notes, debentures, or other evidences of indebtedness or incur any payment obligations, payable out of or secured by a pledge or assignment of the Trust Estate or any portion thereof nor shall it create or cause to be created any lien or charge on the Trust Estate or any portion thereof prior to or, except for the Bonds with respect to the

entire Trust Estate and Parity Debt with respect to the Pledged Power Sale Agreement Rights, on a parity with the lien of the pledge made pursuant to the Indenture; provided, however, that nothing contained in the Indenture shall prevent NCPA from issuing, if and to the extent permitted by law, bonds, notes, or other evidences of indebtedness payable out of, or secured by a pledge of, the Pledged Power Sales Agreement Rights to be derived on and after such date as the pledge of the Pledged Power Sales Agreement Rights made pursuant to the Indenture shall be discharged and satisfied as provided in the Indenture or payable from and secured by a pledge of Pledged Power Sales Agreement Rights on a basis which shall be, and shall be expressed to be, in all respects junior and subordinate in all respects to the payment of amounts then due with respect to the Bonds or otherwise payable under the Indenture and to the pledge and lien made pursuant to the Indenture as security for the Bonds.

Nothing in the Indenture shall be deemed to limit NCPA's right to acquire, construct or finance through the issuance of its bonds, notes or other evidences of indebtedness any facilities which constitute a part of the Project to provide for the Indenture Group B Participant's GES of the Costs of Construction of the Project or Indenture Group C Participant's GES of the Costs of Construction of the any Additional Costs of the Initial Facilities or any Financed Capital Improvement. Nothing in the Indenture shall be deemed to limit NCPA's right to acquire, construct or finance through the issuance of its bonds, notes or other evidences of indebtedness any facilities which do not constitute a part of the Project and may secure such bonds, notes or other evidences of indebtedness by a mortgage of the facilities so financed or by a pledge of, or lien on, the revenues therefrom or any lease or other agreement with respect thereto or any revenues derived from such lease or other agreement; provided that such bonds, notes or other evidences of indebtedness shall not be payable out of or secured by the Trust Estate and neither the cost of such facilities nor any expenditure in connection therewith or with the financing thereof shall be payable from the Trust Estate.

**Sale of Interest in the Project.** So long as any Bonds remain Outstanding, and except as provided in the Indenture, NCPA shall not sell, lease, or otherwise dispose of its interest in the Project or any portion thereof.

**Operation and Maintenance of the Project.** Subject to the terms of the Power Sales Agreement, NCPA shall at all times maintain and preserve, or cause to be maintained and preserved, the Project and all buildings, facilities and equipment constituting any part of the Project in conformity with Prudent Utility Practice with respect to facilities of like size and character. Subject to the terms of the Power Sales Agreement, NCPA shall from time to time make, or cause to be made, all necessary and proper repairs, renewals, replacements and substitutions to the properties of the Project, so that at all times business carried on in connection with the Project shall and can be properly and advantageously conducted in an efficient manner and at reasonable cost, and shall operate the Project in an efficient and economical manner, consistent with the protection of the Owners of the Bonds and shall not commit or allow any waste with respect to the Project; provided, however, that any real or personal property included in the Project which has become nonoperative or which is not needed for the efficient and proper operation of the Project, or any material or equipment which has worn out or become obsolete, may be sold, leased or otherwise disposed of by NCPA.

**Charges and Enforcement.** NCPA shall at all times establish rates and charges, and cause to be collected amounts in connection with the Project and the Power Sales Agreement, as shall be required to provide Project Revenues in the Revenue Fund at least sufficient in each Fiscal Year, together with other available funds, for the payment of all Operation and Maintenance Expenses, including OandM Step-ups, during such Fiscal Year and the maintenance of the Operating Reserve Fund at the amount required by the Power Sales Agreement. In addition NCPA shall at all times establish rates and charges, and cause to be collected amounts in connection with the Project and the Power Sales Agreement from the Indenture Group A Participants as shall be required to provide Project Net Revenues in the Indenture Group A



Revenue Account at least sufficient in each Fiscal Year, together with other available funds, for the payment of all of the following:

- (1) Debt Service on the Bonds and payments due with respect to Parity Debt for such Fiscal Year;
- (2) (a) The amount, if any, to be paid during such Fiscal Year into each Account in the Debt Service Reserve Fund and in each debt service reserve fund for Parity Debt; and (b) the amount, if any, to be paid during such Fiscal Year into the Subsidy Contingency Fund;
- (3) The amounts payable by NCPA as fees, expenses, indemnification and other charges to the Trustee hereunder and to any trustee or custodian for Parity Debt and each other person under or in connection with Parity Debt;
- (4) All other amounts payable by NCPA to any person under or in connection with the Indenture or any of the documents or proceedings authorizing or controlling any outstanding Parity Debt; and
- (5) All other charges or other amounts payable out of the Indenture Group A Revenue Account during such Fiscal Year.

**Power Sales Agreement.** NCPA shall receive and forthwith deposit in the appropriate account in the Revenue Fund all amounts payable to it pursuant to the Power Sales Agreement or payable to it pursuant to any other contract related to its interest in the Project or the capacity, energy, use or service of the Indenture Group A Participants' GES in the Project or any part thereof. NCPA shall enforce or cause to be enforced the provisions of the Power Sales Agreement and duly perform its covenants and agreements thereunder. NCPA shall not consent or agree to or permit any rescission of or amendment to, or otherwise take any action under or in connection with, the Power Sales Agreement which shall reduce the aggregate amount of payments required thereunder or which shall in any manner materially impair or materially adversely affect the rights of NCPA thereunder or the rights or security of the Trustee or the Owners of the Bonds; provided, however, nothing in the Indenture shall be construed so as to prohibit any other amendment of the Power Sales Agreement.

**Acquisition and Construction of Project.** NCPA shall use its best efforts to acquire and construct the Project, or cause the Project to be acquired and constructed, with due diligence and in a sound and economical manner.

**Maintenance of Insurance.** NCPA shall at all times insure the Project, or cause the Project to be insured, against such risks as are customarily insured against with respect to similar facilities and in such relative amounts as are usually obtained. NCPA shall maintain, or cause to be maintained, insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those with rights and interests in projects similar to the Project.

NCPA shall also use its best efforts to maintain or cause to be maintained any additional or other insurance which it shall deem necessary or advisable to protect its interests in the Project and the interests of the Owners of the Bonds.

Any such insurance shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to NCPA, or may be in the form of self-insurance by NCPA. NCPA agrees that it will, pursuant to a Supplemental Indenture, establish such fund or funds or reserves as are necessary to provide for its share of any such self-insurance. The Supplemental Indenture establishing

such fund or funds or reserves shall set forth the amounts to be included in such fund or funds or reserves, the entity to hold such fund or funds or reserves and any other matters and things relative to such fund or funds or reserves which are not contrary to or inconsistent with the Indenture as theretofore in effect.

**Reconstruction; Application of Insurance Proceeds.** Subject to the terms of the Power Sales Agreement, if any useful portion of the Project shall be damaged or destroyed, NCPA shall as expeditiously as possible undertake, or cause to be undertaken, and continuously and diligently pursue to completion, or cause to be diligently pursued to completion, the repair, reconstruction or replacement thereof. The proceeds of any insurance payable to NCPA, including the proceeds of any self-insurance fund, paid on account of such damage or destruction (other than any business interruption loss insurance) shall be paid over to NCPA and held by NCPA in a special account established by the Trustee for such purposes and made available for, and to the extent necessary be applied to, the cost of such repair, reconstruction or replacement. Pending such application, such proceeds shall be invested by NCPA in Investment Securities which mature not later than such times as shall be necessary to provide moneys when reasonably expected to be needed to pay such cost of such repair, reconstruction or replacement. Interest earned on the moneys in such account or such investments shall be deposited into such special account. Unless NCPA is diligently proceeding with the repair, reconstruction or replacement of the damaged or destroyed portion of the Project and delivers to the Trustee a certificate of an Authorized NCPA Representative that NCPA using due diligence requires more time to complete such repair, reconstruction or replacement, the proceeds of any insurance, including the proceeds of any self-insurance fund, not applied within 36 months after receipt thereof by NCPA to the cost of such repair, reconstruction or replacement shall be deposited in the accounts in the Revenue Fund based on the respective Indenture Group Participants' GES. If NCPA shall determine at any time that any such proceeds are not to be applied to the repair, reconstruction or replacement of the damaged or destroyed portion of the Project, such proceeds shall be deposited in the accounts in the Revenue Fund based on the respective Indenture Group Participants' GES.

If the proceeds of insurance, including the proceeds of any self-insurance fund, authorized by the Indenture to be applied to the cost of the repair, reconstruction or replacement of any portion of the Project are insufficient for such purpose, the obligations of NCPA to maintain and preserve the Project pursuant to the Indenture shall nonetheless continue.

The proceeds of business interruption loss insurance, if any, with respect to the Project shall be deposited in the accounts in the Revenue Fund based on the respective Indenture Group Participants' GES.

**Accounts and Reports.** NCPA shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the construction, operation, maintenance and improvement of the Project, each fund and account relating to the Project and held by NCPA and the costs and charges under the Power Sales Agreement and which, together with the Power Sales Agreement and all other books and papers of NCPA, including insurance policies, relating to the Project, shall at all times be subject to the inspection of the Trustee and the Owners of an aggregate of not less than 5% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

NCPA shall annually, within 210 days after the close of each Fiscal Year, cause to be filed with the Trustee, and otherwise as provided by law, a copy of an annual report for such Fiscal Year, accompanied by an Accountant's Certificate, relating to the Project and including the following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year, to the extent relating to the Project; and a statement of Project Revenues and Operation and Maintenance Expenses for such Fiscal Year. The Trustee shall not be charged with knowledge of the contents of such

annual report and shall not be responsible for the accuracy or sufficiency thereof, it being expressly understood that the Trustee shall hold such annual report solely as a custodian to preserve a record of the transactions contemplated by the Indenture.

NCPA shall file with the Trustee forthwith upon becoming aware of any Event of Default, a certificate of an Authorized NCPA Representative specifying such Event of Default.

The reports and certificates required to be furnished to the Trustee described above shall be available for the inspection of Owners of the Bonds at the Principal Corporate Trust Office of the Trustee and shall be mailed to each Owner of an Outstanding Bond which files a written request therefor with the Trustee. The Trustee may charge each party requesting such reports or certificates a reasonable fee to cover reproduction, handling and postage.

**Payment of Taxes and Charges.** NCPA shall from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon or relating to its interest in the Project or upon the rights, Project Revenues, income, receipts, and other moneys, securities and funds of NCPA relating to the Project or the Power Sales Agreement when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under the Indenture), and all lawful claims for labor and material and supplies relating to the Project, except those taxes, assessments, charges or claims which NCPA shall in good faith contest by proper legal proceedings if NCPA shall in all such cases have set aside on its books reserves deemed adequate with respect thereto.

**Compliance with Applicable Laws and Documents.** NCPA shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of NCPA under the provisions of applicable laws of the State of California, the Indenture and the Power Sales Agreement, in each case with respect to the Project, the Trust Estate and the Bonds.

**Rights of Indenture Group A Participants.** The obligations of each of the Indenture Group A Participants with respect to the Bonds and the Project set forth in the Power Sales Agreement shall not be modified or expanded by any provision of the Indenture. So long as not otherwise provided in the Indenture, NCPA shall be suffered and permitted to carry out its obligations under the Power Sales Agreement.

**Tax Matters.** NCPA covenants that it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the Tax Status of a Bond. NCPA shall not directly or indirectly use or permit the use of any proceeds of the Bonds in such a manner as would adversely affect the Tax Status of a Bond.

NCPA shall not directly or indirectly use or permit the use of any proceeds of any Bonds, or of any facilities financed thereby, or other funds of NCPA, or take or omit to take any action, that would cause any Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

If NCPA shall provide to the Trustee an Opinion of Bond Counsel that any specified action required under the provisions of the Indenture, is no longer required, or that some further or different action is required, to maintain the Tax Status of the Bonds, the Trustee and NCPA may conclusively rely on such opinion in complying with the requirements of the Indenture under the caption “Covenants – Tax Matters,” and the covenants thereunder shall be deemed to be modified to that extent.

**Continuing Disclosure.** NCPA shall comply with the Issue One 2010 Continuing Disclosure Agreement as it may from time to time hereafter be amended or supplemented. Notwithstanding any

other provision of the Indenture, failure by NCPA to comply with the requirements of the Issue One 2010 Continuing Disclosure Agreement, or any continuing disclosure agreement relating to any other Series of Bonds, as the same may from time to time be amended or supplemented, shall not be considered an Event of Default and the Trustee shall have no right to accelerate amounts due under the Indenture as a result thereof; provided, however, that the Trustee and the Owners of not less than 25% in principal amount of the Outstanding Issue One 2010 Series A Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause NCPA to comply with its obligations in the Indenture with respect to the Issue One 2010 Continuing Disclosure Agreement or each other continuing disclosure agreement relating to any other Series of Bonds.

## **Events of Default**

Each of the following shall constitute an Event of Default under the Indenture:

- (i) if default shall be made in the due and punctual payment of the principal or redemption price of any Outstanding Bond or any outstanding Parity Debt, when and as the same shall become due and payable, whether at maturity, by call for redemption, or otherwise;
- (ii) if default shall be made in the due and punctual payment of any installment of interest on any Outstanding Bond or any outstanding Parity Debt, or the unsatisfied balance of any Sinking Fund Installment, when and as the same shall become due and payable;
- (iii) if default shall be made by NCPA in the performance or observance of any other of the covenants, agreements or conditions on its part in the Indenture or in the Outstanding Bonds contained, and such default shall continue for a period of 120 days after written notice thereof to NCPA by the Trustee or to NCPA and to the Trustee by the Owners of not less than 10% in principal amount of the Bonds Outstanding; or
- (iv) if an event of default shall occur in the performance or observance of any of the covenants, agreements or conditions on NCPA's part contained in or any of the documents or proceedings authorizing or controlling any outstanding Parity Debt (other than a payment obligation included in clauses (i) or (ii) above), and such default shall continue for any grace period provided in such documents or Parity Debt; or
- (v) an order or decree, by a court having jurisdiction in the premises, for relief against NCPA in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of NCPA or of any substantial part of the property of NCPA shall be appointed or an order for the winding up or liquidation of the affairs of NCPA shall be entered; or a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall be instituted by NCPA or NCPA shall give its consent to the entry of an order for relief against it in any involuntary case under any such law, or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of NCPA or of any substantial part of the property of NCPA, or the making by NCPA of an assignment for the benefit of creditors, or the failure of NCPA generally to pay its debts as they become due, or the admission by NCPA in writing of such failure, or the taking of any action by NCPA in furtherance of any such action, or if a receiver of the business or of the property or assets of NCPA shall be appointed by any court.

## **Accounting and Examination of Records After Default**

NCPA covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and accounts of NCPA and all other records relating to the Project and the Power Sales Agreement shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys.

NCPA covenants that if an Event of Default shall have happened and shall not have been remedied, NCPA, upon demand of the Trustee, shall account, as if it were the trustee of an express trust, for all Project Revenues relating to Indenture Group A and the moneys, securities and funds held by NCPA under the Power Sales Agreement or the Indenture for such period as shall be stated in such demand.

**Right to Accelerate Upon Default.** Upon the occurrence of an Event of Default, the Trustee may, and shall at the direction of the Owners of a majority in principal amount of Outstanding Bonds, by written notice to NCPA, declare the principal of the Outstanding Bonds to be immediately due and payable, whereupon the principal of the Outstanding Bonds and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable.

**Appointment of Receiver.** If an Event of Default shall happen and shall not have been remedied, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners of the Bonds under the Indenture, the Trustee shall be entitled to make application for the appointment of a receiver or custodian of NCPA's interest in the Project, the Power Sales Agreement and the Project Revenues included in the Trust Estate, pending such proceedings, with such power as the court making such appointment shall confer.

**Enforcement Proceedings.** If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon the written request of the Owners of not less than a majority in principal amount of the Bonds at the time Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the Outstanding Bonds by a suit or suits in equity or at law, whether for damages or the specific performance of any covenant contained in the Indenture, or in aid of the execution of any power granted in the Indenture or any remedy granted under applicable provisions of the laws of the State of California, or for an accounting by NCPA as if NCPA were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under the Indenture. The Trustee shall have the right to initiate and maintain suit to enforce the Power Sales Agreement with respect to NCPA's interest in the Project, the Power Sales Agreement and the Project Revenues included in the Trust Estate.

The Owners of not less than a majority in principal amount of the Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Owners of the Bonds not parties to such direction.

Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under the Indenture, the Trustee shall be entitled to exercise any and all rights and powers conferred in the Indenture and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Owners of a majority in principal amount of the Bonds then Outstanding and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Indenture by any acts which may be unlawful or in violation of the Indenture, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Owners of the Bonds.

**Restriction on Owner's Action.** Except as otherwise provided in the following paragraph, no Owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of the Indenture or the execution of any trust under the Indenture or for any remedy under the Indenture unless such Owner shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in the Indenture, and the Owners of at least 25% in principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in the Indenture or by the applicable laws of the State of California or to institute such action, suit or proceeding in its own name, and unless such Owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by the Indenture, or to enforce any right under the Indenture, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the manner provided in the Indenture and for the ratable benefit of all Owners of the Outstanding Bonds, subject only to the provisions of the Indenture.

Nothing in the Indenture or in the Bonds contained shall affect or impair the obligation of NCPA, which is absolute and unconditional, to pay on the respective due dates thereof and at the places therein expressed, but solely from the amounts available from the Trust Estate, the principal amount, or redemption price if applicable, of the Bonds, and the interest thereon, to the respective Owners thereof, or affect or impair the right, which is also absolute and unconditional, of any Owner to institute suit for the enforcement of any such payment.

## **Trustee**

The Trustee shall be deemed to have accepted only the duties and obligations imposed on it by the Indenture, but only, however, upon the terms and conditions set forth in the Indenture and no implied covenants shall be read into the Indenture against the Trustee.

In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, a successor may be appointed by the Owners of a majority in principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of NCPA, by an instrument or concurrent instruments in writing signed and acknowledged by such Owners of the Bonds or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to NCPA and the predecessor Trustee; provided, nevertheless, that unless a successor Trustee shall have been appointed by the Owners of the Bonds as aforesaid, NCPA, by a duly executed written instrument signed by an Authorized NCPA Representative, shall forthwith appoint a Trustee to replace such resigning Trustee or to fill such vacancy until a successor Trustee shall be appointed by the Owners of the Bonds as authorized in the Indenture. Any successor Trustee appointed

by NCPA shall, immediately and without further act, be superseded by the Trustee appointed by the Owners of the Bonds.

If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of the Indenture within 45 days after the Trustee shall have given to NCPA written notice as provided in the Indenture or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, removal, or for any other reason whatsoever, the Trustee (in the case of its resignation under the Indenture) or the Owner of any Bond (in any case) may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

The Trustee appointed under the provisions of the Indenture or any successor to the Trustee shall be a bank or trust company organized under the laws of any state of the United States or national banking association, in good standing under the laws of the place of its incorporation, doing business and having its Principal Corporate Trust Office in New York, New York, or Chicago, Illinois, or Los Angeles, California, or San Francisco, California, duly authorized to exercise trust powers and subject to examination by federal or state authority. Each successor trustee shall have capital stock and surplus aggregating at least \$500,000,000, or have all of its obligations under the Indenture guaranteed by a bank or trust company organized under the laws of the United States, or any state thereof, with a capital stock and surplus or net worth of at least \$500,000,000. If such bank, national banking association, or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of the Indenture the combined capital and surplus of such bank, trust company, or national banking association shall be deemed to be its combined capital and surplus set forth in its most recent report of condition so published.

### **Amendments and Supplemental Indentures**

The Indenture and the rights and obligations of NCPA and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by a Supplemental Indenture or Indentures, which NCPA and the Trustee may enter into with the written consent of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding shall have been filed with the Trustee or if less than all of the Outstanding Bonds are affected, the written consent of the Owners of at least a majority in aggregate principal amount of all affected Bonds; provided that if such modification or amendment shall, by its terms, not take effect so long as any Bonds of any particular maturity remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any such calculation of Bonds Outstanding under the Indenture. No such modification or amendment shall (1) extend the fixed maturity of any Bond, or reduce the principal amount or redemption price thereof, or reduce the amount of any Sinking Fund Installment therefor, or reduce the rate of interest thereon or extend the time of payment of interest thereon, without the consent of the Owner of each Bond so affected; or (2) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any other lien on the Trust Estate, or deprive the Owners of the Bonds of the lien of the pledge made pursuant to the Indenture on the Trust Estate (except in each case as expressly provided in the Indenture), in each case without the consent of the Owners of all of the Bonds then Outstanding.

The Indenture and the rights and obligations of NCPA, the Trustee and the Owners of the Bonds may also be modified or amended in any respect from time to time and at any time by a Supplemental Indenture or Supplemental Indentures, which NCPA and the Trustee may enter into without the consent of any Owner of Bonds, but only to (A) provide for the issuance of Future Bonds or (B) to the extent

permitted by law and, so long as such modification or amendment shall not materially, adversely affect the interests of the Owners of the Bonds.

### **Defeasance**

(a) If NCPA shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal amount or redemption price, as applicable, of the Bonds, and interest due or to become due on the Bonds, at the times and in the manner stipulated therein and in the Indenture, then the pledge of the Trust Estate under the Indenture and all covenants, agreements and other obligations of NCPA to the Owners (other than the covenants set forth in the Indenture), shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) Bonds, or interest installments on Bonds, for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Trustees (through deposit pursuant to the Indenture of funds for such payment or redemption or otherwise) at the maturity, redemption date, or interest payment date thereof, as applicable, shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) above. Any Outstanding Bond (or any portion thereof in an Authorized Denomination) shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) above (except that the obligations under the Indenture with respect to the payment of the principal amount of the Bonds and the interest on the Bonds from the sources provided, the transfer and exchange Bonds and to giving the notices of the redemption of Bonds to be redeemed as provided in the Indenture shall continue) if (1) in case said Bond (or portion thereof) is to be redeemed on any date prior to maturity, NCPA shall have given to the Trustee irrevocable instructions to give notice of redemption of such Bond (or portion thereof) on said date as provided in the Indenture, (2) there shall have been deposited with the Trustee either moneys (including moneys withdrawn and deposited pursuant to the Indenture) in an amount which shall be sufficient, or Defeasance Securities the principal of and the interest on which when due shall provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, in each case as evidenced by an Accountant's Certificate, to pay when due the principal amount or redemption price, as applicable, of said Bond (or portion thereof) and interest due and to become due on said Bond (or portion thereof) on and prior to the redemption date or maturity date thereof, as the case may be, and (3) if such Bond (or portion thereof) is not to be paid or redeemed within 60 days of the date of the deposit required by (2) above, NCPA shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, as soon as practicable, by first class mail, postage prepaid, to the Owner of such Bond, at the last address, if any, appearing upon the Bond Register, a notice that the deposit required by (2) above has been made with the Trustee and that said Bond (or the applicable portion thereof) is deemed to have been paid in accordance with the Indenture and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal amount or redemption price, as applicable, of said Bond. Any notice given pursuant to clause (3) above with respect to Bonds which constitute less than all of the Outstanding Bonds of any Series and maturity shall specify the letter and number or other distinguishing mark of each such Bond. Any notice given pursuant to clause (3) above with respect to less than the full principal amount of a Bond shall specify the principal amount of such Bond which shall be deemed paid pursuant to the Indenture and notify the Owner of such Bond that such Bond must be surrendered. The receipt of any notice required by the Indenture shall not be a condition precedent to the payment of Bonds in accordance with the Indenture and the failure of any Owner to receive any such notice shall not affect the validity of the proceedings for the payment of Bonds in accordance with the Indenture. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to the Indenture nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal amount or redemption price, as applicable, of said Bonds and the interest thereon; provided that any cash received from such principal or interest payments on such Defeasance Securities deposited with the



Trustee, (A) to the extent such cash shall not be required at any time for such purpose, as evidenced by an Accountant's Certificate, shall be paid over upon the written direction of an Authorized NCPA Representative as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Indenture, and (B) to the extent such cash shall be required for such purpose at a later date, shall, to the extent practicable, at the written direction of an Authorized NCPA Representative, be reinvested in Defeasance Securities maturing at times and in amounts sufficient, together with the other moneys to be held by the Trustee for such purpose, as evidenced by an Accountant's Certificate, to pay when due the principal amount or redemption price, as applicable, of said Bonds and the interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Indenture.

Nothing in the Indenture shall prevent NCPA from substituting for the Defeasance Securities held for the payment or redemption of Bonds (or portions thereof) other Defeasance Securities which, together with the moneys held by the Trustee for such purpose, as evidenced by an Accountant's Certificate, shall be sufficient to pay when due the principal amount or redemption price, as applicable, of the Bonds (or portions thereof) to be paid or redeemed, and the interest due and to become due on such Bonds (or portions thereof) at the times established with the initial deposit of Defeasance Securities for such purpose provided that NCPA shall deliver to the Trustee an Opinion of Bond Counsel to the effect that such substitution will not adversely affect the Tax Status of any Bonds.

(c) Anything in the Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds which remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date shall, at the written request of an Authorized NCPA Representative be repaid by the Trustee to NCPA, as its absolute property and free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Indenture, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners of such Bonds shall look only to NCPA for the payment of such Bonds; provided, however, that before being required to make any such payment to NCPA the Trustee shall, at the expense of NCPA, mail, postage prepaid to the Owners of such Bonds, at the last address, if any, appearing upon the Bond Register a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed shall be returned to NCPA.

(d) If there shall be deemed paid pursuant to paragraph (b) above less than all of the full principal amount of a Bond, NCPA shall execute and the Trustee shall authenticate and the Trustee shall deliver, upon the surrender of such Bond, without charge to the Owner of such Bond, a new Bond or Bonds for the principal amount of the Bond so surrendered which is deemed paid pursuant to paragraph (b) above and another new Bond or Bonds for the balance of the principal amount of the Bond so surrendered, in each case of like Series, maturity and terms in any of the Authorized Denominations.

### **Moneys Held for Particular Bonds**

Except as otherwise provided in the Indenture, the amounts held by the Trustee for the payment of the interest, principal or redemption price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto. Any amount held in an Account in the Debt Service Fund or the Debt Service Reserve Fund shall be considered moneys held for the particular Bonds related to such

Accounts. The Trustee shall not be liable to any Owner, NCPA or any other person for interest on amounts so held in trust.

## APPENDIX F

### PROPOSED FORMS OF CONTINUING DISCLOSURE AGREEMENTS

#### CONTINUING DISCLOSURE AGREEMENT BY AND BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND U. S. BANK NATIONAL ASSOCIATION

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated June 24, 2010, is executed and delivered by the Northern California Power Agency and U.S. Bank National Association, as trustee (the “Trustee”) in connection with the issuance by Northern California Power Agency (“NCPA”) of its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A (the “Issue One 2010 Series A Bonds”) and its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series B (the “Issue One 2010 Series B Bonds”) and together with the Issue One 2010 Series A Bonds, the “Issue One 2010 Series Bonds”). The Issue One 2010 Series Bonds were issued pursuant to an Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between NCPA and the Trustee. NCPA and the Trustee covenant and agree as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by NCPA and the Trustee for the benefit of the Bondholders and Beneficial Owners of the Issue One 2010 Series Bonds and in order to assist the Participating Underwriters in complying with the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report with respect to the Issue One 2010 Series Bonds provided by NCPA pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person who has or shares the power, directly or indirectly, to make investment decisions regarding ownership of any Issue One 2010 Series Bonds (including without limitation persons holding Issue One 2010 Series Bonds through nominees, depositories or other intermediaries).

“Disclosure Representative” shall mean the Chairman, General Manager, Interim General Manager, or the Assistant General Manager of NCPA or his or her designee, or such other officer or employee as NCPA shall designate in writing to the Trustee from time to time.

“Dissemination Agent” shall mean the Trustee, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by NCPA and which has filed with the Trustee a written acceptance of such designation.

“EMMA System” means the MSRB’s Electronic Municipal Market Access System or such other electronic system designated by the MSRB.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor thereto.

“Participating Underwriters” shall mean the original underwriters of the Issue One 2010 Series Bonds required to comply with the Rule in connection with the offering of the Issue One 2010 Series Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**SECTION 3. Provision of Annual Reports.** (a) With respect to the Issue One 2010 Series Bonds, NCPA shall, or shall cause the Dissemination Agent to, not later than 210 days after the end of each fiscal year of NCPA (which presently ends on June 30), commencing with the report for the Fiscal Year ending June 30, 2010, provide to the MSRB through the EMMA System, in an electronic format and accompanied by identifying information all as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided, that the audited financial statements of NCPA may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the fiscal year changes for NCPA, NCPA shall give notice of such change in the manner provided under Section 5 hereof.

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, NCPA shall provide its Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). If by such date, the Trustee has not received a copy of the Annual Report from NCPA, the Trustee shall contact NCPA and the Dissemination Agent to determine if NCPA is in compliance with this subsection (b).

(c) If the Trustee is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a) of this Section, the Trustee shall send a notice to the MSRB through the EMMA System in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent shall file a report with NCPA and the Trustee (if the Dissemination Agent is not the Trustee) certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided.

**SECTION 4. Content of Annual Reports.** NCPA’s Annual Report shall contain or include by reference the following:

- (a) A summary of the peak generating capability of the Project for the prior Fiscal Year;
  - (b) A summary of the average generating capability of the Project for the prior Fiscal Year;
  - (c) A summary of total energy generated with respect to the Project for the prior Fiscal Year;
- and

(d) The audited financial statements of NCPA for the prior Fiscal Year, prepared in accordance with generally accepted accounting principles for governmental enterprises as prescribed from time to time by any regulatory body with jurisdiction over NCPA and by the Governmental Accounting Standards Board. If NCPA’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of NCPA or public entities related thereto, which have been submitted to the MSRB through the EMMA System. If the document included by reference is a final official statement, it must be available from the MSRB. NCPA shall clearly identify each such other document so included by reference.

**SECTION 5. Reporting of Significant Events.** (a) Pursuant to the provisions of this Section 5, NCPA shall give, or cause to be give, notice of occurrence of any of the following events (each a “Listed Event”) with respect to the Issue One 2010 Series Bonds, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) modifications to rights of Bondholders;
- (iv) optional, contingent or unscheduled bond calls;
- (v) defeasances;
- (vi) rating changes;
- (vii) adverse tax opinions or events adversely affecting the tax-exempt status of the Issue One 2010 Series Bonds;
- (viii) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (ix) unscheduled draws on credit enhancements reflecting financial difficulties;
- (x) substitution of credit or liquidity providers, or their failure to perform;
- (xi) release, substitution or sale of property securing repayment of the Bonds.

(b) The Trustee shall, with one (1) Business Day of an officer in the corporate trust department obtaining actual knowledge of the occurrence of any of the Listed Events, contact the Disclosure Representative, inform such person of the event, and request that NCPA promptly notify the Trustee in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever NCPA obtains knowledge of the occurrence of a Listed Event, whether because of a notice from the Trustee pursuant to subsection (b) or otherwise, NCPA shall as soon as possible determine if such event would be material under applicable federal securities laws.

(d) If the NCPA has determined that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, NCPA shall promptly notify the Trustee in writing. Such notice shall instruct the Trustee to report the occurrence pursuant to subsection (f) or shall state that NCPA shall itself report such occurrence.

(e) If in response to a request under subsection (b), NCPA determines that the Listed Event would not be material under applicable federal securities laws, NCPA shall so notify the Trustee in writing and instruct the Trustee not to report the occurrence pursuant to subsection (f).

(f) If the Trustee has been instructed by NCPA to report the occurrence of a Listed Event, the Trustee shall file a notice of such occurrence with the MSRB through the EMMA System. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(iv) and (v) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Bondholders of affected Issue One 2010 Series Bonds pursuant to the Indenture.

**SECTION 6. Termination of Reporting Obligation.** The obligations of NCPA under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Issue One 2010 Series Bonds. If such termination occurs prior to the final maturity of the Issue One 2010 Series Bonds, NCPA shall give notice of such termination in the same manner as for a Listed Event under Section 5(f).

**SECTION 7. Dissemination Agent.** NCPA may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by NCPA pursuant to this Disclosure Agreement. The initial Dissemination Agent shall be U. S. Bank National Association.

**SECTION 8. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, NCPA and the Trustee may amend this Disclosure Agreement (and the Trustee shall agree to any amendment so requested by NCPA which does not adversely affect the Trustee's rights or obligations), and any provision of this Disclosure Agreement may be waived; provided that such amendment or waiver, in the opinion of nationally recognized bond counsel satisfactory to the Trustee, such amendment or waiver is permitted by the Rule.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, NCPA shall describe such amendment in its next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by NCPA. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the manner as provided under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**SECTION 9. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent NCPA from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If NCPA chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, NCPA shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**SECTION 10. Default.** In the event of a failure of NCPA or the Trustee to comply with any provision of this Disclosure Agreement, the Trustee may (and, at the request of the Bondholders of at least 25% aggregate principal amount of Outstanding Issue One 2010 Series Bonds and furnishing indemnity satisfactory to the Trustee against its costs and expenses, shall), or any Bondholder or Beneficial Owner of the Issue One 2010 Series Bonds may, take such actions as may be necessary and

appropriate, including seeking mandate or specific performance by court order, to cause NCPA or the Trustee, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of NCPA or the Trustee to comply with this Disclosure Agreement shall be an action to compel performance.

No Bondholder or Beneficial Owner may institute any such action, suit or proceeding to compel performance unless they shall have first filed with the Trustee and NCPA satisfactory written evidence of their status as such, and a written notice of and request to cure such failure, and NCPA shall have refused to comply therewith within a reasonable time. Any such action, suit or proceeding shall be brought in Federal or State Courts located in County of Sacramento, California for the benefit of all Bondholders and Beneficial Owners of the Issue One 2010 Series Bonds.

**SECTION 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent.**

Article X of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture, and the Dissemination Agent were a Fiduciary thereunder. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and NCPA agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of NCPA under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Issue One 2010 Series Bonds.

**SECTION 12. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of NCPA, NCPA, the Trustee, the Dissemination Agent, the Participating Underwriters and the Bondholders and Beneficial Owners from time to time of the Issue One 2010 Series Bonds, and shall create no rights in any other person or entity.

**SECTION 13. California Law.** This Disclosure Agreement shall be construed and governed in accordance with the laws of the State of California.

**SECTION 14. Notices.** All written notices to be given hereunder shall be given in person or by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

To NCPA: Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attention: General Manager  
Telephone: (916) 781-3636  
Fax: (916) 783-7693

To the Trustee: U. S. Bank National Association  
100 Wall Street, Suite 1600  
New York, New York 10005  
Attention: Corporate Trust Department  
Telephone: (212) 361-4385  
Fax: (212) 514-6841

NCPA and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 15. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Date: June 24, 2010

**NORTHERN CALIFORNIA POWER  
AGENCY**

By: \_\_\_\_\_  
Its:

**U. S. BANK NATIONAL ASSOCIATION, as  
Trustee**

By: \_\_\_\_\_  
Authorized Signatory



**EXHIBIT A**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Northern California Power Agency ("NCPA")

Name of Bond Issue: \$78,330,000 aggregate principal amount of Northern California Power Agency  
Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A and  
\$176,625,000 aggregate principal amount of Northern California Power Agency  
Lodi Energy Center Revenue Bonds, Issue One, 2010 Series B  
(the "Issue One 2010 Series Bonds")

Date of Issuance: June 24, 2010

NOTICE IS HEREBY GIVEN that NCPA has not provided an Annual Report with respect to the Issue One 2010 Series Bonds as required by Section 3 of the Continuing Disclosure Agreement with respect to the Issue One 2010 Series Bonds, dated June 24, 2010, by and between NCPA and U.S. Bank National Association, as trustee. [NCPA anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U. S. BANK NATIONAL ASSOCIATION, as  
Trustee on behalf of the Northern California Power  
Agency

cc: NCPA

**CONTINUING DISCLOSURE AGREEMENT  
BY AND BETWEEN THE  
BAY AREA RAPID TRANSIT DISTRICT  
AND  
U. S. BANK NATIONAL ASSOCIATION**

This Continuing Disclosure Agreement (this “Disclosure Agreement”) is executed and delivered by the San Francisco Bay Area Rapid Transit District (the “Indenture A Participant”) and U.S. Bank National Association, as trustee (the “Trustee”) and as dissemination agent (the “Dissemination Agent”), in connection with the issuance by Northern California Power Agency (“NCPA”) of its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A (the “Issue One 2010 Series A Bonds”) and its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series B (the “Issue One 2010 Series B Bonds” and together with the Issue One 2010 Series A Bonds, the “Issue One 2010 Series Bonds”). The Issue One 2010 Series Bonds were issued pursuant to an Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between NCPA and the Trustee. The Indenture Group A Participant and the Trustee covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Indenture A Participant, the Trustee and the Dissemination Agent for the benefit of the Owners (as such term is defined in the Indenture) and the Beneficial Owners (as hereinafter defined) of the Issue One 2010 Series Bonds and in order to assist the Participating Underwriters (as hereinafter defined) in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement and not otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Indenture A Participant pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Issue One 2010 Series Bonds (including persons holding Issue One 2010 Series Bonds through nominees, depositories or other intermediaries).

“Disclosure Representative” shall mean the Controller/Treasurer of the Indenture A Participant or his designee, or such other officer or employee of the Indenture A Participant as the Controller/Treasurer of the Indenture A Participant shall designate in writing to the Trustee and the Dissemination Agent from time to time.

“Dissemination Agent” shall mean U.S. Bank National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Indenture A Participant and which has filed with the Trustee a written acceptance of such designation.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Participating Underwriters” shall mean any of the original underwriters of the Issue One 2010 Series Bonds required to comply with the Rule in connection with offering of the Issue One 2010 Series Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the Securities and Exchange Commission or any successor agency thereto.

“State” shall mean the State of California.

### SECTION 3. Provision of Annual Reports.

(a) The Indenture A Participant shall, or shall cause the Dissemination Agent to, not later than eight (8) months after the end of the Indenture A Participant’s fiscal year (presently June 30), commencing with the Annual Report for the fiscal year of the Indenture A Participant ending June 30, 2010, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Each Annual Report must be submitted in electronic format, accompanied by such identifying information as is prescribed by the MSRB, and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Indenture A Participant may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. Neither the Trustee nor the Dissemination Agent shall have any duties or responsibilities with respect to the contents of the Annual Report. If the Indenture A Participant’s fiscal year changes, it shall give notice of such change in the manner provided under Section 5 hereof.

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Indenture A Participant shall provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Indenture A Participant and the Trustee to determine if the Indenture A Participant is in compliance with the first sentence of this subsection (b).

(c) If the Trustee is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Trustee shall send a notice, in electronic format, to the MSRB, such notice to be in substantially the form attached as Exhibit A.

(d) If the Annual Report is delivered to the Dissemination Agent for filing, the Dissemination Agent shall file a report with the Indenture A Participant and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement and stating the date it was provided.

SECTION 4. Content of Annual Reports. The Annual Report shall contain or include by reference the audited financial statements of the Indenture A Participant for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Indenture A Participant’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, dated June 17, 2010, relating to the Issue One 2010 Series Bonds (the “Official Statement”), and the audited financial statements shall be filed in the same manner as the Annual Report when such audited financial statements become available.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Indenture A Participant or related public entities, which have been filed with the MSRB or the SEC. If the document included by reference is a final official

statement, it must be available from the MSRB. The Indenture A Participant shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events. Notices required by Section 3(a) or Section 8 of this Disclosure Agreement shall be filed with the MSRB.

SECTION 6. Termination of Reporting Obligation. The obligations of the Indenture A Participant, the Trustee and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Issue One 2010 Series Bonds.

SECTION 7. Dissemination Agent. The Indenture A Participant may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign by providing thirty (30) days written notice to the Indenture A Participant and the Trustee. The Dissemination Agent shall not be responsible in any manner for the form or the content of any notice or report prepared by the Indenture A Participant pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the Indenture A Participant, the Trustee and the Dissemination Agent may amend this Disclosure Agreement (and the Trustee and the Dissemination Agent shall agree to any amendment so requested by the Indenture A Participant, provided neither the Trustee nor the Dissemination Agent shall be obligated to enter into any such amendment that modifies or increases its duties or obligations hereunder), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Issue One 2010 Series Bonds, or the type of business conducted;

(b) This Disclosure Agreement, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Issue One 2010 Series Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Trustee or the Owners of the Issue One 2010 Series Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners of the Issue One 2010 Series Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Indenture A Participant shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Indenture A Participant. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the manner as provided under Section 5, and (ii) the Annual Report for the year in which the change is made

should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Indenture A Participant from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report, in addition to that which is required by this Disclosure Agreement. If the Indenture A Participant chooses to include any information in any Annual Report in addition to that which is specifically required by this Disclosure Agreement, the Indenture A Participant shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report.

SECTION 10. Default. In the event of a failure of the Indenture A Participant, the Dissemination Agent or the Trustee to comply with any provision of this Disclosure Agreement, the Trustee may (and, at the written request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Issue One 2010 Series Bonds, shall) (but only to the extent funds in an amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Trustee whatsoever, including, without limitation, fees and expenses of its attorneys), or any Owner or Beneficial Owner of the Issue One 2010 Series Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Indenture A Participant, the Dissemination Agent or the Trustee, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the Indenture A Participant or the Trustee or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent. Article X of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture and the Trustee and the Dissemination Agent shall be entitled to the protections, limitations from liability and indemnities afforded the Trustee thereunder. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Indenture A Participant agrees to indemnify and save the Dissemination Agent and the Trustee and their officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Trustee's or the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the Indenture A Participant for its services provided hereunder in accordance with its schedule of fees as amended from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The obligations of the Indenture A Participant under this Section shall survive resignation or removal of the Trustee or the Dissemination Agent and payment of the Issue One 2010 Series Bonds.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

- (i) If to the Indenture A Participant:

San Francisco Bay Area Rapid Transit District  
300 Lakeside Drive  
Oakland, California 94612-3534  
Attention: Controller/Treasurer  
Telephone: (510) 464-6070  
Fax: (510) 464-6011

- (ii) If to the Trustee or the Dissemination Agent:

U.S. Bank National Association  
One California Street, Suite 1000  
San Francisco, California 94111  
Telephone: (415) 273-4540  
Fax: (415) 273-4590

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent. Notices may also be given by electronic means.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Indenture A Participant, the Trustee, the Dissemination Agent, the Participating Underwriters and Owners and Beneficial Owners from time to time of the Issue One 2010 Series Bonds, and shall create no rights in any other person or entity.

SECTION 14. California Law. This Disclosure Agreement shall be construed and governed in accordance with the laws of the State of California.

SECTION 15. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Date: June 24, 2010.

**SAN FRANCISCO BAY AREA RAPID  
TRANSIT DISTRICT**

By \_\_\_\_\_  
Controller/Treasurer

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee and Dissemination Agent**

By \_\_\_\_\_  
Authorized Officer

**Exhibit A**

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Northern California Power Agency (“NCPA”)  
Name of Bond Issue: \$78,330,000 aggregate principal amount of Northern California  
Power Agency Lodi Energy Center Revenue Bonds, Issue One,  
2010 Series A and  
\$176,625,000 aggregate principal amount of Northern California  
Power Agency Lodi Energy Center Revenue Bonds, Issue One,  
2010 Series B  
(the “Issue One 2010 Series Bonds”)

Date of Issuance of Bonds: June 24, 2010

NOTICE IS HEREBY GIVEN t hat the Indenture Group A Participant has not provided an Annual Report with respect to the Issue One 2010 Series Bonds as required by Section 3 of the Continuing Disclosure Agreement with respect to the Issue One 2010 Series Bonds, dated June 24, 2010, by and between the Indenture Group A Participant and U.S. Bank National Association, as trustee. [The Indenture Group A Participant anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as trustee on behalf of the San Francisco Bay  
Area Rapid Transit District

cc: San Francisco Bay Area Rapid Transit District  
NCPA



**CONTINUING DISCLOSURE AGREEMENT  
BY AND BETWEEN THE  
[CITY OF LODI][CITY OF SANTA CLARA]  
AND  
U. S. BANK NATIONAL ASSOCIATION**

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated June 24, 2010, is executed and delivered by the [City of Lodi][City of Santa Clara] (the “Indenture Group A Participant”) and U.S. Bank National Association, as trustee (the “Trustee”) in connection with the issuance by Northern California Power Agency (“NCPA”) of its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A (the “Issue One 2010 Series A Bonds”) and its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series B (the “Issue One 2010 Series B Bonds”) and together with the Issue One 2010 Series A Bonds, the “Issue One 2010 Series Bonds”). The Issue One 2010 Series Bonds were issued pursuant to an Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between NCPA and the Trustee. The Indenture Group A Participant and the Trustee covenant and agree as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Indenture Group A Participant and the Trustee for the benefit of the Bondholders and Beneficial Owners of the Issue One 2010 Series Bonds and in order to assist the Participating Underwriters in complying with the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report with respect to the Issue One 2010 Series Bonds provided by the Indenture Group A Participant pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person who has or shares the power, directly or indirectly, to make investment decisions regarding ownership of any Issue One 2010 Series Bonds (including without limitation persons holding Issue One 2010 Series Bonds through nominees, depositories or other intermediaries).

“Disclosure Representative” shall mean the [Electric Utility Director][Director of Electric Utility of the Indenture Group A Participant, or his or her designee, or such other officer or employee as the Indenture Group A Participant shall designate in writing to the Trustee from time to time.

“Dissemination Agent” shall mean the Trustee, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Indenture Group A Participant and which has filed with the Trustee a written acceptance of such designation.

“EMMA System” means the MSRB’s Electronic Municipal Market Access System or such other electronic system designated by the MSRB.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor thereto.

“Participating Underwriters” shall mean the original underwriters of the Issue One 2010 Series Bonds required to comply with the Rule in connection with the offering of the Issue One 2010 Series Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**SECTION 3. Provision of Annual Reports.** (a) The Indenture Group A Participant shall, or shall cause the Dissemination Agent to, not later than 210 days after the end of each fiscal year of the Indenture Group A Participant (which presently ends on June 30), commencing with the report for the Fiscal Year ending June 30, 2010, provide to the MSRB through the EMMA System, in an electronic format and accompanied by identifying information all as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided, that the audited financial statements of the Indenture Group A Participant may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the fiscal year changes for the Indenture Group A Participant, the Indenture Group A Participant shall give notice of such change in the manner provided under Section 5 hereof.

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Indenture Group A Participant shall provide its Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). If by such date, the Trustee has not received a copy of the Annual Report from the Indenture Group A Participant, the Trustee shall contact the Indenture Group A Participant and the Dissemination Agent to determine if the Indenture Group A Participant is in compliance with this subsection (b).

(c) If the Trustee is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a) of this Section, the Trustee shall send a notice to the MSRB through the EMMA System in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent shall file a report with the Indenture Group A Participant and the Trustee (if the Dissemination Agent is not the Trustee) certifying that the Annual Report has been provided to the MSRB through the EMMA System pursuant to this Disclosure Agreement, stating the date it was provided.

**SECTION 4. Content of Annual Reports.** The Indenture Group A Participant’s Annual Report shall contain or include by reference the following:

(a) A summary of operating results and selected balance sheet information for the Indenture Group A Participant’s electric system for the most recently completed fiscal year;

(b) A summary of power supply resources of the Indenture Group A Participant’s electric system in tabular form for the most recently completed fiscal year;

(c) A summary of customers, energy sales, revenues and peak demand of the Indenture Group A Participant’s electric system in tabular form for the most recently completed fiscal year; and

(d) The audited financial statements of the Indenture Group A Participant’s electric system for the most recently completed fiscal year, prepared in accordance with generally accepted accounting principles for governmental enterprises as prescribed from time to time by any regulatory body with jurisdiction over the Indenture Group A Participant and by the Governmental Accounting Standards Board. If the Indenture Group A Participant’s electric system audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report

shall contain unaudited financial statements in a format similar to the audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Indenture Group A Participant or public entities related thereto, which have been submitted to the MSRB through the EMMA System. If the document included by reference is a final official statement, it must be available from the MSRB. The Indenture Group A Participant shall clearly identify each such other document so included by reference.

**SECTION 5. Reporting.** Notices required by Section 3(a) or Section 8 of this Disclosure Agreement shall be filed with the MSRB.

**SECTION 6. Termination of Reporting Obligation.** The obligations of the Indenture Group A Participant under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Issue One 2010 Series Bonds.

**SECTION 7. Dissemination Agent.** The Indenture Group A Participant may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Indenture Group A Participant pursuant to this Disclosure Agreement. The initial Dissemination Agent shall be U. S. Bank National Association.

**SECTION 8. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the Indenture Group A Participant and the Trustee may amend this Disclosure Agreement (and the Trustee shall agree to any amendment so requested by the Indenture Group A Participant which does not adversely affect the Trustee's rights or obligations), and any provision of this Disclosure Agreement may be waived; provided that such amendment or waiver, in the opinion of nationally recognized bond counsel satisfactory to the Trustee, such amendment or waiver is permitted by the Rule.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Indenture Group A Participant shall describe such amendment in its next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Indenture Group A Participant. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the manner as provided under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**SECTION 9. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Indenture Group A Participant from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report, in addition to that which is required by this Disclosure Agreement. If the Indenture Group A Participant chooses to include any information in any Annual Report in addition to that which is specifically required by this Disclosure Agreement, the Indenture Group A Participant shall have no obligation under this Agreement to update such information or include it in any future Annual Report.

**SECTION 10. Default.** In the event of a failure of the Indenture Group A Participant or the Trustee to comply with any provision of this Disclosure Agreement, the Trustee may (and, at the request of the Bondholders of at least 25% aggregate principal amount of Outstanding Issue One 2010 Series Bonds, shall), or any Bondholder or Beneficial Owner of the Issue One 2010 Series Bonds may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Indenture Group A Participant or the Trustee, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the Indenture Group A Participant or the Trustee to comply with this Disclosure Agreement shall be an action to compel performance.

No Bondholder or Beneficial Owner may institute any such action, suit or proceeding to compel performance unless they shall have first filed with the Trustee and the Indenture Group A Participant satisfactory written evidence of their status as such, and a written notice of and request to cure such failure, and the Indenture Group A Participant shall have refused to comply therewith within a reasonable time. Any such action, suit or proceeding shall be brought in Federal or State Courts located in County of Sacramento, California for the benefit of all Bondholders and Beneficial Owners of the Issue One 2010 Series Bonds.

**SECTION 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent.** Article X of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture, and the Dissemination Agent were a Fiduciary thereunder. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Indenture Group A Participant agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Indenture Group A Participant under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Issue One 2010 Series Bonds.

**SECTION 12. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of NCPA, the Indenture Group A Participant, the Trustee, the Dissemination Agent, the Participating Underwriters and the Bondholders and Beneficial Owners from time to time of the Issue One 2010 Series Bonds, and shall create no rights in any other person or entity.

**SECTION 13. California Law.** This Disclosure Agreement shall be construed and governed in accordance with the laws of the State of California.

**SECTION 14. Notices.** All written notices to be given hereunder shall be given in person or by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

To the Indenture Group A Participant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the Trustee: U. S. Bank National Association  
100 Wall Street, Suite 1600  
New York, New York 10005  
Attention: Corporate Trust Department  
Telephone: (212) 361-4385  
Fax: (212) 514-6841

The Indenture Group A Participant and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 15. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Date: June 24, 2010

**[CITY OF LODI][CITY OF SANTA CLARA]**

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

**U. S. BANK NATIONAL ASSOCIATION, as  
Trustee**

By: \_\_\_\_\_  
Authorized Signatory

## **EXHIBIT A**

### **NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Northern California Power Agency ("NCPA")

Name of Bond Issue: \$78,330,000 aggregate principal amount of Northern California Power Agency Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A and \$176,625,000 aggregate principal amount of Northern California Power Agency Lodi Energy Center Revenue Bonds, Issue One, 2010 Series (the "Issue One 2010 Series Bonds")

Name of Obligated Party [CITY OF LODI][CITY OF SANTA CLARA] (the "Indenture Group A Participant")

Date of Issuance: June 24, 2010

NOTICE IS HEREBY GIVEN that the Indenture Group A Participant has not provided an Annual Report with respect to the Issue One 2010 Series Bonds as required by Section 3 of the Continuing Disclosure Agreement with respect to the Issue One 2010 Series Bonds, dated June 24, 2010, by and between the Indenture Group A Participant and U.S. Bank National Association, as trustee. [The Indenture Group A Participant anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U. S. BANK NATIONAL ASSOCIATION, as  
Trustee on behalf of the Northern California Power  
Agency

cc: The Indenture Group A Participant  
NCPA

## APPENDIX G

### PROPOSED FORM OF BOND COUNSEL OPINION

*Upon the delivery of the Issue One 2010 Series Bonds, Orrick, Herrington & Sutcliffe LLP, Bond Counsel to NCPA, proposes to deliver its final approving opinion with respect to the Issue One 2010 Series Bonds in substantially the following form:*

[Delivery Date]

Commission  
Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678

Northern California Power Agency  
Lodi Energy Center Revenue Bonds, Issue One  
2010 Series A and 2010 Series B  
(Final Opinion)

Ladies and Gentlemen:

We have acted as bond counsel to the Northern California Power Agency (the “Agency”) in connection with the issuance of \$78,330,000 aggregate principal amount of its Lodi Energy Center Revenue Bonds, Issue One, 2010 Series A (the “2010 Series A Bonds”), and \$176,625,000 aggregate principal amount of its Lodi Energy Center Revenue Bonds, Issue One 2010 Series B (the “2010 Series B Bonds” and, together with the 2010 Series A Bonds, the “2010 Bonds”). The 2010 Bonds have been issued pursuant to the provisions of Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and the Indenture of Trust, dated as of June 1, 2010 (the “Indenture”), by and between the Agency and U.S. Bank National Association, as trustee. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture, the Power Sales Agreement, the Tax Certificate of the Agency relating to the 2010 Series A Bonds (the “Tax Certificate”), certificates of the Agency, the Trustee, the Project Participants and others, opinions of counsel to the Agency and to each Project Participant, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Accordingly, this opinion speaks only as of its date and is not intended to, and may not, be relied upon in connection with any such actions, events or matters. Our engagement with respect to the 2010 Bonds has concluded with their issuance and we disclaim any obligation to update this letter. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Agency, and, with respect to the Power Sales Agreement, the Project Participants. We have assumed without undertaking to verify the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions

contained in the opinions, referred to in the third paragraph hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Power Sales Agreement and the Tax Certificate, including (without limitation) covenants and agreements compliance which is necessary to assure that future actions, omissions or events will not cause interest on the 2010 Series A Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the 2010 Bonds, the Indenture, the Power Sales Agreement and the Tax Certificate, and their enforceability, may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies against public entities in the State of California. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the assets described in or as subject to the lien of the Indenture or the accuracy or sufficiency of the description contained therein, or the remedies available to enforce liens on, any such assets. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material related to the 2010 Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The 2010 Bonds constitute the valid and binding special, limited obligations of the Agency payable solely from, and secured solely by, the Trust Estate.

2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Agency. The Indenture creates a valid pledge of the Trust Estate to secure the payment of the principal and redemption price of, and the interest on, the 2010 Bonds, to the extent set forth in the Indenture, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein.

3. The 2010 Bonds are payable solely from the funds provided in the Indenture and shall not constitute a charge against the general credit of the Agency. The 2010 Bonds are not secured by a legal or equitable pledge of, or charge or lien upon, any property of the Agency or any of its income or receipts except the Trust Estate. Neither the faith and credit nor the taxing power of the State of California or any public agency thereof, any member of the Agency or any Project Participant is pledged to the payment of the principal or redemption price of, or interest on, the 2010 Bonds. The 2010 Bonds do not constitute a debt, liability or obligation of the State of California or any public agency thereof (other than the Agency), any member of the Agency or any Project Participant.

4. The Power Sales Agreement has been duly executed and delivered by the Agency and the Project Participants and constitutes a valid and binding agreement of the parties thereto.

5. Interest on the 2010 Series A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. Interest on the 2010 Series A Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the 2010 Series A Bonds.



6. Interest on the 2010 Series B Bonds is exempt from State of California personal income taxes. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the 2010 Series B Bonds.

Faithfully yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

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