

**SECOND PHASE AGREEMENT
FOR
RENEWABLE ENERGY
POWER PURCHASE AGREEMENT**

DRAFT

TABLE OF CONTENTS

Section 1. Definitions.....	3
Section 2. Purpose.....	8
Section 3. Negotiation of Sale and Purchase of Product.....	8
Section 4. Participation.....	9
Section 5. Billing and Payments.....	10
Section 6. Cooperation and Further Assurances.....	12
Section 7. Term and Termination.....	12
Section 8. Withdrawal of Participants.....	13
Section 9. Settlement of Disputes and Arbitration.....	13
Section 10. Miscellaneous.....	13
EXHIBIT A	1
EXHIBIT B	1

This SECOND PHASE AGREEMENT FOR RENEWABLE ENERGY (“this Agreement”) is dated as of _____, 20__ by and among the Northern California Power Agency, a joint powers agency of the State of California (“NCPA”), and the signatories to this Agreement other than NCPA (“Participants”). NCPA and the Participants are referred to herein individually as a “Party” and collectively as the “Parties”.

RECITALS

A. NCPA has heretofore been duly established as a public agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric capacity and energy for resale.

B. Each of the Participants is a signatory to the Joint Powers Agreement which created NCPA and therefore is a Member.

C. Each of the Participants to this Agreement have executed the Amended and Restated Facilities Agreement which establishes the framework under which Project Agreements are created for the development, design, financing, construction, and operation of specific NCPA Projects.

D. The Participants desire NCPA to enter into a Renewable Energy Power Purchase Agreement (“Renewable PPA”) to purchase electric capacity and energy produced by eligible renewable resources for the benefit of the Participants’ customers.

E. Each Participant is authorized by its Constitutive Documents to obtain electric capacity and energy for its present or future requirements, through contracts with NCPA or otherwise.

F. To enable NCPA to enter into the Renewable PPA on behalf of the Participants, pursuant to the terms and conditions of the Amended and Restated Facilities Agreement, NCPA and the Participants wish to enter into this Agreement to provide all means necessary for NCPA to negotiate the Renewable PPA, and to enable and obligate the Participants to pay NCPA for all costs its incurs for undertaking the foregoing activities.

G. Upon full execution of this Agreement, NCPA, on behalf of the Participants, will enter into negotiations with one or more prospective suppliers (“Seller”) of Renewable Energy Supply.

H. Contingent upon negotiating mutually acceptable terms and conditions with one or more prospective suppliers, NCPA will present the proposed Renewable PPA to the NCPA Commission for review and approval. Contemporaneously, NCPA will seek final approval from Participants through a Third Phase Agreement for Renewable Energy

that would govern the rights and obligations of NCPA and Participants related to the sale and purchase of Products.

I. Each of the Parties intends to observe the provisions of this Agreement in good faith and shall cooperate with all other Parties in order to achieve the full benefits of joint action.

J. The Parties desire to equitably allocate costs of NCPA's provision of services under this Agreement among the Participants.

K. The Participants further desire, insofar as possible, to insulate other Members who are not Participants, from risks inherent in the services and transactions undertaken on behalf of the Participants pursuant to this Agreement.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions.

1.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms shall have the following respective meanings, provided, capitalized terms used in this Agreement (including the Recitals hereto) that are not defined in Section 1 of this Agreement shall have the meaning indicated in Section 1 of the Power Management and Administrative Services Agreement:

1.1.1 "Agreement" means this Second Phase Agreement for Renewable Energy including all Exhibits attached hereto.

1.1.2 "Capacity Attributes" means any and all current or future defined characteristics consistent with the operational limitations of the Project, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including resource adequacy benefits, Flexible Capacity Benefits, and any tracking or accounting associated with the foregoing, intended to value any aspect of the capacity of the Project to produce Energy or ancillary services, attributed to or associated with the Project.

1.1.3 "Constitutive Documents" means, with respect to NCPA, the Joint Powers Agreement and any resolutions or bylaws adopted thereunder with respect to the governance of NCPA, and with respect to each Participant, the California Government Code and other statutory provisions applicable to such Participant, any applicable agreements, charters, contracts or other documents concerning the formation, operation or decision making of such Participant, including, if applicable, its City Charter, and any codes, ordinances, bylaws, and resolutions adopted by such Participant's governing body.

1.1.4 "Effective Date" shall have the meaning set forth in Section 8 of this Agreement.

1.1.5 "Energy" means electric energy expressed in units of kWh or MWh.

1.1.6 "Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, as the case may be, and its displacement of conventional energy generation. Environmental Attributes include: (i) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (ii) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (iii) the reporting rights to these avoided emissions such as, but not limited to, a Renewable Energy Certificate ("REC").

Environmental Attributes do not include: (i) any Energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project, and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by Seller or the owners of the site for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits, or (iv)

emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

1.1.7 “Flexible Capacity” has the meaning set forth in the CAISO Tariff.

1.1.8 “Flexible Capacity Benefits” means the rights and privileges attached to any generating resource that satisfy any entity’s Flexible Capacity requirement.

1.1.9 “Initiating Members” shall have the meaning as set forth in Section 4.2.

1.1.10 “NCPA” has the meaning set forth in the recitals hereto.

1.1.11 “Participant” has the meaning set forth in the recitals of this Agreement.

1.1.12 “Power Management and Administrative Services Agreement” means the NCPA Power Management and Administrative Services Agreement, dated as of October 1, 2014 between NCPA and the Members who are signatories to that agreement by which NCPA provides Power Management and Administrative Services.

1.1.13 “Product” means Energy, Capacity Attributes and Environmental Attributes delivered to the Participants pursuant to the Renewable PPA.

1.1.14 “Project” or “Renewable PPA” means the Renewable Energy Power Purchase Agreement to be negotiated by NCPA and Seller, under which NCPA,

on behalf of the Participants, purchases Product from newly constructed solar photovoltaic resources.

1.1.15 "Party" or "Parties" has the meaning set forth in the preamble hereto; provided that "Third Parties" are entities that are not Party to this Agreement.

1.1.16 "Renewable Energy Supply" refers to power supply resources eligible for use under the Renewable Portfolio Standard Program.

1.1.17 "RPS" or "Renewable Portfolio Standard Program" means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, *et seq.*

1.1.18 "Seller" has the meaning set forth in the recitals of this Agreement.

1.1.19 "Term" has the meaning set forth in Section 8.

1.2 Rules of Interpretation. As used in this Agreement (including the Recitals hereto), unless in any such case the context requires otherwise: The terms "herein," "hereto," "herewith" and "hereof" are references to this Agreement taken as a whole and not to any particular provision; the term "include," "includes" or "including" shall mean "including, for example and without limitation;" and references to a "Section," "subsection," "clause," "Appendix", "Schedule", or "Exhibit" shall mean a Section, subsection, clause, Appendix, Schedule or Exhibit of this Agreement, as the case may be. All references to a given agreement, instrument, tariff or other document, or law,

regulation or ordinance shall be a reference to that agreement, instrument, tariff or other document, or law, regulation or ordinance as such now exists and as may be amended from time to time, or its successor. A reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having a separate legal personality and includes its successors and permitted assigns. A reference to a “day” shall mean a Calendar Day unless otherwise specified. The singular shall include the plural and the masculine shall include the feminine, and *vice versa*.

Section 2. Purpose.

The purpose of this Agreement is to: (i) set forth the terms and conditions under which NCPA shall negotiate the Renewable PPA on behalf of the Participants, (ii) authorize NCPA, acting on behalf of the Participants, to engage in all activities related to that basic purpose, and (iii) specify the rights and obligations of NCPA and the Participants with respect to the negotiation of the Renewable PPA.

Section 3. Negotiation of Sale and Purchase of Product.

By executing this Agreement, each Participant acknowledges and agrees to be bound by the terms and conditions of the Agreement. NCPA shall negotiate the terms and conditions of the Renewable PPA with one or more potential supplier of Renewable Energy Supply from one or more solar photovoltaic generation facilities on behalf of the Participants. Participants agree to pay NCPA for all actual costs, including, but not limited to, administrative costs, including legal fees, associated with the activities under this

Agreement, which are estimated to be thirty-five thousand dollars (\$35,000) or less. NCPA shall allocate costs to Participants in proportion to each Participant's Final Project Participation Percentage, as reflected in Exhibit B.

Section 4. Participation.

4.1 Eligibility. All Members who are signatory to the Amended and Restated Facilities Agreement are eligible to participate in this Agreement by delivering a duly executed copy of this Agreement to NCPA prior to the Effective Date, and subject to availability of the Renewable Energy Supply as described in Section 4.2.

4.2 Priority. This Agreement has been developed in response to certain Members' request for NCPA to acquire Renewable Energy Supply on their behalf (hereinafter referred to as the "Initiating Members"). The Initiating Members are listed in Exhibit A. To the extent the amount of Renewable Energy Supply that is made available by Seller is not sufficient to satisfy all Members' requests for a desired amount of Renewable Energy Supply; first priority will be given to the Initiating Members, and secondary priority will be given to all other Members who become a Participant. If after meeting the requests of the Initiating Members, any remaining available Renewable Energy Supply will be allocated to all other Participants based on a first-come first-serve basis, until the total amount of available Renewable Energy Supply is exhausted, or until all Participants' requests have been satisfied, whichever is less.

4.3 Final Participation Percentages. Upon the Effective Date of this Agreement, NCPA shall include each Participant's Final Project Participation Percentages in Exhibit B.

Section 5. Billing and Payments.

5.1 Participant Payment Obligations. Each Participant agrees to pay to NCPA each month its respective portion of the actual costs associated with negotiation and implementation of the Renewable PPA, and all other costs for services provided in accordance with this Agreement and the Amended and Restated Facilities Agreement.

5.2 Invoices. NCPA will issue an invoice to each Participant for its share of actual costs associated with negotiation and implementation of the Renewable PPA, and all other costs for services provided in accordance with this Agreement and the Amended and Restated Facilities Agreement. Such invoice may be either the All Resources Bill or separate special invoice, as determined by NCPA. At NCPA's discretion, invoices may be issued to Participants using electronic media or physical distribution.

5.3 Payment of Invoices. All invoices delivered by NCPA (including the All Resources Bill) are due and payable thirty (30) Calendar Days after the date thereof; provided, however, that any amount due on a day other than a Business Day may be paid on the following Business Day.

5.4 Late Payments. Any amount due and not paid by a Participant in accordance with Section 5.3 shall be considered late and bear interest computed on a daily basis until paid at the lesser of (i) the per annum prime rate (or reference rate) of the Bank

of America NT&SA then in effect, plus two percent (2%) or (ii) the maximum rate permitted by law.

5.5 Billing Disputes. A Participant may dispute the accuracy of any invoice issued by NCPA under this Agreement by submitting a written dispute to NCPA, within thirty (30) Calendar Days of the date of such invoice; nonetheless the Participant shall pay the full amount billed when due. If a Participant does not timely question or dispute the accuracy of any invoice in writing, the invoice shall be deemed to be correct. Upon review of a submitted dispute, if an invoice is determined by NCPA to be incorrect, NCPA shall issue a corrected invoice and refund any amounts that may be due to the Participant. If NCPA and the Participant fail to agree on the accuracy of an invoice within thirty (30) Calendar Days after the Participant has disputed it, the General Manager shall promptly submit the dispute to the Commission for resolution. If the Commission and the Participant fail to agree on the accuracy of a disputed invoice within sixty (60) Calendar Days of its submission to the Commission, the dispute may then be resolved under the mediation and arbitration procedures set forth in Section 9 of this Agreement. Provided, however, that prior to resorting to either mediation or arbitration proceedings, the full amount of the disputed invoice must be paid.

5.6 Billing/Settlement Data and Examination of Books and Records.

5.6.1 Settlement Data. NCPA shall make billing and settlement data available to the Participants in the All Resources Bill, or other invoice, or upon request.

NCPA may also, at its sole discretion, make billing and settlement support information available to Participants using electronic media (e.g. electronic data portal).

Procedures and formats for the provision of such electronic data submission may be established by the Commission from time to time. Without limiting the generality of the foregoing, NCPA may, in its reasonable discretion, require the Participants to execute a non-disclosure agreement prior to providing access to the NCPA electronic data portal.

5.6.2 Examination of Books and Records. Any Participant to this Agreement shall have the right to examine the books and records created and maintained by NCPA pursuant to this Agreement at any reasonable, mutually agreed upon time.

Section 6. Cooperation and Further Assurances.

Each of the Parties agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by any other Party which are consistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. The Parties agree to cooperate and act in good faith in connection with obtaining any credit support required in order to satisfy the requirements of this Agreement.

Section 7. Term and Termination.

This Agreement shall become effective when it has been duly executed by NCPA and at least one Participant (the "Effective Date"). The date on which NCPA make this Agreement effective shall be determined by NCPA, at its sole discretion. NCPA shall deliver a written notice to all Members that are signatory to the Amended and Restated Facilities Agreement, stating the Effective Date of this Agreement. This Agreement shall commence on the Effective Date and shall continue until the Agreement terminates, which shall occur when either:

7.1 All negotiations of the Renewable PPA(s) pursuant to this Agreement are terminated by NCPA or Seller(s); or

7.2 Upon the effective date of the Third Phase Agreement for Renewable Energy.

Section 8. Withdrawal of Participants.

No Participant may withdraw from this Agreement except as otherwise for provided herein.

Section 9. Settlement of Disputes and Arbitration.

The Parties agree to make best efforts to settle all disputes among themselves connected with this Agreement as a matter of normal business under this Agreement. The procedures set forth in Section 10 of the Power Management and Administrative Services Agreement shall apply to all disputes that cannot be settled by the Participants themselves; provided, that the provisions of Section 5.5 of this Agreement shall first apply to all disputes involving invoices prepared by NCPA.

Section 10. Miscellaneous.

10.1 Indemnification and Hold Harmless. Subject to the provisions of Section 10.3, each Participant agrees to indemnify, defend and hold harmless NCPA and its Members, including their respective governing boards, officials, officers, agents, and employees, from and against any and all claims, suits, losses, costs, damages, expenses and liability of any kind or nature, including reasonable attorneys' fees and the costs of litigation, including experts, to the extent caused by any acts, omissions, breach of contract, negligence (active or passive), gross negligence, recklessness, or willful misconduct of that Participant, its governing officials, officers, employees, subcontractors or agents, to the maximum extent permitted by law.

10.2 Several Liabilities. No Participant shall, in the first instance, be liable under this Agreement for the obligations of any other Participant or for the obligations of NCPA incurred on behalf of other Participants. Each Participant shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise provided for herein. The obligation of each Participant under this Agreement is, in the first instance, a several obligation and not a joint obligation with those of the other Participants.

Notwithstanding the foregoing, the Participants acknowledge that any debts or obligations incurred by NCPA under this Agreement on behalf of any of them shall be borne solely by such Participants, and not by non-Participant Members of NCPA, pursuant to Article IV, Section 3(b) of the Joint Powers Agreement.

10.3 No Consequential Damages. FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL NCPA OR ANY PARTICIPANT OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NCPA AND EACH PARTICIPANT EACH HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.

The Parties acknowledge that California Civil Code section 1542 provides that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her

must have materially affected his or her settlement with the debtor.” The Parties waive the provisions of section 1542, or other similar provisions of law, and intend that the waiver and release provided by this Section of this Agreement shall be fully enforceable despite its reference to future or unknown claims.

10.4 Waiver. No waiver of the performance by a Party of any obligation under this Agreement with respect to any default or any other matter arising in connection with this Agreement shall be effective unless given by the Commission. Any such waiver by the Commission in any particular instance shall not be deemed a waiver with respect to any subsequent performance, default or matter.

10.5 Amendments. Except where this Agreement specifically provides otherwise, this Agreement may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

10.6 Assignment of Agreement.

10.6.1 Binding Upon Successors. This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assignees of the Parties to this Agreement.

10.6.2 No Assignment. This Agreement, nor any interest herein, shall be transferred or assigned by a Party hereto except with the consent in writing of the other Parties hereto, where such consent shall not be unreasonably withheld.

10.7 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless the court holds that such provisions are not severable from all other provisions of this Agreement.

10.8 Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

10.9 Headings. All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.

10.10 Notices. Any notice, demand or request required or authorized by this Agreement to be given to any Party shall be in writing, and shall either be personally delivered to a Participant's Commissioner or Alternate, and to the General Manager, or shall be transmitted to the Participant and the General Manager at the addresses shown on the signature pages hereof. The designation of such addresses may be changed at any time by written notice given to the General Manager who shall thereupon give written notice of such change to each Participant. All such notices shall be deemed delivered when personally delivered, two (2) Business Days after deposit in the United States mail

first class postage prepaid, or on the first Business Day following delivery through electronic communication.

10.11 Warranty of Authority. Each Party represents and warrants that it has been duly authorized by all requisite approval and action to execute and deliver this Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms. Upon execution of this Agreement, each Participant shall deliver to NCPA a resolution of the governing body of such Participant evidencing approval of and authority to enter into this Agreement.

10.12 Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all the signatories to all of the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

10.13 Venue. In the event that a Party brings any action under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.14 Attorneys' Fees. If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, each Party shall bear its own fees and costs, including attorneys' fees, associated with the action.

10.15 Counsel Representation. Pursuant to the provisions of California Civil Code Section 1717 (a), each of the Parties were represented by counsel in the negotiation and execution of this Agreement and no one Party is the author of this Agreement or any of its subparts. Those terms of this Agreement which dictate the responsibility for bearing any attorney's fees incurred in arbitration, litigation or settlement in a manner inconsistent with the provisions of Section 10.1 were intentionally so drafted by the Parties, and any ambiguities in this Agreement shall not be interpreted for or against a Party by reason of that Party being the author of the provision.

10.16 No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties, by any third person or any Third Parties, to be for the benefit of any Third Party, nor shall any Third Party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by the Parties of any of the provisions of this Agreement.

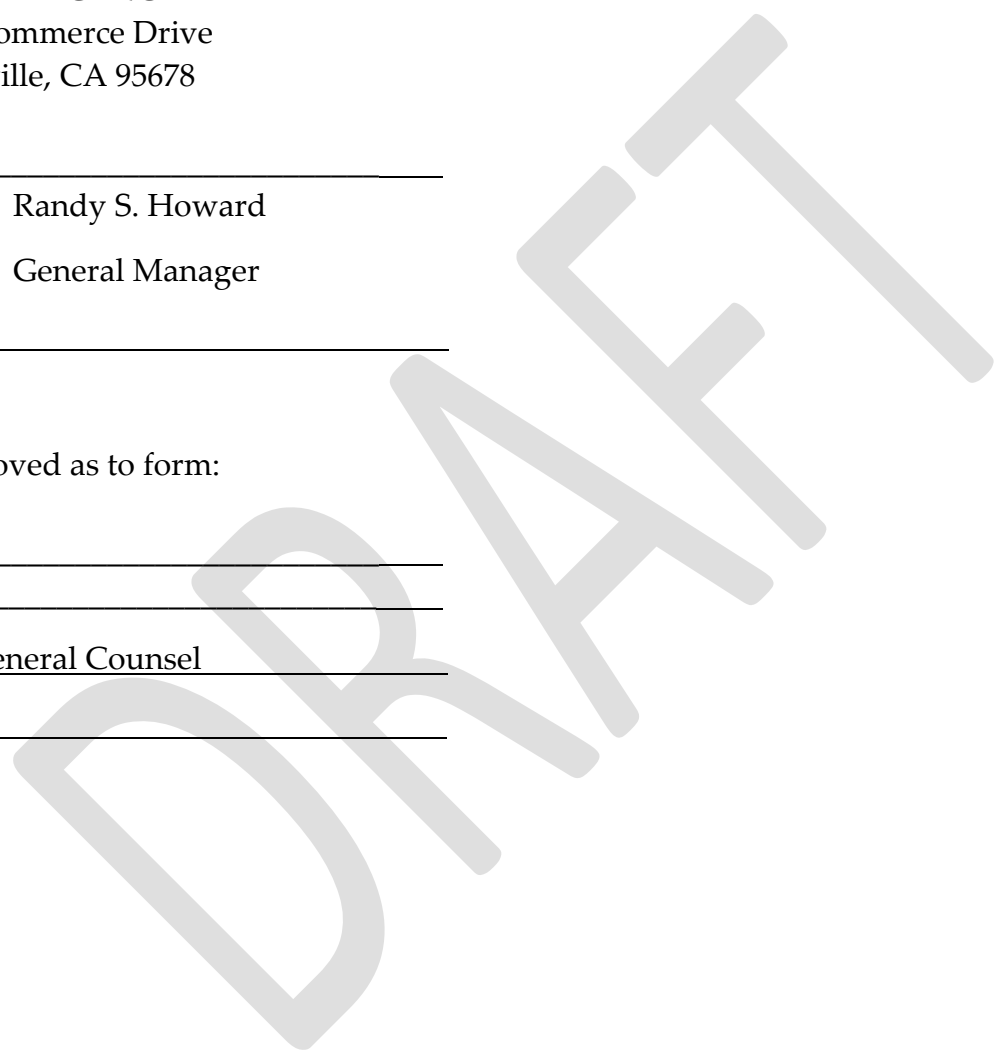
IN WITNESS WHEREOF, NCPA and each Participant have, by the signature of its duly authorized representative shown below, executed and delivered a counterpart of this Agreement.

NORTHERN CALIFORNIA
POWER AGENCY
651 Commerce Drive
Roseville, CA 95678

By: Randy S. Howard
Title: General Manager
Date: _____

Approved as to form:

By: _____
Its: General Counsel
Date: _____



Participant Name: _____

Address: _____

Authorized signature:

Signature: _____

By (Print Name): _____

Title: _____

Date: _____

Approved as to form:

Signature: _____

By (Print Name): _____

Title: _____

Date: _____

Attestation (if applicable)

Signature: _____

By (Print Name): _____

Title: _____

Date: _____

EXHIBIT A
INITIATING MEMBERS

The following is a list of the Initiating Members who submitted a request for NCPA to purchase Renewable Energy Supply on their behalf. Their respective Initial Project Participation Percentage share of the Project are:

INITIATING MEMBERS	MW	INITIAL PROJECT PARTICIPATION PERCENTAGE
City of Biggs.....	0.25.....	3.00%
City of Gridley.....	0.75.....	7.00%
City of Lodi.....	10.00.....	90.00%

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EXHIBIT B
LIST OF PARTICIPANTS

The following is a list of the Participants who are signatory to this Agreement, and their respective Final Project Participation Percentage share of the Project:

PARTICIPANT	MW	FINAL PROJECT PARTICIPATION PERCENTAGE
Member.....	0.00.....	0.00%
Member.....	0.00.....	0.00%
Member.....	0.00.....	0.00%

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