

## COOPERATIVE AGREEMENT COVER SHEET

### Contact Information

BC&E , USA Colusa 1 LLC and or its successors or assigns

Robert L Norman  
802 N Irwin Street Suite 204  
Hanford Ca 93230  
Mobile Phone: (559)816-8651

### CITY OF COLUSA

Jesse Cain, City Manager  
425 Webster Street  
Colusa, CA 95932  
Mobile Phone (530) 682-2933  
Email: [citymanager@cityofcolusa.com](mailto:citymanager@cityofcolusa.com)

## **COOPERATIVE AGREEMENT**

This AGREEMENT, executed on and effective from \_\_\_\_\_, is between the City of Colusa, a municipal corporation ("City"), and BC&E USA Colusa 1 LLC ("BC&E"). City and BC&E may be referred to in this AGREEMENT as a PARTY. Collectively, the City and BC&E may be referred to in this AGREEMENT as PARTIES.

### **RECITALS**

1. THE PARTIES are authorized to enter into a cooperative agreement for the Hybrid Renewable Electric Energy Power Purchase agreement (PPA) and application to Pacific Gas & electricity (PG &E) for the Bio mat program.
2. The PARTIES desire to enter into this companion agreement to the PPA to further clarify the obligations and duties of City and BC&E regarding the City's participation in the PG&E Bio mat program.
3. It is the intent of the PARTIES that no electric power will be purchased by City, and the Term of the PPA (as defined in the PPA) will not commence, until the City and BC&E have completed the obligations and duties of City and BC&E regarding the City's participation and enrollment in the PG&E Bio Mat program.

### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

4. For the purpose of this AGREEMENT, BC&E will work with and file on behalf of City an application for Pacific Gas & Electricity (PG &E's) Bio Mat program.

5. BC&E shall undertake and complete the obligations and responsibilities for the following tasks, and makes the following representations and warranties:
  - Application to PGE as an agent for the City for the PG&E Bio Mat program.
  - The Hybrid Renewable Electric Energy Power Purchase agreement (PPA) will not take effect until the completion of Interconnection Study: An Applicant must have passed the Fast Track screens, passed Supplemental Review, completed a PG&E System Impact Study in the Independent Study Process, completed a PG&E Distribution Group Study Phase 1 Interconnection Study in the Distribution Group Study Process, or completed a PG&E Phase 1 Study in the Cluster Study Process for its Project, or completed a CAISO Cluster Study, Independent Study or Fast Track Study, or make use of an existing interconnection agreement to the extent permitted by PG&E's or CAISO's tariff (Interconnection Study). Pacific Gas & Electricity (PG&E)
  - BC&E USA Colusa 1 LLC, represents and warrants that the biosolids that it will receive from the City, and any other feedstock that it may use for fuel in the Hybrid Renewable Electric Energy Power Generating System, are a qualified Fuel Resource as defined in the PG&E BIOENERGY MARKET ADJUSTING TARIFF, pursuant to California Public Utilities Code (PUC) Section 399.20 and California Public Utilities Commission (CPUC) Decision (D.) 14-12-081, D.15-09-004, D.16-10- (T) 025, and D.20-08-043.
6. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.
7. If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.
8. Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.
9. Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then that term, provision, covenant or condition of this Agreement shall be stricken and the remaining portion of this Agreement shall remain valid and enforceable if that stricken term, provision, covenant or condition is not material to the main purpose of this Agreement.

10. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning, to achieve the objectives and purposes of the parties hereto. The rule of construction, to the effect that ambiguities are to be resolved against the drafting party or in favor of the non-drafting party, shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.
11. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.
12. Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.
13. Litigation. Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Colusa, State of California, or such other appropriate court in said county. Service of process on the City shall be made in accordance with California law. Service of process on Provider shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between the City and Provider seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party is entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorneys' fees.
14. Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.
15. Corporate Authority. The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

**BC&E USA COLUSA 1 LLC**

---

Robert L Norman  
Managing Member  
BC&E USA Colusa 1 LLC

**CITY OF COLUSA**

---

Jesse Cain  
City Manager

**Attest:**

---

Shelly Kittle  
City Clerk

**Approved as to form and procedure:**

---

Ryan Jones  
City Attorney

