

**ROSEBURG SB 859 BIOMASS PROJECT**

**FISCAL AGENCY AGREEMENT**

**BETWEEN**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

**AND**

**THE CITY OF LOS ANGELES ACTING BY AND THROUGH  
THE DEPARTMENT OF WATER AND POWER**

**Dated as of November 25, 2019**

1.	PARTIES .....	1
2.	RECITALS .....	1
3.	AGREEMENT .....	3
4.	DEFINITIONS.....	3
	4.1 Agency Costs .....	3
	4.2 Agency Work.....	3
	4.3 Agent.....	3
	4.4 Agreement.....	3
	4.5 Effective Date .....	3
	4.6 Project .....	4
5.	APPOINTMENT OF AGENT.....	4
	5.1 Appointment of Agent .....	4
	5.2 Agent's Performance of Agency Work in Accordance with Laws, Rules Regulations .....	4
	5.3 Other Agents .....	4
6.	RIGHTS, DUTIES AND RESPONSIBILITIES OF SCPPA .....	4
	6.1 Review Budgets .....	4
	6.2 Review Agency Cost Estimates .....	4
	6.3 Monitor Agency Work.....	4
	6.4 Making Recommendations and/or Modifications Regarding Agency Work.....	4
	6.5 Provide Assistance.....	4
	6.6 Consider Relevant Matters.....	5
	6.7 Perform Other Functions and Duties .....	5
7.	ACTIVITIES TO BE PERFORMED BY LADWP AS AGENT.....	5
8.	AGENCY COSTS .....	5
	8.1 Agency Costs .....	5
	8.2 Costs Not Agency Costs .....	6
	8.3 No Profit .....	6
	8.4 Budget and Review Process.....	6
9.	PAYMENT TO AGENT OF AGENCY COSTS; AUDITS .....	6
	9.1 Payment and Audit Procedures.....	6
	9.2 Disputed Invoices .....	6
10.	LIABILITY.....	6
	10.1 No Liability of SCPPA, Agent or Project Manager (within its capacity as Agent), or Their Directors, Officers, Employees, Etc.; SCPPA's and Agent's Directors, Officers, Employees Not Individually Liable.....	6
	10.2 Extent of Exculpation; Enforcement of Rights in Equity .....	7
	10.3 No Relief From Insurer's Obligations .....	8
	10.4 SCPPA, Directors, Officers, Employees, Agents Not Liable; No General Liability of SCPPA .....	8
11.	ALTERNATIVE DISPUTE RESOLUTION .....	8
	11.1 Non-Binding Dispute Resolution.....	8
	11.2 Role of the Coordinating Committee and SCPPA Board; Nonbinding Mediation Procedure .....	8
12.	RELATIONSHIP OF THE PARTIES.....	8
	12.1 Separate and Several Interests .....	8
13.	UNCONTROLLABLE FORCES.....	8
	13.1 Excuse of Performance by Reason of Uncontrollable Forces.....	8
14.	BINDING OBLIGATIONS.....	9
	14.1 All Obligations Binding.....	9
15.	GENERAL PROVISIONS GOVERNING AGREEMENT .....	9
	15.1 Severability .....	9

15.2	Waiver Not to Effect Subsequent Events.....	9
15.3	Headings Not Binding .....	9
16.	INDEMNITY AND RELATED MATTERS, SB 859 SALES AGREEMENT.....	9
16.1	Indemnification of Agent.....	9
16.2	Obligations under the SB 859 Sales Agreement.....	10
16.3	Separate Capacities .....	10
17.	REPRESENTATION AND GOVERNING LAW .....	10
18.	TERM AND EXPIRATION.....	10
18.1	Effective Date .....	10
18.2	Termination.....	10
19.	ATTORNEYS FEES .....	10
20.	CONTRACT ADMINISTRATOR.....	10
21.	NOTICES.....	11
22.	AMENDMENTS .....	11

**Appendix A: Activities to be performed**

**ROSEBURG SB 859 BIOMASS PROJECT**  
**FISCAL AGENCY AGREEMENT**

- 1. PARTIES.** This Roseburg SB 859 Biomass Project Fiscal Agency Agreement (this “Agreement”), is dated for convenience as of this 25<sup>th</sup> day of November, 2019, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as “SCPPA,” created under the provisions of the Act, and the CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER a California municipal utility created by and existing pursuant to the Charter of the City of Los Angeles. The CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER is also periodically referred to in this Agreement as “LADWP” or “the Department” or as “Agent”. LADWP and SCPPA are also sometimes referred to herein, with respect to this Agreement, individually as the “Party” and together as the “Parties”. In addition, LADWP and the other member(s) of SCPPA participating in the Roseburg SB 859 Biomass Project may be referred to collectively, in this Agreement, as “SCPPA Participating Members.”
- 2. RECITALS.** This Agreement is made with reference to the following facts and understandings among others:

  - 2.1 In response to the mandate imposed by the State of California in 2016 by passage of Senate Bill 859 (Stats. 2016, c. 368, eff. Sept. 14, 2016, hereinafter “SB 859”) that certain publicly owned electric utilities procure a specified amount of electric generation capacity from biomass-fueled resources, SCPPA, acting on behalf of the City of Anaheim, Imperial Irrigation District, and LADWP, (the “SCPPA Participating Members”) along with the Sacramento Municipal Utility District (“SMUD”), the Modesto Irrigation District (“MID”), the Turlock Irrigation District (“TID”), and the City of Riverside (“Riverside”) have identified a potential biomass generation resource located in Weed, California. Such biomass resource is denominated as the Roseburg SB 859 Biomass Project (“the Project”) is owned and operated by Roseburg Forest Products Co., a corporation organized and existing under the laws of the State of Oregon.
  - 2.2 After negotiations, SCPPA, SMUD, MID, TID and Riverside are entering into a Power Purchase Agreement with Roseburg Forest Products Co. for the purchase of SB 859 Capacity from the Project. SCPPA, SMUD, MID, TID and Riverside are also entering into the Buyers Joint Project Agreement, providing for the coordination of the exercise of certain of their rights.
  - 2.3 SCPPA has entered into or will enter into SB 859 Sales Agreements with the SCPPA Participating Members
  - 2.4 The Parties intend that certain activities relative to the foregoing be carried out on behalf of SCPPA by LADWP, as Agent, pursuant to this Agreement.

3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and to appoint LADWP as Agent for the Roseburg SB 859 Biomass Project, the Parties agree as herein set forth.
  
4. **DEFINITIONS.** Appendix A of the SB 859 Sales Agreements sets forth, where applicable, the defined terms of this Agreement between SCPPA and LADWP. Except for the definition of the term "Project", the definitions in said Appendix A shall be applicable to this Agreement. The term "Project", when initially capitalized, is as defined herein in this Section 4. All other terms which are not specifically defined in this Section 4, when initially capitalized, shall have the meaning ascribed in Appendix A of the SB 859 Sales Agreements. The terms defined in said Appendix A and in this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A or as set out below:
  - 4.1 Agency Costs. The costs, as set forth in Section 8 hereof, of carrying out Agency Work.
  - 4.2 Agency Work. The activities to be performed by the Agent pursuant to Section 7 of this Agreement.
  - 4.3 Agent. The City of Los Angeles acting by and through the Department of Water and Power, which shall be responsible, in accordance with the terms of this Agreement, for carrying out the Agency Work on behalf of SCPPA.
  - 4.4 Agreement. This Agreement, as it may be amended, modified or supplemented from time to time.
  - 4.5 Effective Date. The date described in Section 18.1 hereof.
  - 4.6 Project. The project carried out by way of the SB 859 Sales Agreements, their Appendices and their attached, incorporated or associated instruments and agreements. The Project shall, among other things, entail the aggregate of rights, liabilities, interests and obligations of all SCPPA Participating Members. For purposes of this Agreement the terms "Project" and "Roseburg SB 859 Biomass Project" shall have the same meaning.
  
5. **APPOINTMENT OF AGENT.**
  - 5.1 Appointment of Agent. In accordance with the terms and conditions of this Agreement SCPPA hereby appoints, designates, authorizes and directs LADWP to carry out, as agent for and on behalf of SCPPA, Agency Work in accordance with the terms of this Agreement. LADWP hereby accepts such appointment, designation, authorization and direction. Unless this Agreement is otherwise terminated pursuant to Section 18.2 of this Agreement, LADWP shall serve as Agent for the duration of the SB 859 Sales Agreements. Except as provided in Section 18.2 of this Agreement, Agent shall not have the right to resign and may not be removed as Agent for the Project during the time which any of the SB 859 Sales Agreements are in effect.

- 5.2 Agent's Performance of Agency Work in Accordance with Applicable Laws, Rules and Regulations. In carrying forth its Agency Work pursuant to the terms of this Agreement Agent shall, in all material respects, observe all applicable laws, rules and regulations.
- 5.3 Other Agents. SCPPA shall at all times have the right to appoint another agent or agents to perform, apart from and concurrent with this Agreement, activities relative to the Project.
- 5.4 Procurement. Agent may use LADWP's procurement rules and policies in the performance of Agency Work or such other rules or policies as are determined by Agent to be in the best interest of the Project.
- 6. RIGHTS, DUTIES AND RESPONSIBILITIES OF SCPPA.** SCPPA acting by and through its Board of Directors or the Executive Director, as applicable, shall have the following rights duties and responsibilities under this Agreement:
- 6.1 Review Budgets. Review, modify and approve the budgets submitted pursuant to the applicable provisions of the SB 859 Sales Agreements
- 6.2 Review Agency Cost Estimates. Review, modify and approve the estimates of Agency Costs submitted by the Agent pursuant to this Agreement.
- 6.3 Monitor Agency Work. Monitor the continuation and completion of Agency Work.
- 6.4 Make Recommendations and/or Modifications Regarding Agency Work. Make (i) recommendations to the Agent with respect to Agency Work and/or (ii) modifications to Agency Work undertaken by Agent.
- 6.5 Provide Assistance. Provide such other assistance to the Agent in carrying out Agency Work as the Board of Directors shall deem reasonable and proper and as the Agent shall request.
- 6.6 Consider Relevant Matters. Consider any matter relating to SCPPA's interests proposed by the Agent, any member of the Board of Directors or any member of SCPPA's staff.
- 6.7 Perform Other Functions and Duties. Perform such other functions and duties as may be required of SCPPA or by SCPPA in connection with SCPPA's interests in the Project.
- 7. ACTIVITIES TO BE PERFORMED BY LADWP AS AGENT.**
- Subject to the powers of SCPPA which may be applicable thereto, the activities to be performed by the Agent pursuant to this Agreement shall be set forth in Appendix A hereto.
- 8. AGENCY COSTS.**
- 8.1 Agency Costs. Agency Costs shall include the following:

- 8.1.1 [Omitted.]
- 8.1.2 Payroll and other expenses of employees of the Agent while performing work in connection with this Agreement, including applicable overhead costs and labor loading charges, including but not limited to time-off allowances, payroll taxes, workers' compensation insurance, retirement and death benefits and other employee benefits.
- 8.1.3 Costs of the Agent associated with performing its duties and responsibilities under this Agreement.
- 8.1.4 All costs paid by the Agent for any studies, reports or other documents obtained from any SCPPA Participating Member.
- 8.1.5 Costs of the Agent, to the extent not provided for by insurance, of discharging or paying any liability and loss, damage and expense, including costs and expenses for attorneys' fees and other costs of defending, settling or otherwise administering claims, liabilities or losses arising out of workers' compensation or employer's liability claims or by reason of property damage or injuries to or death of any person or persons or by reason of claims arising from and related to Agent's performance of this Agency Agreement, or costs that should be paid or provided to Agent to satisfy indemnification obligations under Section 16.1 of this Agreement or other costs that should be paid or provided to Agent to satisfy indemnification obligations under any of the SB 859 Sales Agreements, resulting from, arising out of or connected with the performance of Agency Work, including negligent acts or omissions but excluding grossly negligent acts or willful misconduct (which unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) of the Agent, its Board of Water and Power Commissioners, or its respective officers, employees or employees of the municipal entity of which Agent is a part.
- 8.2 Costs Not Agency Costs. Costs incurred by the Agent which (i) are not attributable to the activities, duties and functions to be performed by the Agent pursuant to Section 7 of this Agreement and (ii) have not been included in SCPPA's annual budget or otherwise approved by SCPPA under this Agreement shall not be Agency Costs.
- 8.3 No Profit. The Agent shall not receive any profit under this Agreement, nor shall the Agent be obligated to make any expenditure or incur any obligation regarding Agency Work with respect to which it is not entitled to reimbursement under this Agreement.
- 8.4 Budget and Review Processes. As is the case with similar costs for other projects of SCPPA, Agency Costs shall be subject to SCPPA's annual budget and periodic budget review processes.

9. **PAYMENT TO AGENT FOR AGENCY COSTS; AUDITS.**

- 9.1 Payment and Audit Procedures. From time to time, and at such times (not more than monthly) as the Agent shall determine, it shall submit to SCPPA requests and requisitions for payment of items of Agency Costs incurred or paid. SCPPA shall pay or cause to be paid the amount of each such request or requisition within forty five (45) days after its receipt thereof. At such reasonable times as shall be requested by SCPPA, the books and cost records of the Agent relevant to Agency Costs shall be subject to audit by or on behalf of SCPPA.
- 9.2 Disputed Invoices. In case any portion of any invoice received by SCPPA from Agent shall be in bona fide dispute, SCPPA shall pay Agent the full amount of such invoice and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by Agent on any overpayment, will be credited to SCPPA by Agent after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by Agent and returned to SCPPA within five (5) calendar days following the receipt by Agent of the disputed overpayment. In the event such invoice is in dispute, Agent will give consideration to such dispute and will advise SCPPA with regard to Agent's position relative thereto within thirty (30) days following receipt of written notification by SCPPA of such dispute.

10. **LIABILITY.**

- 10.1 No Liability of SCPPA or Agent (within its capacity as Agent), or Their Directors, Officers, Employees, Etc.; SCPPA's and Agent's Directors, Officers, Employees Not Individually Liable. Both Parties agree that neither Party, nor any of their past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the governmental entity of which the Agent is a part (collectively, the "Released Parties") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fee and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of any of the Released Parties) suffered by any Released Party as a result of the action or inaction or performance or non-performance by the Power Purchase Provider or any of the Released Parties under this Agency Agreement or any Project Agreement (excluding gross negligence or willful misconduct which unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Each Party shall release each of the other Released Parties from any claim or liability that such Party may have cause to assert as a result of any action or inaction or performance or non-performance by the Released Parties under this Agreement or any Project Agreement (excluding gross negligence or willful misconduct which unless otherwise agreed to by the Parties, are both to be

determined and established by a court of competent jurisdiction in a final, non-appealable order). Notwithstanding the foregoing, no such action or inaction or performance or non-performance of any of the Released Parties shall relieve either Party from its respective obligations under this Agreement, including either Party's obligation to make payments required under this Agreement, the Power Purchase Agreement or any other Project Agreement. The provisions of this Section 10.1 shall not be construed so as to relieve the Agent or the Power Purchase Provider from any obligation (or liability in the case of the Power Purchase Provider) under this Agreement, the Power Purchase Agreement or any other applicable Project Agreement. The Parties also hereby recognize and agree that neither Party's past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the governmental entity of which the Agent is a part shall be individually liable in respect of any undertakings by any of the Released Parties under this Agreement or any Project Agreement. Notwithstanding any provision of this Agency Agreement which might arguably be construed to the contrary, nothing in this Section 10 shall affect LADWP's obligation, as a SCPPA Participating Member, to make any payment or pay any cost required of it under the SB 859 Sales Agreement.

- 10.2 Extent of Exculpation; Enforcement of Rights in Equity. The exculpation provision set forth in Section 10.1 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort, patent or trademark. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligation or duty of the other Party and the Agent may enforce by any legal means its right to payment for Agency Costs in accordance with the terms of this Agreement.
- 10.3 No Relief from Insurer's Obligations. Notwithstanding any provision of this Agreement, including the provisions of this Section 10, the provisions of Section 10.1 shall not be construed so as to relieve any insurer of its obligation to pay any insurance claims.
- 10.4 SCPPA Directors Officers, Employees, Agents Not Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no officer, agent or employee of SCPPA or Agent shall be individually liable in respect of any undertakings by Parties under this Agreement. The undertakings by SCPPA under this Agreement shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the constitution or statutes of the State of California, and shall not constitute or give rise to a pecuniary liability of SCPPA or a charge against its general credit. Any provision of this Agreement to the contrary notwithstanding, the obligation of SCPPA under this Agreement to make or cause to be made payments shall be limited to those payments permitted by and monies available as provided for in this Agreement.

## 11. ALTERNATIVE DISPUTE RESOLUTION.

- 11.1 Non-Binding Dispute Resolution. If any dispute arises out of or relates to this Agreement, or the asserted breach thereof, the Parties agree that the Parties shall

first employ the non-binding mediation process which is set forth in Section 11.2 before initiating any other type of legal action.

- 11.2 Role of the Coordinating Committee and SCPPA Board; Nonbinding Mediation Procedure. If a dispute arises between the Parties under this Agreement the Parties may first attempt to resolve the dispute through the Coordinating Committee and if the Coordinating Committee is unable to resolve the dispute, the dispute shall be submitted to the Board of Directors. If the Board of Directors is unable to resolve the dispute, the Parties may then submit the dispute to non-binding mediation.

**12. RELATIONSHIP OF THE PARTIES.**

- 12.1 Separate and Several Interests. The covenants, obligations and liabilities of the Parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust, partnership or other legal entity, or to impose a trust or partnership covenant, obligation or liability on or with regard to either or both of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. Neither Party shall be under the control of or shall be deemed to control any other Party. Neither Party shall be the agent of or have a right or power to bind the other Party without its express written consent, except as expressly provided in this Agreement.

**13. UNCONTROLLABLE FORCES.**

- 13.1 Excuse of Performance by Reason of Uncontrollable Forces. Other than with respect to the obligation of a Party to make payments as provided in this Agreement, neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure of performance shall be due to an Uncontrollable Force. Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. In the event a Party is rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force, such Party shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch. In such event, the Parties shall diligently and expeditiously determine how they may equitably proceed to carry out the objectives of this Agreement.

**14. BINDING OBLIGATIONS.**

- 14.1 All Obligations Binding. All of the obligations set forth in this Agreement shall bind the Parties and their successors and assigns.

**15. GENERAL PROVISIONS GOVERNING AGREEMENT.**

- 15.1 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by a court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition of this

Agreement and their application shall not be affected thereby, but shall remain in force and effect, unless a court of competent jurisdiction holds that the provisions are not separable from all other provisions of this Agreement.

- 15.2 Waiver Not to Effect Subsequent Events. Any waiver at any time by a Party of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.
- 15.3 Headings Not Binding. The headings and captions in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

## 16. INDEMNITY AND RELATED MATTERS, SB 859 SALES AGREEMENT.

- 16.1 Indemnification of Agent. In its capacity as Agent under this Agency Agreement, Agent shall be entitled to indemnification from SCPPA as set forth herein. SCPPA shall indemnify and hold harmless Agent, its board, officers, agents, attorneys, advisors, employees, and the employees of the governmental entity of which the Agent is a part, past, present or future (collectively, "Agent Indemnitees") from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Agent, SCPPA or third persons) (collectively, "Losses") arising by reason of any actions, inactions, errors or omissions incident to the performance of this Agency Agreement (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) on the part of Agent Indemnitees. At Agent's option, SCPPA shall defend Agent Indemnitees from and against any and all Losses. If SCPPA, with Agent's consent, defends any Agent Indemnitee, Agent and Agent's City Attorney's Office (or other appropriate Agent counsel or authority, as appropriate) shall approve the selection of counsel, and Agent shall further approve any settlement or disposition, such approval not to be unreasonably withheld.
- 16.2 Obligations under the SB 859 Sales Agreement. Notwithstanding any provision of this Agreement which might arguably be construed to the contrary, nothing in this Agreement shall affect LADWP's obligation, as a SCPPA Participating Member, to make any payment or pay any cost required of it under the SB 859 Sales Agreement.
- 16.3 Separate Capacities. The Parties acknowledge that LADWP, as Agent under and a Party to this Agency Agreement, acts in a legal capacity that is separate from its capacity as a SCPPA Participating Member under its SB 859 Sales Agreement. Accordingly, for purposes of this Agreement, the rights, entitlements, obligations and liabilities of LADWP, as Agent and a Party to this Agency Agreement, shall

not apply to or otherwise be affected by, and shall be legally separate from the rights, entitlements, obligations, and liabilities of LADWP as a SCPPA Participating Member under its SB 859 Sales Agreement.

17. **REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.
18. **TERM AND EXPIRATION.**
- 18.1 Effective Date. This Agreement shall become effective and in full force and effect on the date the SB 859 Sales Agreements have been entered into and are in effect with respect to all SCPPA Participating Members (the "Effective Date").
- 18.2 Termination. This Agreement shall continue in force and effect from the Effective Date until the expiration of the term of the SB 859 Sales Agreements and any extensions or replacements thereof; provided, however, that this Agreement may be terminated by either Party upon not less than three (3) years prior written notice to the other Party. Payment obligations of the Parties hereunder shall survive any termination of the Agreement until satisfied.
19. **ATTORNEYS FEES.** With respect to any dispute under this Agreement the Parties agree that each Party shall bear its own attorneys fees and costs. Notwithstanding the foregoing, LADWP and SCPPA acknowledge and it is acknowledged and understood by the SCPPA Participating Members that SCPPA's attorneys fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Section 4 and Section 7 of the SB 859 Sales Agreements.
20. **CONTRACT ADMINISTRATOR.** A contract administrator for this Agreement shall be designated by the individual authorized to receive notices on behalf of LADWP pursuant to Paragraph 21 herein, and each Party's contract administrator shall have the authority to administer this Agreement on behalf of its respective Party. Notwithstanding the foregoing, the contract administrators shall have no authority to amend this Agreement on behalf of the Parties.
21. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Southern California Public Power Authority  
Attention: Executive Director  
1160 Nicole Court  
Glendora, California 91740

Los Angeles Department of Water and Power  
Attention: General Manager  
RE: Power System Contracts  
111 North Hope Street 921  
Los Angeles, California 90012

22. **AMENDMENTS.** The Parties acknowledge and agree that any amendment to this agreement shall be in writing and duly executed by the Parties.

*[SIGNATURE PAGE FOLLOWS]*



## APPENDIX A

### ACTIVITIES TO BE PERFORMED

#### Primary Responsibilities:

- P-1. **Investments.** Schedule, select, direct, execute, maintain records of, and provide monthly reports to SCPPA concerning, all investments of moneys received by SCPPA from the SCPPA Participating Members in relation to the Project.
- P-2. **Keep Accounting Records of Expenditures; Audit of Accounting Records.** Keep and maintain records of moneys expended, obligations incurred, sunk (unrecoverable) costs, credits accrued with respect to the Project; and maintain for auditing by the Authority those accounting records used by the Agent for the purpose of accumulating financial and statistical data for the Project.
- P-3. [Omitted.]
- P-4. **Billings.** Prepare and render, in the manner and at the times required by the SB 859 Sales Agreements and Buyers Joint Project Agreement billings to the SCPPA Participating Members and Buyers under the Power Purchase Agreement with respect to the Project.
- P-5. **Prepare and Submit Estimates of Agency Costs.** Prepare and submit to SCPPA, for use by the Authority in preparing its annual budget(s) with respect to the Project for each fiscal year, the Agent's estimate of Agency Costs for the fiscal year to which such budget applies.
- P-6. **Obtain Cost Data.** Furnish to SCPPA cost data in accordance with the Project Agreements.
- P-7. **Assist in Budget Preparation.** To the extent requested by SCPPA, assist in the preparation of SCPPA's annual budget(s).
- P-8. **Render Requisitions.** To the extent required by the Project Agreements or any resolution of the Board of Directors, prepare, execute any requisition or other request for disbursement of funds necessary under the Project Agreements.

Related Responsibilities, to be performed by the Agent to the extent related to the Agent's Primary Responsibilities listed above:

- R-1. **Inform SCPPA.** Promptly inform SCPPA regarding significant factors, which may affect or have affected Agency Work or the Project.
- R-2. **Expend Funds for Agency Costs.** Expend moneys for Agency Costs in accordance with this Agreement.
- R-3. **Comply with Laws and Regulations.** Comply with any and all laws and regulations applicable to the performance of Agency Work.
- R-4. **Provide Information.** Provide the Board of Directors, and any committee established by it, and SCPPA's staff with records, information, and reports which may be required for SCPPA to perform its responsibilities.
- R-5. **Furnish Assistance and Information.** Furnish, upon request, to SCPPA or any Purchaser any assistance and information reasonably available pertaining to Agency Work and the Project.
- R-6. **Arrange for Services, etc. for Agency Work; Administrate Contracts; Agent's Employees.** Arrange, negotiate, and budget for contracts for furnishing, purchasing, procuring and obtaining

services from any source (including pursuant to contracts between the Agent and third parties) necessary for the performance and completion of Agency Work; administer, manage, perform and enforce such contracts; and furnish conformed copies thereof to SCPA. In performing Agency Work, the Agent may use its own employees and equipment and facilities.

- R-7. **Provide Interface.** Provide interface between SCPA, Buyers and the SCPA Participating Members in Connection with the Project.
- R-8 [Omitted.]
- R-8. **Coordinate and Cooperate with any Other Agent.** Coordinate and cooperate with any other agent appointed by SCPA with respect to the Project.
- R-9. **Conduct Other Activities Relating to Agency Work.** Conduct all other activities deemed necessary to bring Agency Work to completion and perform such other functions and duties pertaining to Agency Work and the Project as may be assigned to it by SCPA but in any event in a manner consistent with this Agreement.