



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Approving Geothermal Agreements and Facilities Agreement Amendment to Finalize Turlock Irrigation District's Withdrawal from the Northern California Power Agency Joint Powers Agreement

MEETING DATE: March 16, 2011

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution approving Geothermal Agreements and Facilities Agreement Amendment to finalize Turlock Irrigation District's withdrawal from the Northern California Power Agency (NCPA) Joint Powers Agreement.

BACKGROUND INFORMATION: On June 2, 2009, Turlock Irrigation District (TID) provided formal notice to NCPA and NCPA members of its intent to terminate its membership in NCPA effective no later than April 1, 2011 in accordance with the two-year notice requirements specified in the JPA. The NCPA commission established April 1, 2011 as the effective termination date for TID's membership. Over the past 18 months, NCPA staff combed through all relevant agreements, policies, and procedures and updated or developed new agreements and policy documents, as necessary, to effectuate TID's withdrawal.

The relevant NCPA agreements, policies and procedures deemed necessary for review and/or revision fall into the following three categories:

- 1) Natural gas-related programs and projects;
- 2) Geothermal-related programs and projects; and
- 3) Obligations under existing governance agreements to be settled prior to exit.

Natural Gas Related Programs and Projects

All work associated with natural gas related programs and projects has been completed. Activity included terminating the Natural Gas Purchase Program Third Phase agreement, removing TID from the natural gas procurement and pipeline capacity management agreement, and modifying natural gas pipeline tariff agreements to reflect a split of pipeline capacity between NCPA and TID. No further action by the City is required at this time.

Geothermal Related Programs and Projects

TID decided that it will retain its interests in Geothermal Project No. 3 even after its withdrawal from NCPA. However, TID is not a signatory to the Geothermal Project Third Phase Agreement and its rights and entitlements flow instead from:

APPROVED: 
Konradt Bartlam, City Manager

- Letter agreements between TID and geothermal project participants (Palo Alto, Gridley, and Plumas) by which project entitlement percentages are transferred
- Letter agreements between TID and NCPA by which NCPA agreed to treat TID as a project participant
- NCPA governance documents such as the Facilities Agreement and the Geothermal Project Operating Agreement

The letter agreements permit TID's commissioner to vote at Commission meetings and through its appointed representative on the Facilities Committee. After April 1, 2011, TID will no longer have a commissioner on the NCPA Commission nor have a representative on the Facilities Committee to formally represent its entitlements in the geothermal project.

Likewise, while TID is a signatory to the Facilities Agreement, that agreement provides that representation on the Facilities Committee is contingent on being an NCPA member. As a result, NCPA and TID staff have been negotiating agreements that will ensure that TID's rights and obligations as embodied in the letter agreements are continued in successor agreements to be implemented upon TID's withdrawal and that continuing NCPA member interests are protected in an equal fashion.

In order to finalize TID's withdrawal the Geothermal Project participants, including Lodi, will need to approve amendments to the Geothermal Project Third Phase Agreement, Operating Agreement, and Facilities Agreement to reflect TID's participation in the project as a non-NCPA member.

Obligations under Existing Governance Agreements to be Settled Prior to Exit

NCPA and TID have negotiated a settlement to satisfy provisions of the JPA specifying that any signatory to the JPA terminating its membership in the JPA is obligated to pay its *pro-rafa* share of all encumbrances and indebtedness of NCPA as of the date of termination.

The vehicle for settling all known and unknown claims has been titled the "Exit Agreement" and in addition to settling all claims, would be used to terminate certain remaining agreements between the parties that require termination due to the termination of membership and to establish dispute resolution scope limits and processes for disputed payments. This particular agreement requires approval by only the NCPA Commission and TID.

Additionally, the Fourteenth Supplemental Indenture Of Trust and Facilities Agreement Schedule FA 10.00 – Federal Tax Guidelines Relating To Private Business Use requires approval by only the NCPA Commission and TID.

A detailed description of the above mentioned agreements, along with a summary of steps taken by NCPA related to TID's withdrawal, is found in the NCPA Staff Report dated February 17, 2011 (Exhibit A).

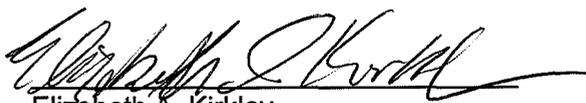
The referenced agreements have been reviewed with the NCPA Facilities Committee, Utility Directors, Legal Committee and Commission at various points of completion over the last three months. The Legal Committee agreed in principle with the agreements as drafted at the time of their review and recommended that Commission approval of the exit agreement be conditioned on receipt of TID executed copies of all agreements within seven days of the conditional approval of the agreements by the NCPA Commission.

Both the Facilities Committee and Legal Committee suggested eliminating language within the Amended Geothermal Operating Agreement indicating that costs would be allocated according to "cost causation principles" unless the term cost causation could be defined. TID and NCPA negotiating teams were unable to come to agreement on a definition for cost causation, and TID was adamant that this language should stay in the agreement. After much discussion, the NCPA negotiating team recommended that the cost causation language be left in the agreement without the definition citing sufficient case law on the subject to refer to in the event there is ever a dispute over whether NCPA is properly allocating costs to the Project in accordance with cost causation principles.

The Facilities Committee reviewed the final set of agreements on February 17, 2011 and recommended that the Commission approve the attached agreements as attached in Exhibits C, D, and E. The NCPA Commission approved all the agreements on February 24, 2011 via the Resolution attached in Exhibit B. Upon approval of the Geothermal Agreements and Facilities Agreement Amendment identified above, TID's withdrawal from NCPA will be finalized.

FISCAL IMPACT: The impact to Lodi of the negotiated settlement between NCPA and TID will be approximately \$15,000 of TID's share of the current fiscal year NCPA budget. In future years, TID will pay its percentage share of geothermal costs and revenues. Costs currently paid by TID for NCPA JPA fees, judicial costs, and regulatory costs will be reallocated to the remaining NCPA members in future budget years.

FUNDING AVAILABLE: Not applicable.


Elizabeth A. Kirkley
Electric Utility Director

EXHIBITS:

- A. NCPA Staff Report on TID Agreement Approvals Required for Withdrawal from the NCPA Joint Powers Agreement
- B. NCPA Commission Resolution
- C. Amendment Number Two to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3
- D. Amended and Restated Geothermal Project Operating Agreement between Northern California Power Agency and the Geothermal Project Participants
- E. Amendment Number One to Northern California Power Agency Facilities Agreement
- F. Membership Withdrawal and Exit Agreement between NCPA and TID
- G. Fourteenth Supplemental Indenture of Trust
- H. Facilities Agreement Schedule FA 10.00 - Federal Tax Guidelines Relating To Private Business Use Only



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Commission Staff Report

AGENDA ITEM NO.: 20

Date: February 22, 2011
To: NCPA Commission
Subject: TID Agreement Approvals Recommended for Withdrawal from the NCPA Joint Powers Agreement

Background

TID provided a letter to NCPA, dated March 16, 2009, announcing its intention to provide notice to all members of its intent to terminate its membership in NCPA in accordance with the terms of the Joint Powers Agreement (JPA). This letter was followed by a letter dated March 24, 2009 to each NCPA member, indicating that TID had provided notice to NCPA that it was terminating its membership effective no later than April 1, 2011. Notwithstanding the clear termination date provided to each of the members in their March 24, 2009 letter, the March 16 letter to NCPA did not comport with the two year notice requirement, as it indicated an intent to send a notice to withdraw as opposed to a formal notice to withdraw by a date certain. As a result of the ambiguity between the two sets of letters, utility directors requested the NCPA General Manager to follow up with TID to secure a more formal notice of TID's intention to withdraw from NCPA. In response to that request, TID provided a resolution of its Board, dated June 2, 2009, indicating that the Board had met in closed session on March 24, 2009 and had authorized, among other things, the TID general manager to send notices of termination to member agencies as required under the JPA. Based on the receipt of the TID Board resolution, in combination with the March 16th letter to NCPA and the March 24th letters to NCPA members, the NCPA Commission agreed to establish April 1, 2011 as the effective termination date for TID's membership in the JPA, and directed staff to begin working out the details necessary to provide for an orderly withdrawal no earlier than April 1, 2011.

In order to accommodate TID's withdrawal, staff performed an inventory of all agreements that appeared to be relevant to TID's withdrawal and has been working together with TID staff and legal counsel over the last eighteen months to terminate, update and/or develop as necessary, agreements, policies and procedures that are required to effectuate TID's withdrawal from the Agency. After lengthy negotiations, the agreements, policies and procedures deemed necessary fell into three categories as follows:

- Natural Gas Related Programs and Projects
- Geothermal Related Programs and Projects
- Obligations under existing governance agreements to be settled prior to exit

Natural Gas Related Programs and Projects

All work associated with natural gas related programs and projects has been completed. Activity included terminating the Natural Gas Purchase Program third phase agreement, removing TID from the natural gas procurement and pipeline capacity management agreement

and modifying natural gas pipeline tariff agreements to reflect a split of pipeline capacity between NCPA and TID. (See NCPA Commission Staff Reports: 223:10 and 222:10 for complete details on these changes)

Geothermal Related Programs and Projects

After some vacillation by TID with respect to whether or not to retain its ownership interest, TID decided that it will retain its interests in Geothermal Project No. Three even after its withdrawal from NCPA membership. TID is not currently, however, a signatory to the Geothermal Project Third Phase Agreement. TID's rights and entitlements in the Geothermal Project flow instead from letter agreements between TID and various Geothermal Project Participants by which project entitlement percentages are transferred (currently affecting Palo Alto, Gridley, and Plumas who are sometimes referred to as the "permanently transferring participants"), letter agreements between TID and NCPA by which NCPA agreed to treat TID as a Project Participant, as least as to the first of the transfer agreements, and more typical agency governance documents such as the Facilities Agreement and the Geothermal Project Operating Agreement.

Significantly, since TID is not a signatory to the Geothermal Project Third Phase Agreement it currently derives its ability to vote its interests in its share of the Geothermal Project only through the previously referenced letter agreements. This has been treated as permitting TID's Commissioner to vote at Commission meetings and through its appointed representative on the Facilities Committee. Once TID's termination of membership is effective, however, TID will no longer have a Commissioner on the NCPA Commission that will be able to vote TID's interests with regard to its entitlements in the Geothermal Project. Likewise, while TID is a signatory to the Facilities Agreement, that agreement provides that representation on the Facilities Committee is based upon being an NCPA member. As a result, NCPA and TID staffs have been negotiating agreements that will ensure that TID's rights and obligations as embodied in those letter agreements are continued in successor agreements to be implemented upon TID's withdrawal and that continuing NCPA member interests are protected in an equal fashion. Specific changes surrounding the Geothermal Related Programs and Projects are discussed in more detail below in the "Issue" section of this staff report.

Obligations Under Existing Governance Agreements to be Settled Prior to Exit

The JPA provides that any signatory to the JPA terminating its membership in the JPA is obligated to pay its *pro-rata* share of all encumbrances and indebtedness of NCPA as of the date of termination as a condition precedent to such termination and withdrawal. NCPA and TID have been negotiating regarding a set of claims that each has specified against the other in an effort to reach agreement on a lump sum amount that would be used to settle all known and unknown claims made by one entity against the other. The vehicle for settling all known and unknown claims has been titled the "Exit Agreement" and in addition to settling all claims, would be used to terminate certain remaining agreements between the parties that require termination due to the termination of membership and to establish dispute resolution scope limits and processes for disputed payments made by TID to NCPA during fiscal year 2010/2011 as a consequence of TID having declined to approve the NCPA annual budget. Further detail associated with the "Exit Agreement" is provided in the "Issue" section of this staff report below.

Issue

Staff has completed its negotiations with TID and is requesting Commission approval of the final package of agreements necessary to effectuate TID's withdrawal from the NCPA JPA on a "settled" basis. Each of the agreements requiring Commission and/or member approval is summarized below:

SR: 115:11

Geothermal Project Agreements

Attached to this staff report are a set of Geothermal Project related agreements requiring Commission approval as follows:

1. *Amendment Number Two To Agreement For Construction Operation And Financing of Geothermal Generating Project Number Three*

The primary purpose of this agreement is to provide for TID to become a signatory to the Geothermal Project Number Three Third Phase Agreement and thereby be recognized as an official "Project Participant" under that Agreement. This amendment also clarifies that a Project Participant's entitlements under the project include attributes that may exist now or in the future, such as environmental attributes, in addition to project capacity and energy. The amendment clarifies and strengthens the obligation that Project Participants have to protect the tax exempt status of the bonds issued to finance the project. It also establishes an "in-lieu" JPA cost assessment for non-members equivalent to the "in-lieu" cost assessment for non-members established for the Lodi Energy Center Project. Upon withdrawal, TID would be subject to this "in-lieu" JPA cost assessment.

This amendment would provide that the permanently transferring Participants remain secondarily liable for any payments not made by TID. This provision is necessary so that the security of bond holders is not adversely affected and therefore the approval of the bond trustee is not required. This secondary liability is terminated, under the terms of the Fourteenth Supplemental Indenture of Trust discussed below, once currently outstanding bonds are paid off.

Approvals Required: NCPA Commission, TID Governing Board and Geothermal Project Participant Governing Boards

2. *Fourteenth Supplemental Indenture of Trust*

Under Amendment Number Two to the agreement for Construction Operation and Financing of Geothermal Project Number Three, TID will become a Project Participant, but the permanently transferring Project Participants (Palo Alto, Gridley, and Plumas-Sierra) will remain secondarily liability for TID's obligations under the agreement. The transferring participants requested that they be removed from this secondarily liable position at the soonest possible time, but in no event later than when the bonds currently outstanding on the project were retired. This will be accomplished by providing for an amendment to the current Supplemental Indenture of Trust as described below.

The Fourteenth Supplemental Indenture of Trust provides for the novation of TID for the transferring Project Participants (Palo Alto, Gridley and Plumas-Sierra) with respect to the transferred project entitlement percentages when no 2009 Series A bonds, issued on behalf of the project, remain outstanding. A separate resolution, prepared by Bond Counsel, approving the Fourteenth Supplemental Indenture of Trust is included with this staff report.

Approvals Required: NCPA Commission

3. *Amended and Restated Geothermal Project Operating Agreement*

The Geothermal Project Operating Agreement (Operating Agreement) is a schedule to the Facilities Agreement. It generally provides for the means by which Project No. Two and Project No. Three are operated as a single shared resource. It is proposed that the current

operating agreement would be completely replaced by the Amended and Restated Operating Agreement.

The Amended Operating Agreement will take precedence over the Facilities Agreement in the event of conflicts between the two agreements. The Amended Operating Agreement contains all of the detail required to administer and operate the Geothermal Project on behalf of the Project Participants and provides for the combined operation of Geothermal Projects Number Two and Three in the most cost efficient manner due to the finite and limited nature of the steam field supply. Definitions in the Amended Operating Agreement were updated to include new terms that are relevant to operations today, 20 years after the first Operating Agreement was adopted. The Amended Operating Agreement clarifies how Administrative Costs will be identified and allocated to the project as an addition to the prior Operating Agreement that was limited to methodologies for allocating Project Costs.

A section on Surplus Capacity and Energy Sales was added that eliminates all Rights of First Refusal with regard to capacity, energy or other attributes associated with the project, irrespective of possible contradictory language in the Third Phase Agreement. This provision was the subject of extensive debate by the Facilities Committee and the Utility Directors and, ultimately, the Facilities Committee recommended adopting the proposed language eliminating Rights of Refusal.

Annual budget processes were amended to be consistent with Third Phase Agreement language. Project Participant Direction and Review sections were amended to clarify how Project Participants, and particularly TID as a Project Participant and non-member, will be able to participate at Commission meetings, Facilities Committee meetings, and other meetings of NCPA committees which are subject to the Brown Act. In particular, TID will not have a vote or participation rights (other than as a member of the public) at Commission meetings. It will, however, have the right to direct the vote of the permanently transferring participants, and the right to demand a "project vote" occur at the Commission. It will remain a member of the Facilities Committee where TID will have the right to participate in and vote on matters that relate to the Geothermal Project. It will have the right to receive notices, agendas and materials of other Brown Act committees of NCPA which have Geothermal Project matters listed on their agendas.

Scheduling sections were updated to eliminate the ability to store steam for later electricity production and delivery, while retaining the ability to reduce output of the plant and the participants' share of that output up to annually determined plant reduction limits.

Lastly, the Amended Operating Agreement is used to terminate agreements, including the First and Second Transfer Agreements between TID and transferring Project Participants, the Letter Agreement between TID and NCPA specifying TID's rights under the first Transfer Agreement, the Layoff Equalization Agreement in support of the combined refinancing of the Geothermal Project and Hydroelectric Project, with rights and obligations of terminated agreements transferred to the Amended Operating Agreement, or eliminated, as appropriate.

Approvals Required: NCPA Commission, TID Governing Board and Geothermal Project Participant Governing Boards

4. Amendment Number One to Northern California Power Agency Facilities Agreement

The current Facilities Agreement provides that a Participant to the Facilities Agreement is a member of NCPA. Or stated another way, the Facilities Agreement did not contemplate that participants in NCPA projects would not be a member of NCPA. Amendment Number One provides that, notwithstanding language in the Facilities Agreement to the contrary, TID will be able to designate one member to the Facilities Committee so long as TID remains a Project Participant in Geothermal Project Number Three and that TID shall have voting rights on the Facilities Committee only with respect to Geothermal Project Number Three. This amendment will implement the agreements and understandings contained in the Amended Operating Agreement that provide for TID's continued ability to vote and participate in meetings requiring notice and which, will involve discussions affecting its interests in the project.

Approvals Required: NCPA Commission, TID Governing Board and Facilities Agreement Participant Governing Boards

5. *Facilities Agreement Schedule FA 10.00 – Federal Tax Guidelines Relating to Private Business Use*

Amendment Number Two to the Project Number Three Third Phase Agreement provides that Project Participants may engage in commercial transactions without obtaining a bond counsel opinion regarding the transaction, provided the transaction complies with the tax-related guidelines established by the NCPA commission from time to time. This schedule will implement the tax related guidelines (as drafted by NCPA Bond Counsel, Orrick Herrington & Sutcliffe) specified in Amendment Number Two. This Schedule has been approved by the Facilities Committee and pursuant to the terms of the Facilities Agreement, may be approved by the NCPA Commission without approval of the Facilities Agreement participants.

Approvals Required: NCPA Commission

Obligations under Existing Governance Agreements to be Settled Prior to Exit

6. *Membership Withdrawal and Exit Agreement between NCPA and TID*

The Membership Withdrawal and Exit Agreement (Exit Agreement) establishes the effective date of TID's withdrawal from the JPA as April 1, 2011. NCPA and TID have identified claims that each have against the other and have established a payment amount that will be used to settle both the identified known claims and any unknown claims that were outstanding at the time of settlement. Two Spreadsheets have been prepared and attached to this staff report to explain the settlement terms. The first identifies the categories of claims and the recommended settlement amounts, prior to adjustment in the case of the unfunded liability claim. The second identifies the TID's budgeted costs for FY 2011 as invoiced through NCPA's monthly "All Resources Bill" processes, and further identifies which components of the those invoices will be settled as a lump sum in conjunction with TID's withdrawal from the NCPA JPA and the power management costs will be "trued up" as part of NCPA's annual budget reconciliation and true up processes. All disputes associated with matters identified in the Exit Agreement are required to be submitted to arbitration in accordance with the terms outlined in the Exit Agreement. The arbitration terms outlined in the Exit Agreement (as relating to the matters identified in the Exit Agreement) govern, notwithstanding other dispute resolution options that are available to TID or NCPA in any other agreements.

The Exit Agreement specifies that disputes associated with any ongoing costs after March 31, 2011 as a consequence of TID's ongoing participation in the Geothermal Project shall

proceed as required under the dispute resolutions processes outlined in the Facilities Agreement.

Lastly, the Exit Agreement terminates certain agreements that will no longer be relevant upon TID's withdrawal (Energy Exchange Agreement, Member Services Agreement and Agreement for Sale of Energy and Capacity of Combustion Turbine Project Number Two – Unit Two).

Approvals Required: NCPA Commission and TID Governing Board

Fiscal Impact

Attachment 1 summarizes the settlement amounts for each of the known claims identified in Section 3 of the Exit Agreement, along with an allocation of the revenue or the cost to each member affected or benefitting from a particular settlement category

Environmental Analysis

This activity would not result in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment, and is therefore not a "project" for purposes of the California Environmental Quality Act pursuant to CEQA Guidelines section 153789(a) and (b).

Discussion

Negotiations surrounding the referenced agreements have been both quite lengthy and very fluid, necessitating regular modifications and updates to the agreements. As a result, it proved to be very difficult to coordinate regular ongoing review and comment from potential additional reviewers (members) outside of the negotiating group established by the NCPA Commission. Consequently, the approach taken by the negotiating group was to review all contracts at certain milestone points with our Facilities Committee, Utility Directors, Legal Committee and Commission, and to obtain regular policy direction from the Commission regarding key terms and conditions in the agreements during closed sessions.

At this point, the referenced agreements have been reviewed with the Facilities Committee, Utility Directors, Legal Committee and Commission at various points of completion over the last three months. The Legal Committee agreed in principle with the agreements as drafted at the time of their review and recommended that Commission approval of the Exit Agreement be conditioned on receipt of TID executed copies of all agreements within seven (days) of the conditional approval of the agreements by the NCPA Commission. TID has since requested fourteen (14) days in order to coordinate approvals with their regularly scheduled Board meeting and staff recommends agreeing to that request.

Both the Facilities Committee and Legal Committee suggested eliminating language within the Amended Operating Agreement indicating that costs would be allocated according to "cost causation principles" unless the term "cost causation" could be defined. TID and NCPA negotiating teams were unable to come to agreement on a definition for cost causation, and TID was adamant that this language should stay in the agreement. After much discussion, the NCPA negotiating team recommends that the cost causation language be left in the agreement without the definition. It is our view that there is sufficient case law on the subject to refer to in the event there is ever a dispute over whether NCPA is properly allocating costs to the Project in accordance with cost causation principles.

The Facilities Committee reviewed the "near" final set of agreements on February 17th, which occurred after staff reports were due and prior to being able to completely finalize all necessary agreements. The Facilities Committee was briefed on the elements of the agreements that were still subject to change, the basis for the ongoing discussions and the desired/probable outcomes. After discussion, the Facilities Committee recommended approval of all agreements referenced in the staff report.

Recommendation

Staff recommends that the Commission:

1. Find that approval of the agreements referenced in the attached staff report is an administrative activity which will not result in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment, and is therefore not a "project" for purposes of the California Environmental Quality Act pursuant to CEQA Guidelines section 153789(a) and (b).
2. Adopt a resolution which:
 - a. Approves and authorizes the General Manager to execute the following agreements on behalf of NCPA, with such minor modifications approved by General Counsel, and conditioned on receipt of executed copies of the agreements, properly executed by TID, which shall include a resolution of the TID Board authorizing execution of each of the agreements requiring execution by TID as referenced in the staff report, within fourteen (14) days of this Commission's conditional approval:
 - Amendment Number Two to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number Three
 - Amended and Restated Geothermal Project Operating Agreement Between Northern California Power Agency and the Geothermal Project Participants
 - Amendment Number One to Northern California Power Agency Facilities Agreement
 - Membership Withdrawal and Exit Agreement between Northern California Power Agency and Turlock Irrigation District
 - b. Approves NCPA Facilities Agreement Schedule FA10.00.
3. Adopt a resolution which approves the 14th Supplemental Indenture of Trust between Northern California Power Agency and US Bank National Association, as Trustee Relating to Geothermal Project Number 3 Revenue Bonds and authorizes the General Manager to execute it on behalf of NCPA, subject to receipt of TID approval of the agreements specified in Section 2 above.
4. Authorize the General Manager to pursue any and all claims to the full extent allowed by NCPA governance agreements, whether through litigation or dispute resolution processes specified in agency governance documents in the event TID does not provide properly executed copies of all agreements identified above within the fourteen (14) day period following this Commission's conditional approval of the referenced agreements.

Respectfully submitted,



JAMES H. POPE
General Manager

Prepared by:



DAVID DOCKHAM
Assistant General Manager

DD/tlh
Attachments

TID Exit Agreement Staff Report Exhibit 1
Settlement Amounts and member cost allocations

Category	NCPA Budget	NCPA Claim	TID Claim	Settlement Agreement	TID Net Settlement Payment
Liability under JPA					
Unfunded Retirement & Retiree Medical Liability	\$ -	\$ 332,521	\$ 219,819	\$ 219,819	\$ 219,819
Subtotal	\$ -	\$ 332,521	\$ 219,819	\$ 219,819	\$ 219,819
Claims Outside of Current Invoicing Processes					
Geothermal Project Transmission (DWR Entitlement) ¹	\$ -	\$ 302,353	\$ -	\$ 172,812	\$ 172,812
Damages for Non-Transfer of Renewable Energy Credits (REC)	\$ -	\$ -	\$ (1,000,000)	\$ (194,630)	\$ (194,630)
Subtotal	\$ -	\$ 302,353	\$ (1,000,000)	\$ (21,818)	\$ (21,818)
Claims Related Current Invoicing Processes					
Joint Power Agency (JPA) Charge for 9 months	\$ 188,768	\$ 188,768	\$ 188,768	\$ 188,678	
Joint Power Agency (JPA) Charge for add'l 3 months	\$ 62,922	\$ 62,922	\$ -	\$ -	
Management Services - Legislative & Regulatory ²	\$ 443,887	\$ 332,915	\$ 44,460	\$ 332,915	
Legislative & Regulatory Pass Through Charges ³	\$ 115,332	\$ 59,906	\$ 59,906	\$ 14,977	
Management Services - Power Management ⁴	\$ 171,352	\$ 171,352	\$ 171,352	\$ 171,352	\$ 14,977
Natural Gas Information Program ⁵	\$ 48,572	\$ 36,429	\$ 36,429	\$ -	
Subtotal	\$ 1,030,833	\$ 852,292	\$ 500,915	\$ 707,922	\$ 14,977
Grand Total	\$ 1,030,833	\$ 1,487,167	\$ (279,266)	\$ 905,923	\$ 212,978

Note 1 - See Geothermal Transmission Detail; NCPA Settlement Offer reflects TID allocation of DWR transmission costs for FY 2007 - FY 2010

Note 2 - NCPA Budget Amount equal to Legislative/Regulatory & Judicial Action less JPA Charge & Pass Through Charges (itemized separately); NCPA Claim prorated to reflect Legislative/Regulatory & Judicial Action charges for nine (9) months. These charges will be settled on a lump sum basis.

Note 3 - NCPA Claim adjusted to reflect refunded APPA charges; Balance for SEPA & CMUA Dues which are annual charges.

NCPA will collect SEPA & CMUA charges in the Budget through March 2011; TID Settlement Payment reflects balance of Dues. These charges will be settled on a lump sum basis.

Note 4 - Power Management services billed as budgeted, Power Management services will continue to be bill in ARB through June 2011 and trued up as part of the annual budget settlement process

Note 5 - NCPA Claim for Natural Gas Information Program prorated for nine (9) months. TID participation in program ends on April 1st. These charges will be settled on a lump sum basis

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**TID Exit Agreement Staff Report
Exhibit 2 - Summary of Charges
Subject to True Up or Lump Sum
Settlement**

	Budget Estimate	Subject to True Up (yes/no)
GENERATION RESOURCES		
NCPA Plants		
Hydroelectric	0	n/a
Geothermal Plant No. 1	0	n/a
Geothermal Plant No. 2	2,305,008	yes
Combustion Turbine No. 1	0	n/a
Combustion Turbine No. 2 (STIG)	0	n/a
PS+I-Phase I + Phase II		
Prepaid Debt Service		
Member Resources		
Member Contracts	0	n/a
Member Generation	0	n/a
Western Resource		
Western Costs	0	n/a
Market Power Purchases		
NCPA Contracts	0	n/a
Market Purchases	0	n/a
Pool Energy Exchange		
Pool Adjustments	0	n/a
Other Resources		
Seattle City Light	0	n/a
Graeagle	0	n/a
ISO Energy Purchases	0	n/a
Subtotal Generation Services	2,305,008	
TRANSMISSION/DISTRIBUTION		
NCPA Plant Transmission		
Hydroelectric (Bellota-Tesla)	0	n/a
Geo Plant 1 (Geysers-Lakeville + Tap-line)	0	
Geo Plant 2 (Geysers-Lakeville + Tap-line)	6,620	yes
TANC		
COTP	0	n/a
SOT	0	n/a
Independent System Operator		
ISO GMC Wheeling, Ancillary Services	75,686	yes
NCPA Charges	0	yes
ISO Adjustments	0	yes
Other Transmission		
Biggs 60Kv		
Bay Area Transmission Studies		

Distribution		
Subtotal Transmission\Distribution	82,306	
MANAGEMENT SERVICES		
Legislative + Regulatory		
Legislative Representation	301,111	no - lump sum
Regulatory Representation	140,030	no - lump sum
Western Representation	7,786	no - lump sum
Member Support Services	2,533	no - lump sum
JPA Assessment	251,690	no - lump sum
Judicial Action	107,759	no - lump sum
Subtotal Legislative + Regulatory	810,909	
Power Management		
SCALD, Energy Risk Mgmt + Settlements	171,352	yes
Green Power Project		
Market Power Purchase Project		
Natural Gas Information Program	36,432	no - lump sum
RMR Mgmt., net to GOR		
Subtotal Management Services	1,018,693	
*TOTAL ANNUAL ACTUAL COST	3,406,007	
LESS: THIRD PARTY REVENUE		
Market Power Sales	0	yes
Transmission Sales	6987	yes
Ancillary Services Sales	0	yes
ISO Energy Sales	0	yes
Other Sales + Income (solar rebate,drill rig, effluent sales)	179022	yes
Net transfer (to) from GOR	0	
Other Revenue Adjustments	0	yes
Displacement Revenue	0	n/a
Subtotal Third Party Revenue	186,009	
NET ANNUAL ACTUAL COST	3,219,998	

RESOLUTION 11-10

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING AGREEMENTS REQUIRED FOR TURLOCK IRRIGATION DISTRICT (TID) WITHDRAWAL FROM THE AMENDED AND RESTATED NORTHERN CALIFORNIA POWER AGENCY JOINT POWERS AGREEMENT

(reference Staff Report #115:11)

WHEREAS, Turlock Irrigation District (TID) is a signatory to the Amended and Restated Northern California Power Agency Joint Powers Agreement (JPA) dated as of January 1, 2008; and

WHEREAS, TID has provided the required 2 year notice of termination of membership in the JPA and the Commission has accepted that 2 year notice to be effective April 1, 2011 ; and

WHEREAS, TID's termination of membership in the JPA affected its rights and obligations under various agreements between TID and NCPA members and between TID and NCPA, requiring those agreements to be either terminated, clarified or amended in some fashion; and

WHEREAS, Any signatory to the JPA terminating its membership in the JPA is obligated to pay its pro-rata share of all debts, liabilities and obligations of NCPA as of the date of termination as a condition precedent to such termination and withdrawal; and

WHEREAS, TID and NCPA staffs have worked together to identify all agreements needing to be either terminated, clarified or amended, and have arrived at a recommended settlement amount that would satisfy TID's obligation to pay its pro-rata share of all debts, liabilities and obligations of NCPA as of the date of termination; and

WHEREAS, the agreements required to effectuate TID's withdrawal from the JPA are attached to the staff report referenced in this resolution; and

WHEREAS, approval of these agreements is not a project for purposes of the California Environmental Quality Act; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency:

1. Finds that approval of the agreements referenced in the attached staff report is an administrative activity which will not result in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment, and is therefore not a "project" for purposes of the California Environmental Quality Act pursuant to CEQA Guidelines section 153789(a) and (b).
2. Adopt a resolution which:
 - a. Approves and authorizes the General Manager to execute the following agreements on behalf of NCPA, with such minor modifications approved by General Counsel, and conditioned on receipt of executed copies of the agreements, properly executed by TID, which shall include a resolution of the TID board authorizing execution of each of the agreements requiring execution by TID as referenced in the staff report, within fourteen (14) days of this Commission's conditional approval:

- Amendment Number Two to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3
- Amended and Restated Geothermal Project Operating Agreement Between Northern California Power Agency and the Geothermal Project Participants
- Amendment Number One to Northern California Power Agency Facilities Agreement
- Membership Withdrawal and Exit Agreement between Northern California Power Agency and Tur ock Irrigation District

b. Approves NCPA Facilities Agreement Schedule FA10.00.

3. Adopt a resolution which approves the 14th Supplemental Indenture of Trust between Northern California Power Agency and US Bank National Association, as Trustee Relating to Geothermal Project Number 3 Revenue Bonds and authorizes the General Manager to execute it on behalf of NCPA, subject to receipt of TID approval of the agreements specified in Section 2 above.
4. Authorize the General Manager to pursue any and all claims to the full extent allowed by NCPA governance agreements, whether through litigation or dispute resolution processes specified in agency governance documents in the event TID does not provide properly executed copies of all agreements identified above within the fourteen (14) day period following this Commissions conditional approval of the referenced agreements.

PASSED, ADOPTED and APPROVED this 24th day of February 2011, by the following vote on roll

call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
TID	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

GARY W. PLASS
CHAIRMAN

ATTEST: _____
DENISE DOW
ASSISTANT SECRETARY

RESOLUTION 11- 13

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY
OF AMENDMENT NUMBER TWO TO AGREEMENT FOR
CONSTRUCTION, OPERATION AND FINANCING OF GEOTHERMAL
GENERATING PROJECT NUMBER 3 AND THE FOURTEENTH
SUPPLEMENTAL INDENTURE OF TRUST RELATING TO THE
GEOTHERMAL PROJECT NUMBER 3 REVENUE BONDS AND
APPROVING CERTAIN RELATED DOCUMENTS AND ACTIONS**

(Refer to Staff Report 115:11)

WHEREAS, the Northern California Power Agency ("NCPA") is a public entity duly organized and existing pursuant to the Amended and Restated Northern California Power Agency Joint Powers Agreement, dated as of January 1, 2008 (the "JPA") and the provisions of the Joint Exercise of Powers Act constituting Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California; and

WHEREAS, NCPA is authorized pursuant to the provisions of the JPA and the Act (capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Indenture mentioned below) to acquire and construct, or cause to be acquired and constructed, and to operate or cause to be operated, a project within the State of California for the generation or transmission of electric energy (including a capacity right in such a project) and to sell the capacity and energy of such project; to enter into agreements with respect to any matters relating to the acquisition, construction and operation of such project and the sale of capacity and energy of such project; and to finance the acquisition, construction and operation of such project through the issuance of bonds, notes and other evidences of indebtedness under the Act; and to issue bonds to refund such bonds, notes or other evidences of indebtedness; and

WHEREAS, NCPA and the cities of Alameda, Biggs, Gridley ("Gridley"), Healdsburg, Lodi, Lompoc, Palo Alto ("Palo Alto"), Roseville, Santa Clara, and Ukiah and the Plumas-Sierra Rural Electric Cooperative ("Plumas") (collectively, the "Original Project Participants") have entered into the Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3, dated as of July 1, 1983, as amended by the Amendment Number One to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3, dated as of August 1, 1983 (collectively, the "Original Agreement" and as amended and supplemented from time to time, the "Agreement"), each by and among NCPA and the Original Project Participants, to provide for the construction, operation, and financing of the Project, the sale by NCPA of capacity and energy of the Project to the Original Project Participants, and the security for the bonds, notes and other evidences of indebtedness to be issued to finance the Project; and

WHEREAS, pursuant to the Original Agreement, NCPA has financed and constructed, and operates and maintains, and finance a certain geothermal generating project located in Lake and Sonoma Counties constituting the Project for the benefit of the Original Participants, each of

whom is entitled to its Project Entitlement Percentage of Project capacity and energy and is obligated to pay for the costs of said Project in accordance with Section 5 of the Original Agreement; and

WHEREAS, the Original Project Participants and the Turlock Irrigation District ("TID") entered into an Agreement for Transfer of Rights to Capacity and Energy of Geothermal Generating Project Number 3, dated as of October 1, 1984 (the "First Transfer Agreement") by which each Original Project Participant transferred to TID specified and varying East Block Entitlement Percentages of Project capacity and energy in each calendar year to and including 2000, and, from calendar year 2001 until the end of the life of the Project, Gridley permanently transferred 0.118% of its 0.456% of East Block Entitlement Percentage of Project capacity and energy to TID, and Plumas permanently transferred 0.227% of its 0.91% East Block Entitlement Percentage of Project capacity and energy to TID; and

WHEREAS, Palo Alto and TID entered into an agreement dated December 30, 1985 (the "Second Transfer Agreement") and, pursuant to the First Transfer Agreement and the Second Transfer Agreement, Palo Alto permanently transferred all of its 12.316% of East Block Entitlement Percentage of Project capacity and energy to TID; and

WHEREAS, the First Transfer Agreement and the Second Transfer Agreement (collectively referred to as the "Transfer Agreements") resulted in Gridley having rights to a 0.3360% Project Entitlement Percentage of Project capacity and energy, Palo Alto having rights to a zero% Project Entitlement Percentage of Project capacity and energy, Plumas having rights to a 0.7010% Project Entitlement Percentage of Project capacity and energy, and TID having rights to a 6.3305% Project Entitlement Percentage of Project capacity and energy (such 6.3305% Project Entitlement Percentage of Project capacity and energy, together with all additions thereto pursuant to Section 7(d) of the Agreement, being referred to as the "Transferred Project Entitlement Percentage"), and

WHEREAS, Gridley, Palo Alto and Plumas are hereafter collectively referred to as the "Transferors"; and

WHEREAS, the Transferors, while having permanently transferred all of their respective rights to the Transferred Project Entitlement Percentage to TID pursuant to the Transfer Agreements, remain liable to NCPA with respect to all payments under the Agreement related to the Transferred Project Entitlement Percentage to the extent TID does not make such payments; and

WHEREAS, NCPA desires to authorize the execution and delivery of Amendment Number Two to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3 (the "Amendment Number Two") with the Original Project Participants and TID;

WHEREAS, as of the effective date of Amendment Number Two, the only outstanding bonds for purposes of the Original Agreement are NCPA's Geothermal Project 3 Revenue Bonds, 2009 Series A (the "2009 Series A Bonds") issued under the Indenture of Trust, dated as of November 1, 1983, between NCPA and U.S. Bank Trust National Association, as successor

Trustee (the "Trustee") (as amended and supplemented, the "Indenture") and the Indenture is the only existing Bond Resolution for purposes of the Original Agreement; and

WHEREAS, the Indenture provides that NCPA will not consent or agree to any amendment of the Agreement which will reduce the payments required thereunder or which will in any manner materially impair or materially adversely affect the rights of NCPA thereunder or the rights or security of the holders of the bonds issued under the Indenture; provided that nothing in the Indenture shall be construed so as to prohibit any other amendment of the Agreement; and

WHEREAS, the NCPA, the Original Participants and TID desire to amend the Original Agreement to, among other things, reflect the terms of the Transfer Agreements by substituting TID for the Transferors as the Project Participant under the Agreement with respect to the Transferred Project Entitlement Percentage while, in order to avoid the appearance of the impairment of the security of the holder of any 2009 Series A Bond, so long as any 2009 Series A Bond remains outstanding under the Indenture, each of the Transferors shall continue to remain liable for all payment obligations accruing under the Agreement which are related to the Transferred Project Entitlement Percentage such Transferor transferred to TID; and

WHEREAS, in connection with TID's withdrawal from membership in NCPA, the Transferors have expressed to NCPA and NCPA members a very strong interest in being released of their joint and separate contingent liability on account of a default by TID when the 2009 Series A Bonds no longer remain outstanding; and

WHEREAS, in furtherance of this understanding, the Commission acknowledges that in the future an opportunity may be presented to NCPA to refinance the 2009 Series A Bonds or otherwise restructure the 2009 Series A Bonds in a manner consistent with NCPA's policy on cost savings, which would result in the release of the transferors from their joint and separate contingent liability for any default by TID; and

WHEREAS, the Parties also desire to amend the Original Agreement to clarify that environmental attributes associated with the Project capacity and energy are included within the rights held by the Original Project Participants and TID; and

WHEREAS, Amendment Number Two provides, among other things, for the Novation of TID for the Transferors with respect to the Transferred Project Entitlement Percentage on the terms and conditions specified therein, including the Novation going into effect only when no 2009 Series A Bonds remain Outstanding; and

WHEREAS, NCPA desires to authorize the execution and delivery of the Fourteenth Supplemental Indenture (the "Fourteenth Supplemental Indenture") with the Trustee to provide for the Original Amendment being amended to permit the Novation of TID for the Transferors with respect to the Transferred Project Entitlement Percentage; and

WHEREAS, there have been prepared and submitted to this meeting, drafts of the following:

- (1) Amendment Number Two; and
- (2) Fourteenth Supplemental Indenture.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the Northern California Power Agency, as follows:

Section 1. Amendment Number Two, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Chairman of the Commission (the "Chairman"), the General Manager of NCPA (the "General Manager"), the Assistant General Manager, Finance and Administrative Services, and the Treasurer-Controller of NCPA (each an "Authorized Officer"), acting singly, is hereby authorized to execute and deliver Amendment Number Two, in the name of and on behalf of NCPA, in the form presented to this meeting with such changes, insertions and deletions as may be approved by the Authorized Officer executing Amendment Number Two, said execution being conclusive evidence of such approval.

Section 2. The Fourteenth Supplemental Indenture, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Authorized Officers, acting singly, is hereby authorized to execute and deliver the Fourteenth Supplemental Indenture, in the name of and on behalf of NCPA, in the form presented to this meeting with such changes, insertions and deletions as may be approved by the Authorized Officer executing the Fourteenth Supplemental Indenture, said execution being conclusive evidence of such approval.

Section 3. The Commission acknowledges the request of the Transferors to be relieved of their joint and several contingent liability for any default in payment by TID as soon as practicable, and in any event when the 2009 Series A Bonds no longer remain outstanding. In furtherance thereof, the Commission will use reasonable efforts to take action to effectuate the refunding of the 2009 Series A Bonds, so long as that refunding can be achieved in a manner consistent with NCPA's policy on cost savings then in effect.

Section 3. The Chairman and the Vice Chairman of the Commission, the General Manager, each Assistant General Manager, the Treasurer-Controller, the Secretary, each Assistant Secretary, the Authorized NCPA Representatives, and any other proper officer of NCPA, acting singly, be and each of them hereby is authorized to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or convenient in carrying out the transactions contemplated by the documents approved or authorized by this Resolution. The Secretary or an Assistant Secretary of NCPA is hereby authorized to affix and attest the seal of NCPA to any of the documents approved or authorized pursuant to this Resolution.

Section 4. All actions heretofore taken by any committee of the Commission, or any officer, representative or agent of NCPA, in connection with the authorization, execution, delivery or performance of NCPA's obligations under the documents approved or authorized by

this Resolution and the other actions contemplated by this Resolution are hereby ratified, approved and confirmed.

Section 5. This Resolution shall take effect immediately upon its adoption.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2011, by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
TID	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

LARRY HANSEN
CHAIRMAN

ATTEST: DENISE DOW
ASSISTANT SECRETARY

**AMENDMENT NUMBER TWO TO
AGREEMENT FOR CONSTRUCTION, OPERATION AND FINANCING OF
GEOTHERMAL GENERATING PROJECT NUMBER 3**

This Amendment Number Two to Agreement for Construction, Operation, and Financing of Geothermal Generating Project Number 3 ("Amendment Number Two") is made this 1st day of April, 2011 by and among the Northern California Power Agency ("NCPA"), a California joint powers agency; the Cities of Alameda, Biggs, Gridley ("Gridley"), Healdsburg, Lodi, Lompoc, Palo Alto ("Palo Alto"), Roseville, Santa Clara, and Ukiah; the Plumas Sierra Rural Electric Cooperative ("Plumas"), a rural electrical cooperative; and the Turlock Irrigation District ("TID"), a California irrigation district (collectively the "Parties")

WITNESSETH:

WHEREAS,

A. Each of the Parties other than TID is a party to that certain Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3, dated as of July 1, 1983; and

B. Each of the Parties other than TID is a party to that certain Amendment Number One to Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3, dated as of August 1, 1983 ("Amendment Number One"); and

C. The Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3 as amended by Amendment Number One is hereafter referred to as the "Original Agreement" and as amended and supplemented from time to time is hereafter referred to as the "Agreement"; and

D. Pursuant to the Original Agreement, NCPA agreed to construct, operate, and finance a certain geothermal generating project located in Lake and Sonoma Counties constituting the Project for the benefit of those parties other than NCPA executing it (the "Original Project Participants"), each of whom is entitled to its Project Entitlement Percentage of Project capacity and energy and is obligated to pay for the costs of said Project in accordance with Section 5 of the Original Agreement; and

E. The Original Project Participants and TID entered into an Agreement for Transfer of Rights to Capacity and Energy of Geothermal Generating Project Number 3, dated as of October 1, 1984 (the "First Transfer Agreement") by which each Original Project Participant transferred to TID specified and varying East Block Entitlement Percentages of Project capacity and energy in each calendar year, to and including 2000, and, from calendar year 2001 until the end of the life of the Project, Gridley permanently transferred 0.118% of its 0.456% of East Block Entitlement Percentage of Project capacity and energy to TID, and Plumas permanently transferred 0.227% of its 0.91% East Block Entitlement Percentage of Project capacity and energy to TID; and

F. Palo Alto and TID entered into an agreement dated December 30, 1985 (the "Second Transfer Agreement") and pursuant to the First Transfer Agreement and the Second Transfer Agreement, Palo Alto permanently transferred all of its 12.316% East Block Entitlement Percentage of Project capacity and energy to TID; and

G. The First Transfer Agreement and the Second Transfer Agreement are hereafter collectively referred to as the "Transfer Agreements", and resulted in Gridley having rights to a 0.3360% Project Entitlement Percentage of Project capacity and energy, Palo Alto having rights to a zero % Project Entitlement Percentage of Project capacity and energy, Plumas having rights to a 0.7010% Project Entitlement Percentage of Project capacity and energy, and TID having rights to a 6.3305% Project Entitlement Percentage of Project capacity and energy, together with all additions thereto pursuant to section 7(d) of the Agreement, being referred to as the "Transferred Project Entitlement Percentage" ;and

H. Gridley, Palo Alto and Plumas are hereafter collectively referred to as the "Transferors"; and

I. The Transferors, while having permanently transferred all their respective rights to the Transferred Project Entitlement Percentage to TID pursuant to the Transfer Agreements, remain liable to NCPA with respect to all payments under the Agreement related to the Transferred Project Entitlement Percentage to the extent TID does not make such payments; and

J. As of the effective date of this Amendment Number Two, the only outstanding bonds relating to the Project are NCPA's Geothermal Project 3 Revenue Bonds, 2009 Series A (the "2009 Series A Bonds") issued under the Indenture of Trust, dated as of November 1, 1983, between NCPA and U.S. Bank Trust National Association, as successor Trustee (as amended and supplemented, the "Indenture") and the Indenture is the only existing Bond Resolution for purposes of the Original Agreement; and

K. The Indenture provides that NCPA will not consent or agree to any amendment of the Agreement which will reduce the payments required thereunder or which will in any manner materially impair or materially adversely affect the rights of NCPA thereunder or the rights or security of the holders of the bonds issued under the Indenture; provided that nothing in the Indenture shall be construed so as to prohibit any other amendment of the Agreement; and

L. The Parties desire to amend the Original Agreement to, among other things, reflect the terms of the Transfer Agreements by substituting TID for the Transferors as the Project Participant under the Agreement with respect to the Transferred Project Entitlement Percentage while, in order to avoid the appearance of the impairment of the security of the holder of any 2009 Series A Bond, so long as any 2009 Series A Bond remains outstanding under the Indenture, each of the Transferors shall continue to remain liable for all payment obligations accruing under the Agreement which are related to the Transferred Project Entitlement Percentage such Transferor transferred to TID; and

M. The Parties also desire to amend the Original Agreement to clarify that environmental attributes associated with the Project capacity and energy are included within the rights held by the Project Participants, including TID;

NOW, THEREFORE, the Parties hereto agree as follows:

1. Terms used in this Amendment Number Two and not defined herein have the meaning given to them in the Original Agreement.

2. To provide that TID, and not the respective Transferors, is the Project Participant with respect to the Transferred Project Entitlement Percentage, Appendix "A" of the Agreement ("SCHEDULE OF PROJECT PARTICIPANTS AND PROJECT ENTITLEMENT PERCENTAGES") is hereby amended in its entirety to read as provided in Exhibit 1 hereto to include a 12.661% TID East Block Entitlement Percentage and a 6.3305% Project Entitlement Percentage and to correspondingly reduce the East Block Entitlement Percentages and Project Entitlement Percentages of the Transferors.

3. To recognize that the 2009 Series A Bonds were issued when the Transferors were the Project Participants with respect to the Transferred Project Entitlement Percentage, and to increase the security for the 2009 Series A Bonds by adding TID as the Project Participant with respect to the Transferred Project Entitlement Percentage while maintaining the respective payment obligations of the Transferors under the Agreement with respect to the Transferred Project Entitlement Percentage so long as any 2009 Series A Bonds remain outstanding under the Indenture, Section 5(f) of the Original Agreement is hereby supplemented by adding at the end thereof the following:

"Notwithstanding anything in this Section 5(9) or elsewhere in this Agreement to the contrary, in the event the Turlock Irrigation District ("TID") should fail to timely pay any amount payable by it under the Agreement, which payment obligation accrued while any of NCPA's Geothermal Project 3 Revenue Bond, 2009 Series A ("the 2009 Series A Bonds") remained outstanding under the Indenture of Trust, dated as of November 1, 1983, between NCPA and U.S. Bank Trust National Association, as successor Trustee, as amended and supplemented (the "Indenture"), the City of Gridley ("Gridley"), the City of Palo Alto ("Palo Alto") and the Plumas Sierra Rural Electric Cooperative ("Plumas" and together with Gridley and Palo Alto the "Transferors") shall remain contingently and secondarily obligated for each such payment in the following proportions, such that the security of the holders of the 2009 Series A Bonds with respect to the Agreement is not adversely affected by the addition of TID as a Project Participant and the reduction of the Project Entitlement Percentages of the Transferors with respect to the Transferred Project Entitlement Percentage:

<u>Transferor</u>	<u>Share of Amounts Not Paid by TID</u>
Gridley	0.932%
Palo Alto	97.275%
Plumas	1.793%

In the event TID fails to make a payment when due under the Agreement, which payment obligation became due while any of the 2009 Series A Bonds remain outstanding under the Indenture, NCPA shall, not more than ten (10) days after the due date for such payment, send the written demand contemplated by Section 7(a) of the Agreement to TID and to the Transferors by electronic means or overnight delivery service or by such other means as shall provide for delivery the next business day. Such demand shall specify the amount due but not received by NCPA. If TID has not made the missed payment by the twenty-fifth (25th) day following NCPA's sending the demand for payment, each Transferor shall, not later than the thirtieth (30th) day from the date of such demand, pay its respective share of the amount specified in the NCPA notice of nonpayment from the sources specified in the Agreement for other payments thereunder by the Project Participants. The Transferors' contingent and secondary obligation for payments which TID fails to make when due under the Agreement shall cease, and the Transferors shall be relieved of all obligations to make payments pursuant to this Section 5(f), on the first date when no 2009 Series A Bonds remain outstanding under the Indenture; provided, however, that nothing in this sentence shall relieve any Transferor of its obligation to pay amounts which became due from TID under the Agreement prior to such first date.

In addition to any other remedy available under the Agreement, each Transferor may directly recover from TID any payments made pursuant to this section as well as any costs or damages incurred by it as a consequence of the failure of TID to make any payment under the Agreement, including the recovery of any attorneys fees."

4. The Original Agreement is hereby supplemented by adding a new Section 17 thereto to read as follows:

"17. **Attributes Associated with Project.** A Project Entitlement Percentage of Project capacity and energy includes not only the rights to electric capacity and energy, but also the rights to a proportionate share of any associated attributes of the Project that either exist or may exist in the future. This includes attributes such as environmental credits, renewable energy credits, resource adequacy credits or other attributes associated with the production of electricity from a renewable energy resource, along with ancillary services. In all cases the right to a proportionate share of any associated attributes of the Project is subject to the terms of this Agreement including the provisions hereof relating to the loss by a Project Participant of the rights to Project capacity and energy including the associated attributes

Upon the request of a Project Participant, evidence of the ownership of such associated attributes will be provided by NCPA to the requesting Project Participant (and may thereafter be sold by the Project Participant to third persons subject to the terms of Section 18 of this Agreement and without being subject to a right of first refusal by other Project Participants), in proportion to its respective Project Entitlement Percentages of Project capacity and energy but subject to the provisions of Section 18 of

this Agreement and such commercially reasonable conditions as may be imposed or adopted by the NCPA Commission from time to time.

5. The Original Agreement is hereby supplemented by adding a new Section 18 thereto to read as follows:

"18. Federal Tax Matters. Each Project Participant recognizes that Bonds issued with respect to the Project may bear interest that is excluded from gross income for federal income tax purposes or may be issued under circumstances that entitle NCPA or Bondholders to subsidy payments from the United States or federal tax credits with respect to such Bonds (such exclusion from gross income or entitlement to a subsidy or tax credit being referred to herein as a "Tax Benefit") and subject to the provisions of federal tax law that limit, among other things, the arrangements permitted with respect to the sale, assignment, delegation, or other disposition of Project Entitlement Percentages of Project capacity and/or energy, or environmental and other associated attributes of the Project. Each Project Participant shall comply with the covenants relating to Tax Benefits contained in the Bond Resolutions, including the limitations on private use permitted under such covenants as if the Project Participant had made such covenant with respect to its Project Entitlement Percentage of Project capacity and energy. No sale, assignment, delegation or other disposition of all or any portion of a Project Participant's rights or obligation under this Agreement, including Project Entitlement Percentages of Project capacity and/or energy, or environmental and other Project attributes, that have been financed in whole or part with Bonds which have a Tax Benefit shall be effective until: (i) such Project Participant shall have given prior written notice thereof to NCPA; and (ii) NCPA's bond counsel shall have rendered an opinion to the effect that (A) such sale, assignment, delegation or other disposition will not adversely affect the Tax Benefits associated with such Bonds; and (B) such sale, assignment, delegation or other disposition is within any private use restriction or other limitation with respect to the Tax Benefits associated with such Bonds applying such restrictions and other limitations solely to the Project Participant's Project Entitlement Percentage of Project capacity and energy and not to the Project as a whole. Notwithstanding the immediately preceding sentence, each Project Participant may, without obtaining such bond counsel opinion, sell, assign, delegate or make such other disposition to which it is entitled hereunder in a transaction which complies with tax-related guidelines established by the NCPA Commission from time to time which guidelines have been approved by NCPA's bond counsel."

6. The Original Agreement is hereby supplemented by adding a new Section 19 thereto to read as follows:

"19. "In-lieu" JPA Cost Assessment for Non-Members. Project Participants may not necessarily be members of NCPA. NCPA members pay a joint powers agreement cost assessment for NCPA administrative costs, pursuant to the joint powers agreement by which NCPA is formed, and non-NCPA member Project Participants hereby likewise agree to pay for a portion of those costs, but only as applied to the non-

NCPA member Project Participant's Project Entitlement Percentage of energy produced on behalf of the Project Participant. In addition to other payments required by this Agreement, non-NCPA member Project Participants shall pay the annual "in-lieu" JPA Cost Assessment, invoiced by NCPA in twelve (12) equal billings, which **will** be separately identified for each non-NCPA member Project Participant. If a non-NCPA member Project Participant later becomes an NCPA member, such Project Participant shall no longer be required to pay the in-lieu JPA Cost Assessment. If an NCPA member Project Participant later withdraws from NCPA, and is no longer an NCPA member, such Project Participant **will** thereafter be subject to the in-lieu JPA Cost Assessment as described in this section.

The In-lieu JPA Cost Assessment shall be:

In-lieu JPA Cost Assessment = (JPA Cost Assessment Rate) x (MWh of Project energy produced on behalf of the Project Participant in the prior calendar year as metered at the point of delivery)

The "JPA Cost Assessment Rate" shall be the amount per MWh charged to NCPA members in any given year by the NCPA Commission as a JPA assessment pursuant to Article IV section 3(a) of the Amended and Restated Northern California Power Agency Joint Powers Agreement, and shall in no event exceed 15 cents per megawatt hour."

7. The proviso contained in Section 7(d) of the Agreement is hereby amended to read as follows:

"provided, however, that the sum of such increases for any nondefaulting Project Participant shall not exceed, without the written consent of such nondefaulting Project Participant, an accumulated maximum of 25% of the nondefaulting Project Participant's Project Entitlement Percentage set forth in Appendix A as in effect on April 1, 2011."

8. Section 11(e) of the Original Agreement is hereby amended in its entirety to read as follows:

"Any Project Participant may veto a discretionary action of the Project Participants relating to the Project that was not taken by a 65% or greater Project Entitlement Percentage vote within 10 days following mailing of notice of such Project Participants' action by giving written notice of the veto to NCPA and the other Project Participants unless at a meeting of the NCPA Commission called for the purpose of considering the veto and held within 30 days after such veto notice, the holders of 65% or greater of Project Entitlement Percentages shall vote to override the veto."

9. Subsection (a), (b) and (c) of Section 12 of the Original Agreement are hereby deleted. Subsection (d) of Section 12 of the Original Agreement is hereby amended by deleting the subsection designation (d) and amending the language of former subsection (d) in its entirety to read as follows:

"The term of this Agreement commenced on December 14, 1983. The Term of this Agreement shall continue until the later of: (i) the expiration of the useful life of the Project, or (ii) the date on which all Bonds issued have been retired, or full provision made for their retirement, including interest until their retirement date. In the event of the termination of the existence of NCPA prior to the termination of this Agreement, it is the intent of the Project Participants that this Agreement continue as an agreement among the Project Participants with the Project Participants performing the duties and obligations of NCPA as a group."

10. Section 14 of the Original Agreement is hereby amended in its entirety to read as follows:

"This Agreement is a service schedule and a third phase agreement attached to and incorporated into the Facilities Agreement by and among the Project Participants and NCPA. "

11. By execution of this Amendment Number Two, TID shall be deemed to have executed the Agreement and be considered a Project Participant for all purposes of the Agreement.

12. Except as provided in this Amendment Number Two, the Original Agreement shall remain in full force and effect.

13. This Amendment Number Two may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF, each Project Participant has executed this Amendment Number Two with the approval of its governing body and NCPA has executed this Amendment Number Two in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA POWER AGENCY

By: _____

Approved as to form:

CITY OF ALAMEDA

By: _____

Approved as to form:

CITY OF BIGGS

By: _____

Approved as to form:

CITY OF GRIDLEY

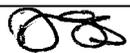
By: _____

Approved as to form:

CITY OF LODI

By: _____

Approved as to form:


CITY OF PALO ALTO

By: _____

Approved as to form:

CITY OF SANTA CLARA

By: _____

Approved as to form:

PLUMAS-SIERRA RURAL
ELECTRIC COOPERATIVE

By: _____

Approved as to form:

CITY OF HEALDSBURG

By: _____

Approved as to form:

CITY OF LOMPOC

By: _____

Approved as to form:

CITY OF ROSEVILLE

By: _____

Approved as to form:

CITY OF UKLAH

By: _____

Approved as to form:

TURLOCK IRRIGATION DISTRICT

By: _____

Approved as to form:

Exhibit 1

APPENDIX A
In effect April 1,2011

SCHEDULE OF PROJECT PARTICIPANTS AND PROJECT ENTITLEMENT PERCENTAGES

PROJECT PARTICIPANT	PROJECT NO. 2 ENTITLEMENT PERCENTAGE	EAST BLOCK ENTITLEMENT PERCENTAGE	PROJECT ENTITLEMENT PERCENTAGE
City of Alameda	14.994%	18.771%	16.8825%
City of Biggs	0.000%	0.454%	0.227%
City of Gridley*	0.334%	0.338%	0.336%
City of Healdsburg	3.252%	4.096%	3.674%
City of Lodi	14.560%	6.000%	10.28%
City of Lompoc	3.266%	4.096%	3.681%
City of Palo Alto*	0.000%	0.000%	0.000%
City of Roseville	3.252%	12.514%	7.883%
City of Santa Clara	54.651%	34.13%	44.3905%
City of Ukiah	4.972%	6.257%	5.6145%
Plumas Sierra Rural Electric Cooperative*	0.719%	0.683%	0.701%
Turlock Irrigation District"	0.000%	12.661%	6.3305%
TOTALS	100.000%	100.000%	100.000%

* Pursuant to Section 5(f) of the Agreement, the City of Gridley, the City of Palo Alto and the Plumas Sierra Rural Electric Cooperative remain contingently and secondarily responsible for all payment obligations of Turlock Irrigation District while the 2009 Series A Bonds remain outstanding.

1590958.2

**AMENDED AND RESTATED
GEOHERMAL PROJECT OPERATING AGREEMENT
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
THE GEOHERMAL PROJECT PARTICIPANTS**

DATED AS OF April 1, 2011

TABLE OF CONTENTS

RECITALS	4
AGREEMENT	6
Definitions	6
1.1 Agreement	6
■.2 Cost-Effective	6
1.3 Efficiency	7
1.4 Facilities Agreement	7
1.5 Facilities Committee	7
1.6 Legal Notice.....	7
1.7 Modified Operational Plan.....	7
1.8 NCPA Management Services Costs	7
1.9 Operating Entity	7
1.10 Operational Plan	8
1.11 Power Plant	8
1.12 Project.....	8
1.13 Project Costs	8
1.14 Project Entitlement Percentage	8
■.15 Project No. 2 Member Agreement	8
1.16 Project No. 3 Third Phase Agreement	9
1.17 Project Participants.....	9
1.18 Prudent Utility Practice.....	9
1.19 Steamfield.....	9
1.20 Substantial Deviation	9
Project as Single Shared Resource	10
Term; Amendment; Termination of Prior Agreement	10
Continuing Monitoring	10
Plan Adoption	10
Planning.....	10
Steamfield and Power Plant Operations	11
Project Costs	11

Surplus Capacity and Energy Sales.....	12
Project Annual Budget	12
Project Participant Direction and Review	13
Scheduling	15
Reduced Steam Availability	16
Reduced Transmission Capacity	16
Power Plant Repair, Retirement, Replacement and Enhancement	16
Power Plant Production Reduction, Suspension or Retirement	16
Notices.....	17
Facilities Agreement	18
Project Agreements—Precedence, Interpretation and Severability	18
Agreements Terminated by this Agreement.....	19
Counterparts.....	Error! Bookmark not defined.

**AMENDED AND RESTATED
GEOTHERMAL PROJECT OPERATING AGREEMENT
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
THE GEOTHERMAL PROJECT PARTICIPANTS**

This Agreement dated as of April 1, 2011 (“Effective Date”), by and among the Northern California Power Agency (NCPA), a joint powers agency and public entity of the State of California, and certain of its Members, the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and Ukiah, the Turlock Irrigation District (TID), and the Plumas-Sierra Rural Electric Cooperative (each of the foregoing being referred to individually as a “Party” and all of the foregoing being referred to as the “Parties”), is made with reference to these

RECITALS:

- A. The Project No. 2 Member Agreement provided for the construction, operation, and financing of NCPA Geothermal Generating Project No. 2, consisting of two nameplate-rated 55-megawatt geothermal electric generating units (“Project No. 2”).
- B. The Project No. 3 Third Phase Agreement provided for: (i) the construction, operation, and financing of NCPA Geothermal Generating Project No. 3, consisting of two nameplate-rated 55-megawatt geothermal electric generating units on the East Block (“Project No. 3”); (ii) refinancing of Project No. 2; (iii) sharing of resources, facilities and costs between and among Project No. 2 and Project No. 3; and (iv) defining the term “Project” to include both Project No. 2 and Project No. 3.
- C. Pursuant to section 4 of the Project No. 3 Third Phase Agreement, NCPA agreed to provide to each Project Participant, and each Project Participant agreed to take, or cause to be taken, such participant’s Project Entitlement Percentage of the capacity and energy of the Project.
- D. Section 16 of the Project No. 3 Third Phase Agreement provides that NCPA may, in accordance with the provisions on Project Participant direction and review in section 11, enter into agreements for the transfer or sharing of resources, facilities, and costs between and among the Project No. 3 and other entities and projects (including without limitation Project No. 2), which agreements may provide, among other things, for the transfer or sharing of steam, transmission facilities, generating equipment, spare parts, staff,

insurance, taxes and other payments, and for the integrated operation of the Project No. 3 and Project No. 2 by NCPA.

E. Section 16(c) of the Project No. 3 Third Phase Agreement constitutes approval by the participants in Project No. 2 of, among other things, equal sharing between Project No. 2 and the East Block portion of the Project of steam from the Project No. 2 area and the East Block area.

F. Section 16(d) of the Project No. 3 Third Phase Agreement provides in part that, subject to the specific terms of contemplated agreements for transfer or sharing of resources, facilities and costs in subsections (a) and (b) of section 16, Project No. 2 and the East Block portion of Project No. 3 shall be conducted for the mutual benefit of all participants therein.

G. On July 28, 1983, NCPA on behalf of the Project Participants in Project No. 2 and Project No. 3, declared in a Memorandum of Understanding Re: NCPA Geothermal Projects, approved by the Project Participants for Project No. 2 and Project No. 3 ("1983 Memorandum of Understanding"), voting separately and in accordance with the procedures required of them, that the Project Participants would negotiate a further agreement as authorized by the Project No. 3 Third Phase Agreement, which would include concepts with reference to the operation of the two projects.

H. In the Agreement for Transfer of Rights to Capacity and Energy of Geothermal Generating Project Number 3, dated as of October 1, 1984, ("the First Transfer Agreement"), as supplemented by the "Agreement Between the Turlock Irrigation District and the City of Palo Alto", dated December 30, 1985 ("the Second Transfer Agreement"), TID acquired a permanent transferred East Block Entitlement Percentage of 12.661%, consisting of 12.316% from Palo Alto; 0.118% from Gridley; and 0.227% from Plumas-Sierra Rural Electric Cooperative.

I. On August 30, 1985 NCPA purchased the two federal geothermal resources leases which are the source of steam supply for all four units of the Project.

J. Project Participants in Project No. 3 have acquired the interest of Project Participants in Project No. 2 in the drill-rig funded by the Development Fund pursuant to the Memorandum of Understanding Re: NCPA Geothermal Projects dated July 28, 1983.

K. The NCPA Facilities Agreement, dated September 22, 1993, was entered into by the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, and the Plumas-Sierra Rural Electric Cooperative. TID approved the Facilities Agreement on August 29, 1995.

L. In accordance with the Project No. 3 Third Phase Agreement and the 1983 Memorandum of Understanding, NCPA and the Project Participants consider the Project as a single shared resource, because of the finite nature of the steam reservoir, and have previously entered into a Geothermal Operating Agreement dated as of October 29, 1990 to provide the means to manage Steamfield usage, to optimize that usage, and make appropriate reflections thereof in cost accounting and budgeting, to modify or clarify some of the understandings among them, including certain understandings in the Memorandum of Understanding Re: NCPA Geothermal Projects, in order to achieve those objectives, and to supersede the Memorandum of Understanding.

M. The Parties by this Agreement now intend to amend, restate and supersede the prior Geothermal Project Operating Agreement.

NOW THEREFORE, in consideration of the premises described in the recitals, and of the promises, covenants, terms and conditions in this Agreement, NCPA and the Project Participants do hereby enter into this

AGREEMENT:

1. *Definitions.* Unless the context requires otherwise, the definitions contained in the Project No. 3 Third Phase Agreement shall be used in this Agreement and the additional capitalized terms in this Agreement shall have the following meanings:

1.1. "Agreement" means this Amended and Restated Geothermal Project Operating Agreement by and among NCPA and the Project Participants.

1.2. "Bid" means an offer for the Supply or Demand of Energy or Ancillary Services, including Self- Schedules, submitted by Scheduling Coordinators for specific resources, conveyed through several components that apply differently to the different types of service offered to or demanded from any of the CAISO markets. All capitalized terms in this section 1.2 have the meaning as defined in Appendix A – Master Definition Supplement of the CAISO Tariff, and are implemented in accordance with Article 30 – Bid and Self Schedule Submission for All CAISO Markets, as the referenced sections of CAISO Tariff may be amended from time to time.

1.3. "CAISO" means the California Independent System Operator, a non-profit public benefit corporation established by AB1890 which acts as a balancing authority for the California electrical grid and wholesale electric markets, or a successor agency or entity.

1.4. "Cost-Effective" means that the benefits to the Project outweigh the costs taking into account the uncertainty of projected costs and benefits and the

time value of money

1.5. "Efficiency" means the ratio of the net electric energy produced by a generator to the energy of the steam supplied to that generator from the steamfield.

1.6. "Facilities Agreement" means the agreement between NCPA and certain of its Members and non-NCPA members, including the Project Participants, dated as of September 22, 1993 and providing for the manner in which NCPA operates projects on behalf of project participants, as such agreement exists or may hereafter be amended.

1.7. "Facilities Committee" means the committee of project participants in the various NCPA projects, including the Project, established by Article 4 of the Facilities Agreement.

1.8. "Fiscal Year" means a one year period ending on June 30 of each year.

1.9. "Legal Notice" means sufficient notice under the California open meeting laws.

1.10. "Modified Operational Plan" means an Operational Plan amended by the NCPA Commission upon the advice of the Facilities Committee from time to time.

1.11. "NCPA Administrative Services Costs" means that portion of Project Cost reflected in the NCPA Annual Budget including 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, power management costs, scheduling and load dispatch costs, energy risk management and settlements costs that are charged directly or apportioned to the development, financing, construction, improvement, maintenance, operation or decommissioning of the Project. The cost of NCPA legislative and regulatory efforts, unless directly related to the Project, shall not be considered to be NCPA Administrative Services Costs.

1.12. "Operating Entity" means an operating entity as defined in Facilities Schedule FA 3.02 of the Facilities Agreement.

1.13. "Operational Plan" means the five or more-year plan for the operation of the Steamfield and Power Plants adopted pursuant to this Agreement. An Operational Plan shall set objectives and parameters for operation of the Steamfield and the Power Plants. The Operational Plan (i) shall establish the maximum, and otherwise describe the, annual and monthly capacity and energy output of the Power Plant and the associated Project Participants' annual capacity and energy entitlement, based on Project Entitlement Percentages and (ii) shall include operating guidelines for Power Plant operations and scheduling, Steamfield operations and development, minimum operating levels, Project maintenance schedules, Project enhancement schedules, and related cost information. The Operational Plan shall provide for avoiding, correcting, and addressing Substantial Deviations. The general goals of an Operational Plan shall be the Cost-Effective optimization of Steamfield and Power Plant usage.

1.14. "Power Plant" means one or more of the electric generating units at the Project originally nameplate-rated at 55 megawatts each.

1.15. "Project" means Project No. 2 and Project No. 3, including, but not limited to, the Steamfield and the Power Plants, and all improvements, including reclaimed water facilities, pipelines, appurtenances and pumping equipment installed to arrest steamfield degradation, photovoltaic systems, and other existing and future additions, betterments, equipment, materials, and appurtenances necessary or convenient for the generation, transformation, and transmission of electric power (including utilization of the NCPA Tap Lines and the Castle Rock-Lakeville 230kV Transmission lines) from Project No. 2 and Project No. 3 controlled or funded by NCPA.

1.16. "Project Costs" means all the costs described in Section 5a of the Project No. 3 Third Phase Agreement and Section 8 of this Agreement.

1.17. "Project Entitlement Percentage" means, with respect to each Project Participant, the percentage so identified and set forth opposite the name of such Project Participant in Appendix A to the Project No. 3 Third Phase Agreement, as amended, as such percentage shall be revised from time to time in accordance with sections 7(d) and 13 thereof. "East Block Entitlement Percentage" and "Project No. 2 Entitlement Percentage" mean, with respect to each Project Participant the percentages so identified and set forth opposite the name of such Project Participant in the same Appendix A, as such percentages shall be revised from time to time in accordance with sections 7(d) and 13 thereof.

1.18. "Project No. 2 Member Agreement" means the "Amended and Restated Agreement for Construction, Operation and Financing of NCPA Geothermal Generating Unit # 2 Project," dated as of January 1, 1980, as supplemented by the "Shell Member Supplement 1" dated as of May 1, 1980 and the "Shell Member Supplement 2" dated as of July 1, 1980, by and among

NCPA and certain of its Members, to wit: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Roseville, Santa Clara, and Ukiah, and the Plumas-Sierra Rural Electric Cooperative, which provided for the construction, operation, and financing of Project No. 2.

1.19. "Project No. 3 Third Phase Agreement" means the Agreement for Construction, Operation and Financing of Geothermal Generating Project Number 3, dated as of July 1, 1983, as amended and supplemented, by and among NCPA and certain of its Members, to wit: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and Ukiah, and the Plumas-Sierra Rural Electric Cooperative, which provided for the construction, operation, and financing of Project No. 3.

1.20. "Project Participants" means all of the signatories to this Agreement, excluding NCPA, each of whom is also a signatory to the Project No. 3 Third Phase Agreement.

1.21. "Prudent Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with Northern American Electric Reliability Corporation ("NERC") and Western Electric Coordinating Council ("WECC") approved business practices, reliability, safety and expedition. 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 acceptable practices, methods, or acts generally accepted in the WECC region.

1.22. "Self-Schedule" means the Bid component that indicates the quantities in megawatt hours ("MWhs") with no specification of a price that the Scheduling Coordinator is submitting to the CAISO, which indicates that the Scheduling Coordinator is a Price Taker, Regulatory Must Run Generation or Regulatory Must Take Generation, which includes existing transmission contracts ("ETC") and transmission ownership rights ("TOR") Self-Schedules and Self-Schedules for Converted Rights. All Capitalized terms in this section 1.21 have the meaning as defined in Appendix A – Master Definition Supplement of the CAISO Tariff as that Tariff may be amended from time to time.

1.23. "Steamfield" means the geothermal steam resource available to the Project from federal Geothermal Resources Leases CA 949 and CA 950 held by NCPA, and other arrangements which may make a geothermal steam resource available to the Project.

1.24. "Substantial Deviation" means a variation from a major objective *or* parameter in an Operational Plan or Modified Operational Plan of plus or minus

five (5%) percent or more, unless otherwise provided in a plan.

2. *Project as Single Shared Resource.* The Project shall be considered as a single shared resource to be operated in accordance with the Project No. 3 Third Phase Agreement and this Agreement. This Agreement implements Article 16 of the Project No. 3 Third Phase Agreement and supersedes and replaces the 1983 Memorandum of Understanding and the 1990 Geothermal Project Operating Agreement.

3. *Term; Amendment; Termination of Prior Agreement*

a. This Agreement shall remain in force and effect from the Effective Date until this Agreement is superseded by another agreement among the same parties for the operation of the Project as a facility or until the Project Participants terminate or cancel this Agreement with the same formality as its execution, as provided in this section 3.

b. Any action to amend, supersede, terminate or cancel this Agreement shall require the written consent and approval of all Project Participants.

c. The 1983 Memorandum of Understanding and the 1990 Geothermal Project Operating Agreement are hereby terminated and superseded by this Agreement.

4. *Periodic Reporting.* NCPA shall report to the Project Participants each month in a form or forms approved by the Facilities Committee, on the operational status of the Steamfield and the Power Plants and attainment of the Operational Plan and any Modified Operational Plan, such report or reports at a minimum shall contain a monthly and Fiscal Year-to-date summary of activities, expenditures compared to the Annual Budget, and monthly and Fiscal Year-to-date summary of plant availability, energy production, capacity levels, minimum and maximum operating levels compared to forecast.

5. *Operational Plan Adoption.* In cooperation with the Project Participants, NCPA staff shall each year prepare a draft Operational Plans for the Project for review by the Facilities Committee and adoption by the NCPA Commission. Adoption of the annual Operation Plan by the NCPA Commission shall occur not later than September 30th of each year, unless otherwise agreed by the Facilities Committee. NCPA shall conduct Steamfield and Power Plant operations in accordance with the adopted Operational Plan (or any adopted Modified Operational Plan). Provided, however, that NCPA shall have the authority to make or adjust to a Substantial Deviation as may be required by Prudent Utility Practice.

6. *Modified Operational Plan.* In cooperation with the Project Participants, NCPA staff shall prepare Modified Operational Plans as may be required and

shall present such Modified Operational Plan to the Facilities Committee. If the Facilities Committee determines to recommend changes in the Operational Plan, the Facilities Committee shall present a draft Modified Operational Plan to the NCPA Commission as soon as practical which may adopt such Modified Operational Plan.

7. *Steamfield and Power Plant Operations.* Pursuant to section 11 of the Project No. 3 Third Phase Agreement, entitled Member Direction and Review, the Project Participants do hereby direct NCPA to operate the Steamfield and Power Plants in accordance with Operational Plans and Modified Operational Plans adopted by the NCPA Commission, and as a single shared resource between Project No. 2 and Project No. 3. The Project Participants may schedule energy in compliance with such plans. The Project Participants may reduce, but not increase, the amount of their scheduled monthly energy subject to limitations specified in the Operation Plan. For example, for CY 2011, the limitation is 15 Megawatts total, allocated among all Project Participants in any scheduling hour. If NCPA encounters a Substantial Deviation or determines there is a need to make a Substantial Deviation from an Operational Plan or Modified Operational Plan, NCPA staff shall take such action as may be required by Prudent Utility Practice and promptly notify the Facilities Committee and the Project Participants in writing. NCPA staff shall give such prompt notification of any Substantial Deviation which NCPA: (i) determines needs to be taken or made at least seven (7) days in advance, unless emergency conditions and Prudent Utility Practice require action beforehand; or (ii) encounters, within seven (7) days of the Substantial Deviation. Special meetings of the Facilities Committee may be called to consider the Substantial Deviation and such changes of the Operational Plan and the Modified Operational Plan as may be appropriate under the circumstances.

8. *Project Costs.*

a. NCPA shall account for Project Costs under the Federal Energy Regulatory Commission Uniform System of Accounts for Public Utilities Subject to the Federal Power Act. Project Cost elements classified as fixed costs shall be assigned to capacity and variable costs shall be assigned to energy. Fixed and variable costs shall be determined in accordance with the schedules attached to the Facilities Agreement. The variable price for steam and such other costs which vary with energy output shall be allocated to the Project Participants at the same price per unit of energy output without regard to which Power Plant is the source of the energy. Project Participants shall pay for capacity and energy from the Project and Project Costs associated with the Project in accordance with this Agreement and the Project No. 3 Third Phase Agreement.

b. The Parties acknowledge that section 5(a) of the Project No. 3 Third Phase Agreement provides, in part, that:

“NCPA shall fix charges to the Project Participants to produce revenues to NCPA from the Project to meet the costs described in (i) and (ii) above based on East Block Entitlement Percentages applied to such costs allocable to the East Block portion of the Project and Project No. 2 Entitlement Percentages applied to such costs allocable to the Project No. 2 portion of the Project; and to meet the costs described in (iii) above , based on the anticipated energy sales of the East Block portion of the Project and, on the anticipated energy sales of the Project No. 2 portion of the Project, respectively,”

and the Parties further acknowledge that such provision is not consistent with the treatment of Project No. 2 and Project No. 3 as a single resource as provided in this Agreement. Solely among themselves and NCPA, the Project Participants waive as the price for steam and the costs of Steamfield operation, maintenance, and development that sentence of section 5(a) of the Project No. 3 Third Phase Agreement as recited above,

c. The annual budget shall reflect monthly estimates of fixed and variable costs of the Project. Monthly billings by NCPA to the Project Participants shall compare the actual fixed and variable costs with the annual budget estimates.

9. Surplus Capacity and Energy Sales.

a. Section 9 of the Project No. 3 Third Phase Agreement, which relates to sales of surplus capacity and energy by NCPA upon the request of a Project Participant, does not apply to any transfers under Section 8 of the Project No. 3 Third Phase Agreement. The term “rights” under Section 8 shall be deemed to include attributes as defined in Section 17 of the Project No. 3 Third Phase Agreement.

b. When, pursuant to a Project Participant’s request, NCPA sells surplus energy or capacity on the day ahead of the delivery date or during the active day for delivery, prices for capacity, energy, and ancillary services (all as defined in the CAISO tariff) shall be established at the Geothermal Project generator location in accordance with the Bid and Self-Schedule provisions contained in the CAISO tariff for the market into which the capacity, energy and ancillary services were sold. When NCPA sells surplus energy or capacity for Project Participants on any other forward basis, the price will be as specified by the Project Participant selling the surplus with such pricing communicated to NCPA in advance of the transaction scheduling date and the Project Participant shall assume responsibility for any additional CAISO costs, including those identified in Section 12(b).

10. Project Annual Budget.

a. The Project No. 3 Third Phase Agreement requires, in section 6, that prior to the beginning of each Fiscal Year, the NCPA Commission will adopt an annual budget for the Fiscal Year covering all costs and expenses relating to the Project.

The Project annual budget may be part of a multi-year budget. NCPA shall use the same cost allocation formula or method for allocating each category of NCPA Administrative Costs to the Project and other NCPA projects and programs. Such cost allocation formulas and methodologies shall be based upon cost causation principles and provide for fair and equitable allocation of such costs to the Project and avoid placing an unfair burden of such costs on the Project.

The existing cost allocation methodology for allocating power management costs, including risk management, settlements, and dispatching and scheduling costs to the Project resulting from the NCPA Power Management Cost Allocation Study (known as "the Nexant Study") shall continue in effect until changed by vote of the NCPA Commission. Any change to that methodology shall be based on cost causation principles and shall not discriminate against any Project Participant.

If a non-NCPA member Project Participant pays an In-lieu JPA Cost Assessment (pursuant to section 19 of the Project No. 3 Third Phase Agreement), then payment of such assessment shall be deemed to cover all costs incurred by NCPA which are not included within the Project annual budget or NCPA Administrative Services Costs or which in any way relates to the non-NCPA member's activities or characteristics not related to its participation in the Project (including, but not limited to, the amount of the non-NCPA member's native electric loads or demands or revenues or any other similar characteristic). No other non-Project Costs shall be assessed to a non-NCPA member without its written consent. Nothing herein is intended in any way to limit or restrict the uses to which the proceeds from the In-lieu JPA Cost Assessment may be applied by NCPA.

b. The annual budget, as it relates to the Project and any amendment affecting Project Costs, shall not go into effect until it has been reviewed by the Facilities Committee and received the approval of the NCPA Commission.

11. *Project Participant Direction and Review.*

a. Project Participant Direction and Review in General.

i. All directions to NCPA with respect to the Project, and all meetings of NCPA in connection therewith, shall be as provided in accordance with section 11 of the Project No. 3 Third Phase Agreement and this Agreement.

ii. NCPA shall comply with all lawful directions of the Project Participants with respect to the Project, including relating to this Agreement, to the fullest extent authorized by law. Actions, authorizations and approvals of Project Participants, including giving directions to NCPA, shall be taken only at meetings of authorized representatives of Project Participants sitting as the NCPA Commission or the Facilities Committee duly called and held pursuant to applicable law.

b. Participation at NCPA Commission Meetings.

i. A non-NCPA Member Project Participant may not vote or participate directly as if it had an NCPA Commission representative in meetings of the NCPA Commission, other than as a member of the public or as otherwise permitted by this section.

ii. Notwithstanding the provisions of subsection (c) of Section 11 of the Project No. 3 Third Phase Agreement, Article 8(b) of the Amended and Restated Northern California Power Agency Joint Powers Agreement, or sub-subsection b (i) of this section, at any meeting of the NCPA Commission upon the demand of any Project Participant, including a non-NCPA Member Project Participant, the vote on any issue relating to the Project shall be by Project Entitlement Percentage. In any case where such a demand is made, sixty-five (65%) percent or greater affirmative vote shall be required to take action.

iii. Nothing herein is intended to prevent or prohibit TID from directing the vote of the NCPA Commission representatives for the City of Palo Alto, the City of Gridley, and the Plumas-Sierra Rural Electric Cooperative to vote TID's Permanent Transferred East Block Entitlement Percentages in Project No. 3 acquired from those agencies in the manner directed by TID pursuant to section 21(b).

iv. Any Project Participant, including a non-NCPA member Project Participant, may veto a discretionary action of the Project Participants relating to the Project that was not taken by a sixty-five (65%) percent or greater Project Entitlement Percentage vote within 10 days following mailing of notice of such action, by giving written notice of veto to NCPA and other Project Participants, unless at a meeting of the NCPA Commissioners called for the purpose of considering the veto and held within 30 days after such veto notice, the holders of 65% or greater of the Project Entitlement Percentage shall vote to override the veto. The sixty-five (65%) percent of the Project Entitlement Percentage specified in this subsection shall be reduced by the amount that the Project

Entitlement Percentage of any Project Participant shall exceed thirty-five (35%) but such sixty-five (65%) shall not be reduced below a majority in interest.

c. Representation of Project Participants on Facilities Committee. Each Project Participant, whether or not an NCPA member, shall be entitled to designate one member of the Facilities Committee, who shall have voting rights only with respect to matters relating to the Project to provide it representation with respect to the Project. The Facilities Committee shall advise NCPA on matters relating to the Project in accordance with the terms of the Facilities Agreement, and shall have such other authority as may be delegated to it by the NCPA Commission or the Project Participants.

The Parties agree to cooperate in the amendment of the facilities Agreement to the extent necessary to effectuate this subsection.

d. Rights of Non-NCPA Member Project Participants.

i. Meetings in General. Except for meetings of the NCPA Commission covered in Subsection (b) and of the Facilities Committee covered in Subsection (c), attendance and participation at all other NCPA meetings by any Project Participant that is not a NCPA member is limited to those meetings which are subject to the Ralph M. Brown Act.

ii. NCPA shall ensure that all Project Participants, including Project Participants that are not NCPA members, timely receive copies of notices, agendas, staff reports (relating to the Project), and minutes of any meeting of any committee, subcommittee, or working group which is subject to the Ralph M. Brown Act and at which the Project is an agenda item. In addition, all Project Participants, including Project Participants that are not NCPA members, have the right to inspect and to obtain copies of documents that are public records pursuant to the California Public Records Act.

12. Scheduling

a. Each Operating Entity may direct NCPA to Bid, including Self-Schedule, its Project Entitlement Percentage of the Project in any manner and for delivery to any scheduling point on the CAISO controlled grid, provided that such Bid, including Self-Schedule, shall be consistent with licensing and regulatory criteria, including obligations of NCPA under interconnection agreements, the CAISO tariff and the NCPA Second Amended and Restated Metered Subsystem Aggregator Agreement ("MSSA Agreement"), as each of those documents may be amended from time to time.

b. The Operating Entity directing NCPA to Bid, including Self-Schedule, its Project Entitlement Percentage of the Project to any scheduling point on the CAISO controlled grid, is financially responsible for all costs incurred by NCPA in complying with such direction, including but not limited to the costs of losses, congestion, scheduling fees and any other charges allocated to NCPA by the CAISO related to NCPA's obligation to Bid and deliver the Operating Entity's Project Entitlement Percentage of the Project between the generator scheduling point (i.e. point of interconnection) and the point of delivery requested by the Operating Entity.

c. All Scheduling direction to NCPA by an Operating Entity shall utilize NCPA's web services and be performed in accordance with the procedures contained in the NCPA Power Schedule Guide, as may be amended from time to time. Provided, however, that until appropriate software (as reasonably determined by NCPA's Assistant General Manager for Power Management) is available to TID, TID may Bid or Self-Schedule by providing written notice or direction to NCPA via fax or electronic means.

13. *Reduced Steam Availability.* In the event of an extended period of reduced steam availability, the available steam from the Steamfield shall be allocated to maximize the Efficiency of the Project, and operated pursuant to the Operational Plan, or Modified Operational Plan, to best meet all Project Participant requirements from the Project and to achieve the most Cost-Effective use of the Project, within the objectives and parameters of such plans, so that available capacity and energy are allocated to the Project Participants in accordance with their Project Entitlement Percentages.

14. *Reduced Transmission Capacity.* In the event of an extended period of reduced transmission capacity, the Power Plants shall be operated pursuant to the Operational Plan, or Modified Operational Plan, to best meet all Project Participant requirements from the Project and to achieve the most Cost-Effective use of the Project, within the objectives and parameters of such plans, so that available capacity and energy are allocated to the Project Participants in accordance with their Project Entitlement Percentages.

15. *Power Plant Repair, Retirement, Replacement and Enhancement.* NCPA shall allocate the costs of repair, retirement, replacement, or enhancement of the Project to the Project Participants in accordance with their Project Entitlement Percentages without regard to which part of the Project or Power Plant is affected by the need for repair, retirement, replacement, or enhancement.

16. *Power Plant Production Reduction, Suspension or Retirement.* An Operational Plan or a Modified Operational Plan may include objectives and parameters for the reduction of production of any Power Plant, and the suspension of production, or retirement of any Power Plant from service in the Project. In the event of a long-term reduction or production, suspension, or

retirement of any Power Plant in the Project, (i) the selection of the Power Plant for reduction, suspension, or retirement shall be made on the basis of which remaining Power Plant or Power Plants will result in the most Cost-Effective operation of the Project, and (ii) the Project Participants shall remain responsible for any debt service remaining on Bonds issued to support the acquisition, construction, completion, or refinancing of the Power Plants in accordance with their Project No. 2 Entitlement Percentages and East Block Entitlement Percentages, except as provided in section 14 of this Agreement. All other debt service responsibility and costs, and the capacity and energy from the remaining Power Plants shall be allocated to the Project Participants in accordance with their Project Entitlement Percentages.

17. *Notices.* Notices shall be in writing and shall be delivered by hand effective upon receipt or by over-night or express mail effective upon receipt or by facsimile effective the first business day after receipt, addressed as follows:

NORTHERN CALIFORNIA POWER AGENCY

Attn: General Manager
651 Commerce Drive
Roseville, CA 95678

FAX (916) 783-7603

TURLOCK IRRIGATION DISTRICT

Attn: General Manager
333 E. Canal Drive
Turlock, CA 95381

FAX (209) 656-2143

CITY OF ALAMEDA

Attn: Utility Director
2000 Grand Street
Alameda, CA 94501

FAX (510) 748-3956

CITY OF GRIDLEY

Attn.: Utility Director
685 Kentucky St.
Gridley, CA 95948

FAX (530) 846-3229

CITY OF LODI

CITY OF BIGGS

Attn.: City Administrator
465 "C" Street
Biggs, CA 95917

FAX (530) 868-5239

CITY OF HEALDSBURG

Attn.: City Administrator
401 Grove St.
Healdsburg, CA 95448

FAX (707) 431-2710

CITY OF LOMPOC

Attn.: Utility Director
1331 South Ham Lane
Lodi, CA 95242

FAX (209) 333-6839

CITY OF PALO ALTO
Attn: Director of Utilities
250 Hamilton Avenue
Palo Alto, CA 94301

FAX (650) 321-0651

CITY OF SANTA CLARA
Attn: Utility Director
1500 Warburton Avenue
Santa Clara, CA 95050

FAX (408) 249-0217

PLUMAS SIERRA RURAL ELECTRIC COOPERATIVE

Attn: General Manager
73233 Highway 70
Portola, CA 9612218.

FAX (530) 832-6070

Attn.: Utilities Director
P.O. Box 8001
100 Civic Center Plaza
Lompoc, CA 93438

FAX (805) 875-8399

CITY OF ROSEVILLE
Attn: Electric Utility Director
2090 Hilltop Circle
Roseville, CA 95747

FAX (916) 784-3797

CITY OF UKIAH
Attn.: Utility Director
300 Seminary Avenue
Ukiah, CA 95482

FAX (707) 463-6740

Any Party to this Agreement may amend either its address for notice or facsimile number at any time by providing written notice to the other Parties.

18. *Facilities Agreement.* This Agreement is a Facilities Schedule pursuant to section 1.5 of the Facilities Agreement; provided, notwithstanding Section 21.2 of the Facilities Agreement, that this Facilities Schedule may not be amended except in accordance with Section 3b of this Agreement.

19. *Project Agreements —Precedence, Interpretation and Severability.* This Agreement is a further statement and modification of the agreements by and among NCPA and the Project Participants in Project No. 2 Agreement, Project No. 3 Third Phase Agreement, and the Facilities Agreement, which is intended to be harmonized with those agreements so as to eliminate conflict. This Agreement shall not be deemed to modify or change any obligation of NCPA or the Project Participants arising out of the Project No. 2 Agreement or the Project No. 3 Third Phase Agreement to the holders of bonds, including but not limited to the 2009 Series A Bonds relating to the Project. Nothing in this Agreement shall in any way alter or diminish the obligations of the Project Participants pursuant to

section 5(b) of the Project No. 3 Third Phase Agreement. In the event of a conflict between those agreements and this Agreement which does not adversely affect the rights of a holder of bonds, including the 2009 Series A Bonds, this Agreement shall take precedence. In the event of a conflict between this Agreement and the Facilities Agreement, this Agreement shall take precedence. Any provision of this Agreement found invalid by a court of competent jurisdiction shall be severed from this Agreement if the remaining provisions will effectuate the intent of the parties.

20. *Agreements Terminated by this Agreement* The following agreements relating to the Project are hereby terminated:

- a. The Turlock Transfer Agreement (the "First Transfer Agreement").
- b. The letter agreement dated August 6, 1985 signed by TID and NCPA with respect TID's rights under the Turlock Transfer Agreement.
- c. The "Agreement Between the Turlock Irrigation District and the City of Palo Alto" dated December 30, 1985 (the "Second Transfer Agreement").
- d. The "Layoff Equalization Agreement By and Between City of Biggs, City of Gridley, City of Healdsburg, City of Lodi, Plumas-Sierra Rural Electric Cooperative, City of Roseville, City of Palo Alto, and Turlock Irrigation District In Support of the 1998 Hydroelectric and Geothermal Revenue Refunding Bonds of the Northern California Power Agency," ("the Layoff Equalization Agreement") with respect to the sharing of benefits from the refinancing of the Project and the NCPA hydroelectric project, provides that it terminates upon termination of the Turlock Transfer Agreement (referred to in the Layoff Equalization Agreement as the "Layoff Agreement"). The Turlock Transfer Agreement is terminated by this Agreement, and hence the Layoff Equalization Agreement is also terminated.

21. *Rights and Obligations under the First and Second Transfer Agreements.*

a. Notwithstanding the termination of the First and Second Transfer Agreements pursuant to Section 20 of this Agreement, the Parties agree that the City of Gridley, City of Palo Alto, and the Plumas-Sierra Rural Electric Cooperative permanently transferred all of their rights, title, interests, and benefits in the Permanent Transferred East Block Entitlement Percentage to TID and that TID assumed all of the obligations, duties, and burdens associated with the Permanent Transferred East Block Entitlement Percentage transferred to TID, including but not limited to, financing, construction, operation, maintenance, replacement, additions and betterments, and decommissioning costs associated with the Permanent Transferred East Block Entitlement Percentage.

b. Under Section 11 of the First Transfer Agreement, the City of Gridley, City of Palo Alto, and the Plumas-Sierra Rural Electric Cooperative agreed "that

the [TID] may vote at meetings of the Project Participants pursuant to Section 11 of the Third Phase Agreement as if it had the East Block Entitlement Percentage equal to the Transferred East Block Entitlement Percentages, and the voting rights of the Transferring Participants shall be reduced accordingly.”

Notwithstanding the termination of the First and Second Transfer Agreements pursuant to Section 20 of this Agreement, the City of Gridley, City of Palo Alto, and the Plumas-Sierra Rural Electric Cooperative agree to vote at any NCPA Commission meeting TID’s Permanent Transferred East Block Entitlement Percentages in Project No. 3 acquired from those agencies under the First and Second Transfer Agreement in the manner directed by TID.

c. The Parties agree that nothing in this Section 21 is intended to apply to the East Block Entitlement Percentages permanently retained by the City of Gridley and the Plumas-Sierra Rural Electric Cooperative, and that nothing in this Section 21 is intended to apply to the Transferred East Block Entitlement Percentages not permanently transferred to TID.

22. *Counterparts.* This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

WHEREFORE, NCPA, upon authorization by its Commission sitting as a whole, at a duly and regularly called meeting, and the Project Participants, after all due authorization by their governing bodies, have executed this Agreement, as evidenced by the signatures of their authorized representatives below.

SIGNATURE PAGES FOLLOW
Remainder of this Page is Blank

FIRST SIGNATURE PAGE
AMENDED AND RESTATED GEOTHERMAL OPERATING AGREEMENT

**NORTHERN CALIFORNIA POWER
AGENCY**

By: _____

Its: General Manager

Date: _____

Approved as to form:

General Counsel

**TURLOCK IRRIGATION
DISTRICT**

By: _____

Its: General Manager

Date: _____

Approved as to form:

General Counsel

CITY OF BIGGS

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF GRIDLEY

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF HEALDSBURG

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF LODI

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney 

SECOND SIGNATURE PAGE
AMENDED AND RESTATED GEOTHERMAL OPERATING AGREEMENT

CITY OF LOMPOC

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF PALO ALTO

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF ROSEVILLE

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF UKIAH

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

**PLUMAS SIERRA
RURAL ELECTRIC COOPERATIVE**

By: _____
Its: General Manager

Date: _____

Approved as to form:

General Counsel

CITY OF SANTA CLARA

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

**AMENDMENT NO. 1
TO
NORTHERN CALIFORNIA POWER AGENCY
FACILITIES AGREEMENT**

This Amendment no. 1 is made as of April 1, 2011 by and between the Northern California Power Agency, a joint powers agency ("NCPA"), certain of its member agencies, and the Turlock Irrigation District, a California Irrigation District ("TID"), with reference to the following:

A. NCPA and certain of its members, consisting of the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara and Ukiah; [the Port of Oakland]; TID; and associate NCPA member Plumas Sierra Rural Electric Cooperative have entered into a Facilities Agreement dated as of September 22, 1993.

B. The Facilities Agreement provides for the means by which NCPA provides services to the NCPA generating projects, allocates costs to and among such projects, and by which the project participants can provide direction to NCPA with respect to the governance and operation of such projects.

C. At the time of its approval, the signatories to the Facilities Agreement did not contemplate that a participant in an NCPA generating project could be a non-NCPA member. Hence, the Facilities Agreement provides in section 1.17 that a "participant" in the Facilities Agreement is a member of NCPA which is signatory to the Facilities Agreement, and in Article 4 that the Facilities Committee by which project participants in NCPA projects provide direction to NCPA is composed of participants.

D. TID has given notice to NCPA of its withdrawal from NCPA effective April 1, 2011, but will remain a project participant in the Geothermal Project no. 3. In an Amended and Restated Geothermal Operating Agreement dated as of April 1, 2011, the participants in that project, including TID, and NCPA have agreed to amend the Facilities Agreement as necessary to provide TID the ability to remain a signatory to the Facilities Agreement and to have an on-going participation on the Facilities Committee.

NOW, THEREFORE, the Parties agree as follows:

1. Section 4.9 is hereby added to Article 4 ("Facilities Committee") of the Facilities Agreement to read as follows:

"4.9 Notwithstanding any other provision of this Agreement to the contrary, Turlock Irrigation District shall be entitled to designate one member of the Facilities Committee for so long as Turlock Irrigation District shall remain a project participant in Geothermal Project No. 3, which member shall have voting rights only with respect to those matters directly relating to said project."

2. Amendments to the Facilities Agreement which do not impair the rights of TID as provided in section 1 shall not require the consent of TID, provided that TID shall be given written notice of any amendment to the Facilities Agreement.

3. In all other respects the Facilities Agreement shall remain in full force and effect.

WHEREFORE, NCPA upon authorization of its Commission, and the Facilities Agreement participants, after all due authorization by their respective governing bodies, have executed this First Amendment as evidenced by the signatures of their authorized representatives below.

**NORTHERN CALIFORNIA POWER
AGENCY**

By: _____

Its: General Manager

Date: _____

Approved as to form:

General Counsel

**TURLOCK IRRIGATION
DISTRICT**

By: _____

Its: General Manager

Date: _____

Approved as to form:

General Counsel

CITY OF BIGGS

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF GRIDLEY

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF HEALDSBURG

By: _____

Its: City Manager

CITY OF LODI

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF LOMPOC

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF ROSEVILLE

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

PLUMAS SIERRA RURAL ELECTRIC COOPERATIVE

By: _____
Its: General Manager

Date: _____

Approved as to form:

General Counsel

Date: _____

Approved as to form:

City Attorney

CITY OF PALO ALTO

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF UKIAH

By: _____
Its: City Manager

Date: _____

Approved as to form:

City Attorney

CITY OF SANTA CLARA

By: _____

Its: City Manager

Date: _____

Approved as to form:

City Attorney

1586612.3

1586612.2

MEMBERSHIP WITHDRAWAL AND EXIT AGREEMENT BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
TURLOCK IRRIGATION DISTRICT

This Membership Withdrawal and Exit Agreement ("this Agreement") is entered into as of April 1, 2011 ("Effective Date"), by and between the Northern California Power Agency ("NCPA"), a California joint powers authority, and the Turlock Irrigation District ("TID"), a California irrigation district, (collectively, the "Parties" or individually, "Party"), and

W I T N E S S E T H:

A. NCPA was created by a joint powers agreement first made on July 19, 1968, and which was most recently amended and restated on January 1, 2008 ("the Joint Powers Agreement"); and

B. On September 27, 1984, the NCPA Commission approved Supplement No. 1 to the Joint Powers Agreement, revised as of April 1, 1973, admitting the TID as a member of NCPA, which Supplement became effective on March 24, 1987, the date of TID's execution of it; and

C. The Joint Powers Agreement provides in Article IV section 2(a) that any member may terminate its membership upon two (2) years prior written notice to all other members. TID has provided such two (2) year notice which notice is effective on April 1, 2011 and TID shall no longer be a member of NCPA from and after that date; and

D. This Agreement sets forth and resolves all outstanding issues between the Parties; and

E. The Project Participants in the Geothermal Generating Project Number 3 and TID have entered into an Agreement for Transfer of Rights to Capacity and Energy of Geothermal Generating Project No. 3, dated as of October 1, 1984 (the "First Transfer Agreement") by which the Project Participants transferred to TID specified and varying Entitlement Percentages of Project capacity and energy in each calendar year, and, from calendar year 2001 until the end of the life of the Geothermal Generating Project Number 3, Gridley, Palo Alto, and Plumas each permanently transferred certain Entitlement Percentages of Project capacity and energy to TID. In addition, Palo Alto and TID entered into an agreement dated December 3, 1985 ("the Second Transfer Agreement") by which Palo Alto permanently transferred the remainder of its East Block Entitlement Percentage to TID. The First Transfer Agreement and the Second Transfer Agreement are collectively referred to as the "Transfer Agreements."

F. TID and NCPA have entered into a letter agreement dated August 6, 1985 ("the Letter Agreement") by which NCPA's obligations to TID relative to Geothermal Generating Project No. 3 in light of the First Transfer Agreement were specified; and

G. The on-going rights and obligations of TID as a participant in NCPA Geothermal Generating Project No. 3, subsequent to TID's withdrawal as a member of NCPA, are separately resolved and agreed to in Amendment Number Two to Agreement for Construction, and Financing of Geothermal Generating Project Number 3 and in an Amended and Restated Geothermal Project Operating Agreement (collectively, the "Geothermal Project Agreements"), and Amendment No. 1 to Northern California Power Agency Facilities Agreement, each of which is entered into concurrently with this Agreement; and

H. The Parties intend to provide each other mutual releases for all claims and matters that have been resolved to date or are unknown.

NOW, THEREFORE, the Parties agree as follows:

1. Effective Date. This Agreement shall take effect on April 1, 2011.

2. Termination of Membership. On and after April 1, 2011, TID shall no longer be a member of NCPA or a party to the Joint Powers Agreement, and shall be deemed to have withdrawn from NCPA.

3. Claims Arising Prior to TID's Termination of Membership.

a. The following known claims between NCPA and TID have arisen prior to TID's termination of membership.

(1) The amount owed by TID to NCPA pursuant to Article IV section 2 (b) of the Joint Powers Agreement for TID's *pro-rata* share of all debts, liabilities and obligations of NCPA as of the date of termination. These debts represent TID's share of obligations of NCPA for non-Geothermal Project No. 3 employees, including both pension and retiree medical benefits.

(2) The amounts invoiced by NCPA to TID in its "All Resources Bills" for costs allegedly attributable to TID through March 31, 2011, which invoices TID has paid under protest beginning in July 2010.

(3) NCPA's claim that TID is required to pay the full amount of the 2010-2011 annual cash contribution pursuant to Article IV section 3 of the Joint Powers Agreement even though TID has only been a member of NCPA for nine of the twelve months during that period.

(4) NCPA's claim that it has inadvertently failed to bill TID for certain transmission costs relating to Geothermal Project No. 3, and that TID must pay all such costs to NCPA upon presentation of the bill to TID.

(5) TID's claim for damages relating to the sale of renewable energy credits from Geothermal Project No. 3 as set forth in the August 20, 2010 letter from James Farrar of TID to James Pope of NCPA.

b. The Parties acknowledge that \$219,819.00 is the current amount owing from TID to NCPA with respect to the claim listed in section 3(a)(1). This amount has been included in the calculation of the "net" amount to be paid by TID pursuant to section 3(d). The amount owed for the claim listed in section 3(a)(1) is not final, and shall be twice subject to "true-up" as provided in this subsection and in accordance with the methodology in Exhibit "A", and may therefore be either increased or decreased, as a consequence of anticipated actuarial reports requested by NCPA (at its cost). The Parties agree that amount shall be subject to true-up such that TID shall be responsible for 11.347% of the 4.181% legislative and regulatory share share of all actuarially determined cost increases or decreases in NCPAS unfunded actuarial accrued liability attributable to non-NCPA Project employees, including legislative and regulatory staff for pension and retiree medical benefits. As of June 30, 2011 the unfunded liabilities were calculated to be \$46,335,308 (\$41,374,505 retirement, \$4,960,803 medical) as of June 30, 2009.

(1) The amount shall be subject to true up in approximately August, 2011 when the medical retiree report for the fiscal year ending June 30, 2011 is provided to NCPA.

(2) The amount shall be further subject to true up in approximately October, 2012 when the CalPERS retiree pension report for the fiscal year ending June 30, 2011 is provided to NCPA.

NCPA shall provide notice to TID within ten (10) days following receipt of each actuarial report as to any additional amounts due, as well as the calculations by NCPA supporting the TID share. TID shall be entitled to review the report and NCPA's calculations. The Parties agree to mutually resolve any significant inaccuracies in the report or in NCPA's calculations. TID shall pay any increase, or NCPA shall refund any decrease, in TID's share within 30 days after each such notice.

(c) Amounts paid by TID that are Project Costs during FY2011, as defined in the Amended and Restated Geothermal Project Operating Agreement between NCPA and the Geothermal Project Participants, will be subject to the annual true-up and settlement process by the NCPA Commission in accordance with NCPA's standard procedures, at the same time and on an equal basis with remaining NCPA members. Such true-up is estimated to occur in February,

2012, and may result in a payment by NCPA to TID or by TID to NCPA in addition to the net settlement amount stated in section 3(d). Non Project Costs, including Legislative and Regulatory Program Costs and Natural Gas Information Program Costs are settled as part of the net settlement amount described in section 3d and will not be trued up.

NCPA shall provide notice and copies of all related staff reports to TID not less than ten (10) days prior to the NCPA Commission meeting at which the true-up and settlement is to occur. Following NCPA Commission action, NCPA shall provide notice to TID of any increase or decrease in its power management costs which have been determined. TID shall pay any increase, or NCPA shall refund any decrease, in TID's share of power management costs within 30 days after such notice.

(d) Subject to the true-up provisions of sections 3(b) 3(c) in full settlement of all claims by NCPA against TID, and in full settlement of all claims by TID against NCPA, NCPA acknowledges payment of \$213,000 by TID which the Parties agree is the net of the known claims by one against the other.

4. Mutual General Release.

The Parties hereby mutually waive and release each other from any and all claims, debts, or obligations arising out of TID's membership in NCPA, the Transfer Agreements, the Letter Agreement or the other agreements terminated by the Amended and Restated Geothermal Project Operating Agreement, whether such claims are known or unknown to them.

The Parties acknowledge that California Civil Code section 1542 provides as follows:

"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 execution of 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 Civil Code section 1542.

5. Notice. Any notice required by this Agreement shall be in writing and shall be either delivered to or mailed by U.S. Mail, first class postage prepaid, addressed as follows:

NORTHERN CALIFORNIA POWER AGENCY
Attn: James H. Pope, General Manager
651 Commerce Drive
Roseville, CA 95678

And

Attn: Michael F. Dean, NCPA General Counsel
Meyers Nave
555 Capitol Mall, suite 1200
Sacramento, CA 95814

TURLOCK IRRIGATION DISTRICT

Attn: General Manager
333 E. Canal Drive
Turlock, CA 95381

And

Attn: Roger Masuda, TID General Counsel
Griffith & Masuda, A Professional Law Corporation
517 East Olive Street
Turlock, CA 95380

6. Dispute Resolution. Notwithstanding the dispute resolution provisions which may exist in the Joint Powers Agreement or in any other agreement between the Parties to the contrary, the Parties agree that any dispute arising out of or in connection with the provisions of this Agreement shall be resolved as provided in this section. All such disputes shall be submitted to arbitration in accordance with J.A.M.S./Endispute ("JAMS"), unless otherwise agreed by the Parties.

The Parties further agree:

a. Either Party may submit a matter to binding arbitration by JAMS within sixty (60) days of the dispute arising. In all cases submitted to JAMS for arbitration, the Parties agree: to a single arbitrator (who shall be experienced in both the electric industry and public agency law); to advance their respective administrative fees; and to advance in equal shares the arbitrator's fee.

b. The Parties incorporate the provisions of California Code of Civil Procedure section 1283.05 into their agreement to arbitrate their disputes, without the limitations as to depositions set forth in subdivision (e) of section 1283.05.

c. Notwithstanding any rules or procedures of JAMS to the contrary, the arbitrator shall be bound to render a decision in accordance with applicable state and federal laws and shall issue written findings of

fact and conclusions of law (the "written opinion"). In any petition to confirm, correct or vacate the arbitration award, the arbitrator's written opinion shall be subject to judicial review for the purpose of ensuring that it conforms to applicable state and federal laws. Except for this limited right of judicial review and other statutory grounds for correcting or vacating the arbitrator's award, the Parties agree that the decision of the arbitrator shall be binding upon them. All costs associated with arbitration, including the arbitrator's fees, shall be recovered by the prevailing party who shall be designated by the arbitrator for this purpose. Each party shall bear its own attorney's fees and expert witness fees.

d. This Agreement shall be construed in accordance with California law. The venue for any mediation or arbitration under this Agreement shall be Stockton, California, unless otherwise agreed by the Parties.

7. Prior Agreements.

a. The following agreements between the Parties are hereby terminated:

i.. The "Energy Exchange Agreement" dated September 6, 1988.

ii.. The "Member Services Agreement" dated September 25, 1990.

iii.. The "Agreement for Sale of Capacity and Energy of Combustion Turbine Project Number Two-Unit Two" dated August 1, 1992.

b. The Parties acknowledge that the Facilities Agreement, dated September 22, 1993, provides that signatories to it are members of NCPA. The Parties agree to cooperate in good faith to amend the Facilities Agreement as may be necessary to permit TID to continue to participate in the Facilities Committee established by the Facilities Agreement as contemplated by the Amended and Restated Geothermal Operating Agreement entered into concurrently with this Agreement.

c. The Parties acknowledge that the Facilities Agreement, as amended pursuant to subsection b hereof to permit TID's participation in the Facilities Committee, the Amended and Restated Geothermal Operating Agreement, and the Agreement for Construction, Operation and Financing of Geothermal Project Number 3, as amended by Amendment Number Two, entered into concurrently with this Agreement, shall remain in full force and effect.

8. Interpretation. Each Party to this Agreement has been represented by its counsel in the negotiation of this Agreement. In the event of any uncertainty, this

Agreement shall not be construed in favor or against any individual Party by reason of California Civil Code section **1654**.

IN WITNESS WHEREOF, the parties have caused this agreement to be approved and executed.

**NORTHERN CALIFORNIA POWER
AGENCY**

By: _____

Its: General Manager

Date: _____

Approved as to form:

General Counsel

**TURLOCK IRRIGATION
DISTRICT**

By: _____

Its: Assistant General Manager

Date: _____

Approved as to form:

General Counsel

Exhibit A
Methodology for Determining True Up in Section 3b

The methodology for determining the TID share of any increased or decreased liability pursuant to Section 3(b) shall be:

Medical Retiree Adjustment

(2011 unfunded medical liability determined by medical retiree actuarial reports- \$4,960,803) x (0.04181 Legislative & Regulatory Share of unfunded liability) x (0.11347 TID Share) = True up of TID Share of NCPAs Unfunded Actuarial Accrued Liability for retiree medical

CalPERS Pension Adjustment

(2011 unfunded retirement liability determined by pension actuarial reports- \$41,374,505) x (0.04181 Legislative & Regulatory Share of unfunded liability) x (0.11347 TID Share) = True up for TID Share of NCPAs Unfunded Actuarial Accrued Liability for CalPERS Pension

1572100.10

FOURTEENTH SUPPLEMENTAL
INDENTURE OF TRUST

between

NORTHERN CALIFORNIA POWER AGENCY

and

U.S. BANK NATIONAL ASSOCIATION, as TRUSTEE

relating to
Geothermal Project Number 3 Revenue Bonds

Dated as of April 1, 20 11

TABLE OF CONTENTS

	Page
ARTICLE I AUTHORITY AND DEFINITIONS	2
101. Supplemental Indenture of Trust	2
102. Authority for the Fourteenth Supplemental Indenture of Trust	2
103. Definitions.....	2
104. Rules of Construction	3
ARTICLE II AMENDMENTS TO ORIGINAL INDENTURE.....	4
201. Amendments to Section 712	4
ARTICLE III MISCELLANEOUS	4
301. Effectiveness	4
302. Bondholder Consent.....	4
303. Indenture of Trust to Remain in Effect	5
304. Counterparts	5

FOURTEENTH SUPPLEMENTAL INDENTURE OF TRUST

THIS FOURTEENTH SUPPLEMENTAL INDENTURE OF TRUST, made and entered into as of April 1, 2011, by and between Northern California Power Agency, a joint exercise of powers agency established pursuant to the laws of the State of California (“NCPA”), and U.S. Bank National Association, a national banking association, incorporated under the laws of the United States of America and authorized to accept and execute trusts of the character herein set out, as successor trustee (the “Trustee”);

WITNESSETH:

WHEREAS, NCPA has heretofore entered into an Indenture of Trust, dated as of November 1, 1983 (the “Original Indenture of Trust”), as supplemented and amended by the First Supplemental Indenture of Trust, dated as of November 1, 1983 (the “First Supplemental Indenture of Trust”), the Second Supplemental Indenture of Trust, dated as of October 1, 1984 (the “Second Supplemental Indenture of Trust”), the Third Supplemental Indenture of Trust, dated as of October 1, 1985 (the “Third Supplemental Indenture of Trust”), the Fourth Supplemental Indenture of Trust, dated as of November 1, 1986 (the “Fourth Supplemental Indenture of Trust”), the Fifth Supplemental Indenture of Trust, dated as of January 30, 1987 (the “Fifth Supplemental Indenture of Trust”), the Sixth Supplemental Indenture of Trust, dated as of May 1, 1993 (the “Sixth Supplemental Indenture of Trust”), the Seventh Supplemental Indenture of Trust, dated as of September 1, 1994 (the “Seventh Supplemental Indenture of Trust”), the Eighth Supplemental Indenture of Trust, dated as of April 1, 1996 (the “Eighth Supplemental Indenture of Trust”), the Ninth Supplemental Indenture of Trust, dated as of April 1, 1996 (the “Ninth Supplemental Indenture of Trust”), the Tenth Supplemental Indenture of Trust, dated as of April 1, 1996 (the “Tenth Supplemental Indenture of Trust”), the Eleventh Supplemental Indenture of Trust, dated as of August 1, 1998 (the “Eleventh Supplemental Indenture of Trust”), the Twelfth Supplemental Indenture of Trust, dated as of August 1, 1998 (the “Twelfth Supplemental Indenture of Trust”), and the Thirteenth Supplemental Indenture of Trust, dated as of March 1, 2009 (the “Thirteenth Supplemental Indenture of Trust”), each by and between NCPA and the Trustee (such Original Indenture of Trust, as amended and supplemented the “Indenture of Trust”), to provide for the securing of Bonds (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 103 hereof); and

WHEREAS, the only Bonds which remain Outstanding under the Indenture of Trust are the \$35,610,000 aggregate principal amount of Geothermal Project Number 3 Revenue Bonds, 2009 Series A; and

WHEREAS, NCPA and the Parties have entered into Amendment Number Two to the Project Number 3 Member Agreement; and

WHEREAS, Amendment Number Two provides, among other things, for the Novation of TID for the Transferors with respect to the Transferred Project Entitlement Percentage on the terms and conditions specified therein, including the Novation going into effect only when no 2009 Series A Bonds remain Outstanding; and

WHEREAS, NCPA desires to amend Section 712 of the Original Indenture of Trust to provide for the Project Number 3 Member Agreement being amended to permit the Novation of TID for the Transferors with respect to the Transferred Project Entitlement Percentage; and

WHEREAS, Section 1001(7)) of the Original Indenture of Trust provides that at any time and from time to time, NCPA and the Trustee may enter into a Supplemental Indenture of Trust which, upon the filing with the Trustee of a copy thereof certified by an Authorized NCPA Representative, shall be fully effective in accordance with its terms, to modify any of the provisions of the Indenture of Trust in any respect whatever provided that such modification shall be, and shall expressed to be, effective only after all Bonds of each Series Outstanding at the date of execution and delivery of such Supplemental Indenture of Trust shall cease to be Outstanding; and

WHEREAS, this Fourteenth Supplemental Indenture of Trust provides that the amendments to Section 712 of the Original Indenture to permit the amendments of the Project Number 3 Member Agreement with respect to the Novation shall go into effect when no 2009 Series A Bonds remain Outstanding; and

WHEREAS, all acts and things have been done and performed which are necessary to make this Fourteenth Supplemental Indenture of Trust a valid and binding agreement;

**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS
FOURTEENTH SUPPLEMENTAL INDENTURE OF TRUST WITNESSETH:**

That, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created and originally created by the Original Indenture of Trust, the mutual covenants herein contained and the purchase and acceptance of the Bonds by the Holders thereof, and for other valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, Redemption Price, if any, and interest on the Bonds according to their tenor and effect, and the performance and observance by NCPA of all the covenants and conditions contained in the Indenture of Trust and the Bonds on its part to be performed, it is agreed by and between NCPA and the Trustee as follows:

ARTICLE I

AUTHORITY AND DEFINITIONS

101. Supplemental Indenture of Trust. This Fourteenth Supplemental Indenture of Trust is supplemental to the Original Indenture of Trust as heretofore amended and supplemented.

102. Authority for the Fourteenth Supplemental Indenture of Trust. This Fourteenth Supplemental Indenture of Trust is entered into in accordance with Article X of the Original Indenture of Trust.

103. Definitions.

(a) Except as provided by this Fourteenth Supplemental Indenture of Trust, all terms which are defined in Section 101 of the Original Indenture of Trust, Section 103 of the First Supplemental Indenture of Trust, Section 103 of the Second Supplemental Indenture of Trust, Section 103 of the Third Supplemental Indenture of Trust, Section 103 of the Fourth Supplemental Indenture of Trust, Section 103 of the Fifth Supplemental Indenture of Trust, Section 103 of the Sixth Supplemental Indenture of Trust, Section 103 of the Seventh Supplemental Indenture of Trust, Section 103 of the Eighth Supplemental Indenture of Trust,

Section 103 of the Ninth Supplemental Indenture of Trust, Section 103 of the Tenth Supplemental Indenture of Trust, Section 103 of the Eleventh Supplemental Indenture of Trust, Section 103 of the Twelfth Supplemental Indenture of Trust, or Section 103 of the Thirteenth Supplemental Indenture of Trust, shall have the same meanings, respectively, in this Fourteenth Supplemental Indenture of Trust as such terms are given in said Section 101 of the Original Indenture of Trust, Section 103 of the First Supplemental Indenture of Trust, Section 103 of the Second Supplemental Indenture of Trust, Section 103 of the Third Supplemental Indenture of Trust, Section 103 of the Fourth Supplemental Indenture of Trust, Section 103 of the Fifth Supplemental Indenture of Trust, Section 103 of the Sixth Supplemental Indenture of Trust, Section 103 of the Seventh Supplemental Indenture of Trust, Section 103 of the Eighth Supplemental Indenture of Trust, Section 103 of the Ninth Supplemental Indenture of Trust, Section 103 of the Tenth Supplemental Indenture of Trust, Section 103 of the Eleventh Supplemental Indenture of Trust, Section 103 of the Twelfth Supplemental Indenture of Trust, or Section 103 of the Thirteenth Supplemental Indenture of Trust, respectively.

(b) **Amendment Number Two Definitions.** Except as provided by this Fourteenth Supplemental Indenture of Trust, all terms which are defined in Amendment Number Two (as defined in subsection (c) of this Section 103) shall have the same meanings, respectively, in this Fourteenth Supplemental Indenture of Trust as such terms are given in Amendment Number Two.

(c) **Additional Definitions.** The following terms shall, for all purposes of the Indenture of Trust, have the following meanings set forth below:

Amendment Number Two means Amendment Number Two to Agreement for Construction, Operation, and Financing of Geothermal Generating Project Number 3, dated April 1, 2011, by and among NCPA, the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Roseville, Santa Clara, and Ukiah, the Plumas Sierra Rural Electric Cooperative, and the Turlock Irrigation District in the form attached hereto as Exhibit A.

Effective Time means the initial time when no 2009 Series A Bond of any maturity remains Outstanding.

Fourteenth Supplemental Indenture of Trust means this Fourteenth Supplemental Indenture of Trust, amending and supplementing the Original Indenture of Trust as heretofore amended and supplemented.

Novation means: the release and discharge of the obligation of each of the Transferors to make payments with respect to the Transferred Project Entitlement Percentage pursuant to Section 5(f) of the Project Number 3 Member Agreement (as amended by Amendment Number Two) to the extent the obligation to make such payments accrues after the Effective Time.

104. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. Defined terms shall include any variant of the terms set forth in this Article I.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Fourteenth Supplemental Indenture of Trust, refer to this Fourteenth Supplemental Indenture of Trust as a whole and not to any particular Article or Section hereof.

ARTICLE II

AMENDMENTS TO ORIGINAL INDENTURE

201. Amendments to Section 712. Subsection 1 of Section 712 of the Original Indenture of Trust is amended in its entirety, as of the Effective Time, to read as follows:

NCPA shall receive and forthwith deposit in the Revenue Fund all amounts payable to it pursuant to the Project Number 3 Member Agreement and the Project Number 2 Member Agreement or payable to it pursuant to any other contract for the use of NCPA Capacity or any part thereof. NCPA shall enforce or cause to be enforced the provisions of the Project Number 3 Member Agreement and the Project Number 2 Member Agreement and duly perform its covenants and agreements thereunder. Except for the Novation, NCPA will not consent or agree to or permit any rescission of or amendment to or otherwise take any action under or in connection with the Project Number 3 Member Agreement and the Project Number 2 Member Agreement which will reduce the payments required thereunder or which will in any manner materially impair or materially adversely affect the rights of NCPA thereunder or the rights or security of the Bondholders under the Indenture of Trust; however, nothing herein shall be construed so as to prohibit any other amendment of the Project Number 3 Member Agreement and the Project Number 2 Member Agreement. A copy of the Project Number 3 Member Agreement and the Project Number 2 Member Agreement certified by an Authorized NCPA Representative shall be filed with the Trustee, and a copy of any such amendment certified by an Authorized NCPA Representative shall be filed with the Trustee.

ARTICLE III

MISCELLANEOUS

301. Effectiveness. This Fourteenth Supplemental Indenture of Trust shall be in full force and effect from and after the execution and delivery hereof by NCPA and the Trustee and the satisfaction of the requirements of subsection 7 of Section 1001 of the Original Indenture of Trust with respect to this Fourteenth Supplemental Indenture of Trust; provided that the amendment to Section 712 of the Original Indenture of Trust pursuant to Section 201 hereof shall not go into effect until the Effective Time.

302. Reference in Bonds. Pursuant to subsection 7(ii)(b) of Section 1001 of the Original Indenture of Trust, this Fourteenth Supplemental Indenture of Trust shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of execution and delivery of this Fourteenth Supplemental Indenture of Trust and of Bonds issued in exchange therefor or in place thereof.

303. Indenture of Trust to Remain in Effect. Save and except as heretofore amended and supplemented and as amended and supplemented by this Fourteenth Supplemental Indenture of Trust, the Indenture of Trust shall remain in full force and effect.

304. Counterparts. This Fourteenth Supplemental Indenture of Trust may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, Northern California Power Agency has caused these presents to be signed in its name and on its behalf by its General Manager and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and on its behalf by one of its authorized officers, all as of the first day of April, 2011.

**NORTHERN CALIFORNIA POWER
AGENCY**

By: _____

Name: James H. Pope

Title: General Manager

**U.S. BANK NATIONAL ASSOCIATION, as
Trustee**

By: _____

Authorized Officer

NCPA Facilities Agreement
Facilities Agreement Schedule FA 10.00

Federal Tax Guidelines Relating to Private Business Use

A. Scope

NCPA has issued a number of Bond issues (the "Bonds") for the NCPA Projects which have been "traditional" tax exempt bond or Build America Bond obligations, which are "tax advantaged" under provisions of the Internal Revenue Code (the "Tax Status"). This Facilities Schedule summarizes and documents the various federal tax restrictions approved by the Commission to be used as guidelines relating to private business use of the NCPA Projects and the capacity and energy from the NCPA Projects required to qualify and maintain the Tax Status of the Bonds. Failure to comply with the private business use requirements set forth in this Facilities Schedule may adversely affect the Tax Status of the Bonds.

B. Definitions

Unless defined in Section B of this Facilities Schedule, all terms used in this Facilities Schedule with initial capitalization shall have the same meaning as those contained in Article 1 of the Agreement.

- a. Bonds means bonds, notes or other evidences of indebtedness of NCPA (including, without limitation, contracts relating to letters of credit or other credit enhancement devices, interest rate swap and other agreements relating to interest rate or other cash-flow exchanges such as those authorized by the Public Finance Contracts Law, and other contracts which are characterized as debt by NCPA at or prior the execution thereof) issued to finance or refinance a NCPA Project and to finance or refinance any contributions-in-aid-of-construction for construction necessary for the adjacent electric system to interconnect with a NCPA Project and includes additional bonds to complete a NCPA Project and may consist of that portion of an issue of NCPA bonds, notes or other evidences of indebtedness issued to finance the costs of a NCPA Project, which portion is specifically identified as Bonds.

- b. Build America Bonds (“BABs”) means taxable municipal bonds that feature tax credits and/or federal subsidies for bondholders and state and local government bond issuers.
- c. Internal Revenue Code means all federal tax laws.
- d. Internal Revenue Service means the federal agency responsible for administering and enforcing the Treasury Department’s revenue laws, through the assessment and collection of taxes, determination of pension plan qualification, and related activities.
- e. Treasury Regulations means tax regulations issued by the Internal Revenue Service.

C. Restrictions on Non-Governmental Use

Neither NCPA nor the Participants may expect that (i) more than five (5) percent of the proceeds of a Bond issue will be used to make or finance loans to any person other than a state or local governmental unit, or (ii) except as described below, more than the permitted amount of the proceeds of a Bond issue (that is, the lesser of 10 percent or \$15 million, as applicable) will be used in any trade or business carried on by any natural person or any activity carried on by anyone other than a natural person or a state or local governmental unit.

”Use” includes the sale of power (whether consisting of capacity, energy, or both, including the sale of ancillary services) to non-governmentally owned utilities (including e.g., the federal government, Bonneville Power Administration and Western Area Power Administration) pursuant to output or requirements contracts as well as any other arrangements for the sale of power on terms different from those available to the general public. Such may include contracts with retail customers that contain provisions which obligate a customer to make payments that are not contingent on the output requirements of the customer or that obligate the customer to have output requirements (including provisions which obligate the customer not to cease operations). The private business use restrictions are applied by taking into account any arrangements NCPA or any of the Participants have with non-exempt persons (generally, for these purposes any entity or person other than a municipally owned utility) for the sale of power from a NCPA Project. Use also includes providing a non-governmental person with control, whether direct or indirect, over the operations, maintenance or decision making as to when to run or not run a particular NCPA Project (in tax

parlance such rights would be called "special legal entitlements"). Such special legal entitlements also may create private business use.

Applicable Treasury Regulations provide an exception to private business use if the non-governmental person uses the property (or the capacity or energy for the property) as a member of the general public. This occurs if the "property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not engaged in a trade or business." Use on the same basis as the general public may include a fee or charge for use, so long as the rates charged are generally applicable and uniformly applied. These rates may vary in certain respects, such as different rates based on volume, so long as the difference in rates is customary and reasonable. Any arrangement that gives the non-exempt person special priority rights or preferential benefits is not use on the same basis as the general public.

D. Specific Private Business Use Exceptions Relating to the NCPA Projects

NCPA and the Participants will enter into a variety of arrangements with non-exempt persons, including wholesale customers of NCPA, wholesale and retail customers of the Participants, and non-governmental utilities and other providers and purchasers of electric generation, transmission, and distribution service. Each of these arrangements will be treated as private business use in evaluating compliance with the limits described in Section B, except to the extent that the arrangement either satisfies one of the following exceptions to the limitations on private business use and private security or payments, or NCPA or the Participants obtain an opinion of Bond Counsel to the effect that the arrangement will not adversely affect the Tax Status of the Bonds:

1. in the case of sales of electric generation or distribution service, the term of such transaction will not exceed three (3) years (including renewal options) and will be negotiated, arm's length arrangements that provide for compensation at fair market value or are based on generally applicable and uniformly applied rates, and the related facility (e.g. a NCPA Project) was not financed with a principal purpose of providing that facility for use by that non-governmental person;
2. in the case of sales of electric generation or distribution service, the compensation for such service and any other payments in respect of such use will not exceed NCPA's or the Participant's, as applicable, properly allocable cost of ordinary and necessary expenses that are directly

attributable to the operation of the financed property used by the non-governmental person;

3. in the case of sales of electric generation or distribution service, the output is sold (i) to a retail customer pursuant to a requirements contract that does not require the customer to make payments unless it actually has requirements, (ii) under a contract pursuant to which the average annual payments made under the contract do not exceed the amount permitted under the de minimis rule contained in the applicable regulations, (iii) under a contract the terms of which comply with (1) above, or (iv) from non-bond financed system resources of the Participant which are physically capable of supplying the output being sold;
4. the arrangement will not involve use of the Project (e.g., non-bond financed resources or contracts involving the resale of generation provided by an investor owned utility to NCPA);
5. the use of the NCPA Projects that would constitute private business use is allocable to (i) Bonds that have been "remediated" within the meaning of Treasury Regulation section 1.141-12 (or repaid in their entirety), or (ii) equity, or (iii) taxable bonds issued by NCPA, or (iv) issues of bonds that have been fully repaid;
6. an agreement that provides for the swapping or pooling of output by one or more non-governmental persons to the extent that: (i) the swapped output is reasonably expected to be approximately equal in value (determined over periods of one year or less), and (ii) the purpose of the agreement is to enable each of the parties to satisfy different peak load demands, to accommodate temporary outages, to diversify supply, or to enhance reliability in accordance with prudent reliability standards; and
7. the use of the NCPA Project is by an entity that qualifies as an agency or instrumentality of NCPA approved by the Internal Revenue Service or Bond Counsel.

E. Sale of Renewable Energy Certificates

In a private letter ruling, the Internal Revenue Service concluded that under certain circumstances the sale of renewable energy certificates ("RECs") does not create any private business use. If a Participant transacts to sell some or all of the

RECs resulting from the generation at one or more of the NCPA Projects to non-governmental person with contract terms longer than three (3) years (contracts of three (3) years or less would meet one of the exceptions from private business use described in Section C) such transaction must satisfy the following basic requirements to satisfy the Internal Revenue Service:

1. that the purchase of RECs does not entitle the REC purchaser to any electric energy from the NCPA Project;
2. the Participant will retain exclusive control over its entitlement to the NCPA Project, its operations and any decision regarding how or whether to operate the NCPA Project;
3. the Participant will not be under any obligation to produce, or cause to be produced, any renewable energy or to operate, or cause the Project to be operated at all or at any particular level;
4. the REC contracts will not give the REC purchaser any direct or indirect voice in how any component of the NCPA Project will be operated or maintained.

F. Compliance with Private Business Use Limits by Participants

Private business use limitations set forth in this Facilities Schedule apply in aggregate to all actions by NCPA and the Participants. Accordingly, NCPA will implement internal procedures and requirements necessary to assure compliance with the private business use limits as specified in this Facilities Schedule, including:

1. contractual obligations of the Participants to comply with private business use limits and other requirements of the Internal Revenue Code, and
2. regularly surveying the Participants to determine compliance with the private business use limits and other requirements of the Internal Revenue Code.

Participants are required to comply with private business use limits and other requirements of the Internal Revenue Code pursuant to applicable Project Agreement, and Participants are strongly encouraged to established internal procedures and requirements necessary to assure compliance.

RESOLUTION NO. 2011-31

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING GEOTHERMAL AGREEMENTS AND
FACILITIES AGREEMENT AMENDMENT TO FINALIZE
TURLOCK IRRIGATION DISTRICT'S WITHDRAWAL
FROM THE NORTHERN CALIFORNIA POWER AGENCY
JOINT POWERS AGREEMENT

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WHEREAS, the Turlock Irrigation District (TID) has provided the required two-year notice of termination of membership in the Northern California Power Agency (NCPA) Joint Powers Agreement (JPA), and the NCPA Commission has accepted that two-year notice to be effective April 1, 2011; and

WHEREAS, TID's termination of membership in the JPA affected its rights and obligations under various agreements between TID and NCPA members and between TID and NCPA, requiring those agreements to be either terminated, clarified, or amended in some fashion; and

WHEREAS, any signatory to the JPA terminating its membership in the JPA is obligated to pay its pro-rata share of all debts, liabilities, and obligations of NCPA as of the date of termination as a condition precedent to such termination and withdrawal; and

WHEREAS, TID and NCPA staffs have worked together to identify all agreements needing to be either terminated, clarified, or amended and have arrived at a recommended settlement amount that would satisfy TID's obligation to pay its pro-rata share of all debts, liabilities, and obligations of NCPA as of the date of termination; and

WHEREAS, the agreements requiring NCPA member approval to effectuate TID's withdrawal from the JPA are as follows:

- Amendment Number Two to Agreement for Construction, Operation, and Financing of Geothermal Generating Project Number 3
- Amended and Restated Geothermal Project Operating Agreement Between Northern California Power Agency and the Geothermal Project Participants
- Amendment Number One to Northern California Power Agency Facilities Agreement.

WHEREAS, the NCPA Commission has approved all the necessary Geothermal Agreement and Facilities Agreement modifications and approved the Membership Withdrawal and Exit Agreement between NCPA and TID on February 24, 2011.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve: (1) Amendment Number Two to Agreement for Construction, Operation, and Financing of Geothermal Generating Project Number 3; (2) Amended and Restated Geothermal Project Operating Agreement Between Northern California Power Agency and the Geothermal Project Participants; and (3) Amendment Number One to Northern California Power Agency Facilities Agreement.

Dated: March 16, 2011

I hereby certify that Resolution No. 2011-31 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 16, 2011, by the following vote:

AYES: COUNCIL MEMBERS - Hansen, Katzakian, Mounce, Nakanishi,
and Mayor Johnson

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - None



RANDI JOHL
City Clerk