

October 24, 2012

Contract XX-SNR-00XXX

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SIERRA NEVADA REGION

CONTRACT
WITH
ENERGY SUPPLIER
FOR
PURCHASE OF ENERGY

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8
9 CONTRACT
10 WITH
11 ENERGY SUPPLIER
12 FOR
13 PURCHASE OF ENERGY
14

15 1. **PREAMBLE:**

16 This Contract is made this _____ day of _____, 20XX, pursuant to
17 the Acts of Congress approved June 17, 1902, (32 Stat. 388); August 26, 1937, (50
18 Stat. 844); August 4, 1939, (53 Stat. 1187); and August 4, 1977, (91 Stat. 565); and
19 Acts amendatory or supplementary to the foregoing Acts; between the UNITED
20 STATES OF AMERICA (United States), acting by and through the Administrator,
21 Western Area Power Administration, Department of Energy, hereinafter called Western,
22 represented by the officer executing this Contract, or a duly appointed successor, and
23 **[Enter Energy Supplier's Name]**, a _____, hereinafter called the Contractor
24 its successors and assigns; each sometimes hereinafter individually called the Party,
25 and both sometimes hereinafter collectively called the Parties.
26
27
28

1 **2. EXPLANATORY RECITALS:**

2 2.1 The U.S. Department of Energy (DOE), receives its energy for the
3 Lawrence Livermore National Laboratory (LLNL) from Western.

4
5 2.2 Western has entered into Intra-Agency Agreement [Insert agreement
6 number] (Intra-Agency Agreement) with the DOE Berkeley Site Office (DOE-
7 BSO), for the purpose of providing renewable energy for LLNL.

8
9 2.3 The DOE National Nuclear Security Administration (DOE-NNSA) will enter
10 into a License Agreement (License Agreement) with Contractor, authorizing
11 Contractor to install photovoltaic arrays at LLNL with the objective of producing
12 energy (Project).

13
14 2.4 Western has agreed, on behalf of DOE-BSO, to obtain the energy
15 produced by the Project, hereinafter called Energy. The terms under which
16 Western will obtain, and DOE-BSO will purchase, the Energy are set forth in the
17 Intra-Agency Agreement and this Contract.

18
19 2.5 Western has agreed, on behalf of DOE-BSO to obtain the renewable
20 energy certificates (RECs) associated with the Project. The terms under which
21 Western will obtain, and DOE-BSO will purchase the RECs, are set forth in the
22 Intra-Agency Agreement and this Contract.

23
24 2.6 DOE/BSO and the Pacific Gas and Electric Company (PG&E) are parties
25 to Service Agreement No. 63, Interconnection Agreement (IA). This IA provides
26 for the interconnection of DOE-BSO to PG&E's electric system and defines the
27 operational provisions for supplying electric service to DOE-BSO. LLNL is a
28 point of interconnection under this IA.

1 2.7 DOE/BSO and Western are parties to Intra-Agency Agreement No. 89-
2 SAO-90001 (IAA 90001). IAA 90001 provides for the direct interconnection of
3 LLNL to Western's Electric system and defines the operational provisions for
4 supplying electric service to DOE-BSO at LLNL.

5
6 3. **AGREEMENT:**

7 The Parties agree to the terms and conditions set forth herein.
8

9 4. **EFFECTIVE DATE AND TERM OF CONTRACT:**

10 This Contract shall become effective upon execution by both Parties and, except as
11 otherwise provided in this Contract, shall continue in force and in effect through
12 _____, 20__, which is the end date of the Intra-Agency Agreement between
13 Western and DOE-BSO.

14 4.1 This Contract may be extended for a longer term upon mutual agreement
15 between the Parties, but only under the condition that the contract term of the
16 Intra-Agency Agreement between DOE-BSO and Western also is extended for a
17 concurrent term.

18
19 4.2 If the DOE-BSO/Western Intra-Agency Agreement is extended, the term of
20 this Contract may continue in effect until the earlier of (Option Date), 20____,
21 or the end date of the Intra-Agency Agreement.

22
23 4.3 If the Project is unable to begin commercial operation for any reason, this
24 Contract shall be null and void.

25
26 4.4 If Contractor fails to secure a suitable License Agreement for the Project,
27 either Party will have the right to terminate this Contract.
28

1 5. **DEFINITION OF TERMS:**

2 5.1 "Energy" means...

3
4 5.2 "Project" means...

5
6 5.3 "REC" means the environmental, social, and other positive attributes of
7 power generated by renewable resources. These attributes include the tons of
8 greenhouse gases that were avoided by generating electricity from renewable
9 resources instead of fuels, such as coal, nuclear, oil, or gas. A qualifying REC is
10 one where none of the environmental attributes have been separately sold,
11 given, or otherwise transferred to another party by deliberate act of the certificate
12 owner. One REC is issued for each megawatt hour unit of renewable energy
13 produced. The electricity that was split from the REC is no longer considered
14 renewable and it cannot be counted as renewable or zero-emissions by whoever
15 buys it.
16

17 6. **PROJECT ENERGY:**

18 As requested by DOE-BSO, Western agrees to obtain the Energy produced by the
19 Project. All costs associated with Western obtaining the Energy from the Contractor will
20 be the sole responsibility of DOE-BSO. Contractor shall deliver the Energy to DOE-
21 BSO according to the Delivery Conditions identified in Exhibit A of this Contract.
22

23 7. **PROJECT RECS:**

24 As requested by DOE-BSO, Western agrees to obtain the RECs associated with the
25 Project. All costs associated with Western obtaining the RECs from the Contractor will
26 be the sole responsibility of DOE-BSO. Contractor shall deliver the RECs to DOE-BSO
27 according to the terms and conditions identified in Exhibit A of this Contract.
28

1 **8. PAYMENTS:**

2 8.1 Western has no obligations to make any payments to Contractor for the
3 Energy and/or RECs delivered under this Contract. All payments to the
4 Contractor that arise from this Contract are the sole responsibility of DOE-BSO.
5 Therefore, the Contractor releases Western from all liabilities and responsibilities
6 that arise under this Contract in the event DOE-BSO does not make payment to
7 the Contractor.

8
9 8.2 Contractor agrees that DOE-BSO shall have sole responsibility for all
10 payments due for the Energy and/or RECs provided under this Contract. DOE-
11 BSO's designated payor is set forth in Exhibit B of this Contract. Contractor
12 agrees to accept payment from DOE-BSO and such payment satisfies all
13 payment obligations under this Contract. Western has no responsibility,
14 obligation or liability for any payments due hereunder. In the event, DOE-BSO
15 fails to pay Contractor, Contractor's sole remedies are set for in Section 9.

16
17 8.3 In order to effectuate the provisions of this Contract, DOE-BSO has
18 authorized the entity set forth in Exhibit B to accept and pay monthly invoices
19 submitted by the Contractor for the Energy and RECs provided to DOE-BSO.
20 Contractor shall send monthly invoices for review, certification and payment to
21 the address referenced in Exhibit B of this Contract.

22
23 8.4 Any payments made by DOE-BSO as required under the Intra-Agency
24 Agreement and this Contract shall be in accordance with the Prompt Payment
25 Act (31 U.S.C. § 3900 et seq.) and other applicable Federal laws.
26
27
28

1 9. **SUSPENSION OR TERMINATION FOR NON-PAYMENT:**

2 9.1 The remedies set forth in this Section are Contractor's sole remedies
3 under this Contract. Contractor waives any other remedies that may be
4 available.

5
6 9.2 If DOE-BSO's fails to pay for the Energy and/or RECs delivered under this
7 Contract, Contractor shall have the right to suspend or terminate performance
8 under this Contract as a result of DOE-BSO's failure to make full and timely
9 payment for Energy and/or RECs.

10
11 9.3 If, during a suspension period, DOE-BSO brings its account with
12 Contractor up-to-date and requests Contractor to reinstate delivery of Energy
13 and/or RECs, Contractor shall have the option to resume performance, and
14 performance shall commence on a date mutually agreeable to Contractor,
15 Western, and DOE-BSO.

16
17 10. **DEFAULT BY CONTRACTOR:**

18 10.1 Unless Contractor has exercised its right to suspend or terminate
19 performance under Section 9, Contractor's failure to deliver Energy and/or RECs
20 in accordance with Exhibit A shall relieve DOE-BSO of its obligation to make
21 payments for any undelivered Energy and/or RECs.

22
23 10.2 If Contractor fails to deliver at least seventy-five percent (75%) of the
24 forecasted annual quantity of Energy during any Annual Performance Period as
25 specified in Section 2.3 of Exhibit A, and does not otherwise take corrective
26 action under this section, the Contractor may be considered in default of the
27 Contract.

1 10.3 If Contractor fails to meet the delivery requirements specified in this
2 Section 10 and Exhibit A, Western may provide a written notice to
3 Contractor specifying the failure. After Contractor's receipt of Western's
4 notice, Western may terminate this Contract if Contractor fails to provide a
5 written corrective action plan within thirty (30) days, and fails to remedy
6 the failure within one hundred eighty (180) days.

7
8 10.4 If Contractor fails to meet any of the other obligations in this
9 Contract, Western may provide a written notice to Contractor specifying
10 the failure. After Contractor's receipt of Western's notice, Western may
11 terminate this Contract if Contractor fails to provide a written corrective
12 action plan within three (3) days, and fails to remedy the failure within
13 seven (7) days. Provided, however, if the Contractor's default results in or
14 may result any adverse impacts to Western's or PG&E's transmission
15 systems, Western may require Contractor to immediately cease any
16 activities until such adverse impacts or threat of adverse impacts are
17 resolved to Western's or PG&E's satisfaction.

18
19 11. **ASSIGNMENT:**

20 No voluntary assignment of the Contract or the rights of the Contractor under the
21 Contract shall be made without the prior written approval of Western's Administrator,
22 which the Administrator shall not unreasonably withhold. Any voluntary assignment of
23 the Contract or the right of the Contractor under the Contract made without the prior
24 written approval of Western's Administrator may result in termination of the Contract.

25
26 12. **CONTRACT LIMITATIONS:**

27 12.1 Contractor acknowledges and recognizes that any claims for the payment
28 of money under this Contract are the liability of DOE-BSO.

1 12.2 Contractor waives any and all claims for liability against Western under
2 this Contract. In no event will Western be liable for any damages to Contractor
3 arising from or related to this Contract, including any damages for direct, indirect,
4 incidental, special, punitive, exemplary, or consequential damages, whether
5 based on any theory including but not limited to contract, tort, property, etc.
6

7 12.3 Contractor agrees to indemnify and hold harmless Western, its
8 employees, agents, or contractors from any loss or damage and from any liability
9 on account of personal injury, death, or property damage, or claims for personal
10 injury, death, or property damage of any nature whatsoever and by whomsoever
11 made arising out of Contractor's, its employees', agents', or subcontractors'
12 activities under this Contract except to the extent arising from the gross
13 negligence or willful misconduct of Western's employees, agents, or contractors.
14

15 13. **OPERATIONAL ISSUES:**

16 13.1 The Contractor agrees to abide by all operational provisions in the IA and
17 IAA 90001.
18

19 13.2 This Contract does not entitle the Contractor to any transmission and or
20 scheduling rights on Western's or PG&E's respective systems. If Contractor
21 desires to schedule any Project Energy on Western's or PG&E's systems, it must
22 obtain transmission rights via the appropriate transmission service tariffs.
23

24 14. **METERING AND COMMUNICATIONS:**

25 Contractor will provide metering in accordance with the Western's Metering Policy;
26 however, Western will not be responsible for meter maintenance. Communications will
27 be provided and maintained by Contractor in accordance with the requirements of the
28 DOE-BSO, PG&E and Western. All system integration will be provided by Contractor.

1 Contractor will provide analog MW, analog MVAR, analog Voltage, and accumulated
2 MWh values to Western. A single-line diagram of the Project is provided in Exhibit C.

3
4 15. **GENERAL POWER CONTRACT PROVISIONS:**

5 The General Power Contract Provisions (GPCP), effective September 1, 2007, attached
6 hereto, are hereby made a part of this Contract, the same as if they had been expressly
7 set forth herein; Provided, That Provisions 1.2, 4 – 30, 35 and 37 shall not be
8 applicable; Provided further, That if the provisions in the GPCP are in conflict with this
9 Contract, the provisions of this Contract shall control.

10
11 16. **EXHIBITS MADE PART OF CONTRACT:**

12 Exhibit A, Delivery Conditions, Exhibit B, Points of Contact, and Exhibit C, Project
13 Drawings, existing under this Contract may change during the term hereof. Each
14 Exhibit shall become a part of this Contract during the term fixed by its provisions.
15 Exhibits A, B, and C are attached hereto, and each shall be in force and effect in
16 accordance with its terms until superseded by a subsequent exhibit, as allowed by the
17 terms of each exhibit, or termination of this Contract.

18
19 **IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed the day
20 and year first above written.

21
22 WESTERN AREA POWER ADMINISTRATION

23
24 By: _____

25 _____
26 Sonja A. Anderson

27 Title: _____
28 Power Marketing Manager

Address: _____
114 Parkshore Drive

_____ Folsom, CA 95630-4710

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Date: _____

CONTRACTOR

By: _____

(Attest)

Title: _____

By: _____

Address: _____

Title: _____

Date: _____

Date: _____

DRAFT

EXHIBIT A
 (Delivery Conditions)

1. This Exhibit A to be effective under and as a part of Contract XX-SNR-XXXXX, (Contract) shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit A or termination of the Contract.

2. Product: Energy shall be delivered to DOE-BSO from the Project owned by Contractor, or its successors or assigns, and located at LLNL.

2.1 Project Site: Located at LLNL, with power delivered to DOE-BSO's distribution system on DOE-BSO's side of the meter.

2.2 Rate: As per Table 1 below.

2.3 Projected Annual Performance Production Schedule: The following Table 1 presents an estimate of minimum annual production, which declines at a rate of one-half percent (0.5%) annually due to normal degradation of the photovoltaic generation capacity of the array. This schedule is used for the purposes of forecasting production and calculating the annual Energy deliveries under Section 10 of this Contract. An Annual Performance Period will consist of twelve (12) consecutive months. The first Annual Performance Period will start on the first day of the first month following the commencement of commercial operations, and will continue through the final day of the twelfth month. As appropriate, annual deliveries may be pro-rated for a partial year.

Table 1
 (Projected Annual Performance Production Schedule)

Annual Performance Period	Annual Quantity Delivered (MWh)	Energy Price (\$/MWh)
1		
2		
3		
4		
5		
6		
7		
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2.4 Monthly Delivery Schedule: For planning purposes, Contractor will provide to Western and DOE-BSO a forecasted monthly delivery schedule for the upcoming Annual Performance Period on or before the first day of each Annual Performance Period, which will become part of this Exhibit. The initial Annual Performance Period's Monthly Delivery Schedule is set forth in Table 2 below:

Table 2
(Monthly Delivery Schedule)

Month	Percent (%) of Projected Annual Production	Forecasted Generation MWh
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
Total		

3. Delivery Point Definition: DOE-BSO's electric distribution system.
4. Product: Renewable Energy Credits associated with the project.
 - 5.1 Location of generation: _____
 - 5.2 Time Frame: _____
 - 5.3 MWh: _____
 - 5.4 Cost: _____
 - 5.5 Certification Requirement: _____
5. This Exhibit A may be modified periodically in accordance with Section 16 of the Contract.

EXHIBIT B
(Points of Contact)

1. This Exhibit B to be effective under and as a part of Contract XX-SNR-XXXXX, (Contract) shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit B or termination of the Contract.

2. Invoice Submission Information: DOE-BSO has designated the **TBD** as the payor under this Contract. Therefore, Contractor shall submit invoices to and receive payments from the following:

Name: _____
Title: _____
Agency: _____
Address: _____

Phone: _____
Fax: _____
E-Mail: _____

3. Scheduling Point of Contact: DOE-BSO's scheduling point of contact is:

Name: _____
Title: _____
Agency: _____
Address: _____

Phone: _____
Fax: _____
E-Mail: _____

4. Contractor Point of Contact Information:

Name: _____
Title: _____
Agency: _____
Address: _____

Phone: _____
Fax: _____
E-Mail: _____

6. This Exhibit B may be modified periodically in accordance with Section 16 of the Contract.

EXHIBIT C
(Project Drawings)

1. This Exhibit C to be effective under and as a part of Contract XX-SNR-XXXXX, (Contract) shall become effective upon execution of the Contract; and shall remain in effect until superseded by another Exhibit C or termination of the Contract.
2. The single-line diagram is shown on page 2 of this Exhibit C.
3. This Exhibit C may be modified periodically in accordance with Section 16 of the Contract.

Note: Attach FED PV Solar Generation Diagram