

DOCKETED

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Project Title:	La Paloma Generating Project
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Document Title:	Petition to Transfer Ownership and Operational Control of the La Paloma Generating Plant
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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

LA PALOMA GENERATING PLANT

Docket No. 98-AFC-2C

**PETITION TO TRANSFER OWNERSHIP
AND OPERATIONAL CONTROL OF
THE LA PALOMA GENERATING
PLANT**

**PETITION TO TRANSFER OWNERSHIP AND OPERATIONAL CONTROL OF THE
LA PALOMA GENERATING PLANT**

August 2, 2018

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Attorneys for CXA LA PALOMA, LLC

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

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**PETITION TO TRANSFER OWNERSHIP AND OPERATIONAL CONTROL OF THE
LA PALOMA GENERATING PLANT**

I. INTRODUCTION

This administrative Petition to Transfer Ownership (this "Petition") is submitted on behalf of CXA La Paloma, LLC ("CXA La Paloma") under California Code of Regulations, Title 20, section 1769(b) with respect to the La Paloma Generating Project, a 1,124 MW natural gas-fired, combined cycle electric generating project located in McKittrick, California (the "Project"), which was certified by the California Energy Commission ("CEC") in 1999 and began commercial operations in January 2003. This Petition requests the transfer administratively of ownership of the Project as a result of the reorganization in bankruptcy of the former owner and operator of the Project, and the resulting transfer on December 4, 2017 of all assets comprising the Project to CXA La Paloma, so that the transfer can be formalized in the CEC's records regarding the certification and conditions of compliance of the Project (Docket Nos. 98-AFC-2 and 98-AFC-2C). The circumstances leading to the change are explained below. No changes to conditions of certification, the Project or its related facilities are proposed herein, and therefore the requested administrative change does not affect the analyses set forth in the CEC's certification of the Project or amendments thereto.

II. BACKGROUND

On December 6, 2016, related entities La Paloma Generating Company, LLC (“LPGC”) and CEP La Paloma Operating Company, LLC (“CEP”), the former owner and operator, respectively, of the Project, filed a petition for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). Following preparation of a plan of reorganization with respect to LPGC and CEP (the “Plan”), and after required motions, determinations and other proceedings by and before the Bankruptcy Court, on November 6, 2017 the Bankruptcy Court entered its *Findings of Fact, Conclusions of Law and Order Under Section 1129 of the Bankruptcy Code and Bankruptcy Rule 3020 Confirming “Joint Chapter 11 Plan for La Paloma Generating Company, LLC, et al.” and Approving Sale of Assets Thereunder* (the “Confirmation Order”), in which the Bankruptcy Court authorized and directed LPGC and CEP to transfer the Project, together with related contracts, permits, and governmental authorizations and approvals, to CXA La Paloma upon the effective date of the Plan.¹

Following authorization of the transfer of the Project by the Federal Energy Regulatory Commission, on December 4, 2017, LPGC and CEP transferred the Project, together with related contracts, permits, and governmental authorizations and approvals, to CXA La Paloma, and notice was issued in the Bankruptcy Court that the effective date of the Plan had occurred.² Pursuant to Paragraph 71 of the Confirmation Order, each federal, state, local or other governmental agency has been “directed and authorized to accept any and all documents,

¹ CXA La Paloma is an indirect, wholly-owned subsidiary of LNV Corporation, a wholly-owned subsidiary of Beal Bank USA and a senior secured creditor of LPGC in the proceedings before the Bankruptcy Court.

² Please see the following documents attached as Exhibit A for your information regarding CXA La Paloma: (a) copy of the certificate of formation of CXA La Paloma; (b) certification of the good standing in Delaware of CXA La Paloma; (c) certification by the Secretary of State of California as to the qualification of CXA La Paloma in California; and (d) confirmation of the federal tax identification number of CXA La Paloma.

mortgages, deeds of trust, security filings, financing statements and instruments necessary or appropriate to effectuate, implement or consummate the transactions contemplated by the Plan.”

III. PETITION

California Code of Regulations, Title 20, section 1769(b) requires a petition to transfer ownership and operational control of the Project to include the following:

- (A) a discussion of any significant changes in the operational relationship between the owner and operator;
- (B) a statement identifying the party responsible for compliance with the CEC’s conditions of certification; and
- (C) a statement verified by the new owner or operator in the same manner as provided in Section 1707 that the new owner or operator understands the conditions of certification and agrees to comply with those conditions.

The remainder of this Petition sets forth information responsive to these requirements.

A. CHANGES IN OPERATIONAL RELATIONSHIP

The transfer of the Project to CXA La Paloma does not affect the operation of the Project, nor the conditions of the CEC’s certification of the Project as currently in effect – only the identity of the entity that owns and operates the Project. Along with the tangible assets comprising the Project, all material contracts and all permits and other governmental authorizations and approvals used or required by LPGC and CEP for the operation of the Project were also transferred to CXA La Paloma, allowing operation and maintenance of the Project to continue uninterrupted and in the same manner as conducted prior to the transfer.

Among other provisions regarding operation, Paragraph 57 of the Bankruptcy Court’s Confirmation Order authorized CXA La Paloma to operate the Project under any license, permit, registration and governmental authorization or approval of LPGC, and all such licenses, permits,

registrations and governmental authorizations and approvals were directed to be transferred to CXA La Paloma, including without limitation those licenses, permits and authorizations on which the CEC's certification of the Project is conditioned.

In addition, the company engaged by contract to operate and maintain the Project on a day-to-day basis continues in the same role following the transfer to CXA La Paloma. In 2005, in connection with the CEC's approval of the transfer to CEP of operations of the Project, CEP contracted with NAES Corporation, an experienced independent operation and maintenance contractor in the power generation sector, to carry out the day-to-day operation and maintenance of the Project. Pursuant to Paragraph 72 of the Bankruptcy Court's Confirmation Order, upon transfer of the Project to CXA La Paloma, CEP also assigned the operation and maintenance agreement with NAES Corporation to CXA La Paloma, and in turn CXA La Paloma has assumed CEP's obligations thereunder. As a result, NAES Corporation continues to perform the day-to-day operation and maintenance of the Project on the same terms and conditions that existed prior to the transfer of ownership to CXA La Paloma.

In sum, the transfer of the Project pursuant to the Bankruptcy Court's Confirmation Order and the resulting change in the identity of the entity that owns and operates the Project do not affect the operation of the Project or the conditions of the CEC's certification of the Project.

B. PARTY RESPONSIBLE FOR COMPLIANCE WITH CEC CONDITIONS

Following the transfer of the Project to CXA La Paloma, and in accordance with both CEC's requirements and the Bankruptcy Court's Confirmation Order, CXA La Paloma is responsible for compliance with the CEC's conditions of certification of the Project.

C. STATEMENT OF NEW OWNER/OPERATOR

CXA La Paloma understands the conditions of CEC's certification of the Project and agrees to comply with those conditions.³

IV. CONCLUSION

For the foregoing reasons, CXA La Paloma respectfully requests that the CEC approve administratively the transfer of ownership and operational control of the La Paloma Generating Project to CXA La Paloma as described above.

Dated: August 2, 2018

By: 

Julie A. Cress
HUNTON ANDREWS KURTH LLP
Attorneys for CXA La Paloma, LLC

³ In compliance with California Code of Regulations, Title 20, sections 1707 and 1769(b), please see attached hereto as Exhibit B the Affidavit of James Erwin, Senior Vice President of CXA La Paloma, verifying that CXA La Paloma is responsible for compliance with the CEC's conditions of certification of the Project, that CXA La Paloma understands the conditions of CEC's certification of the Project, and that CXA La Paloma will comply with those conditions.

EXHIBIT A

ORGANIZATIONAL DOCUMENTS REGARDING CXA LA PALOMA, LLC

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "CXA LA PALOMA, LLC", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF SEPTEMBER, A.D. 2017, AT 4:57 O`CLOCK P.M.




Jeffrey W. Bullock, Secretary of State

6543772 8100
SR# 20176169739

Authentication: 203230248
Date: 09-15-17

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:57 PM 09/14/2017
FILED 04:57 PM 09/14/2017
SR 20176169739 - File Number 6543772

**STATE OF DELAWARE
LIMITED LIABILITY COMPANY**

**CERTIFICATE OF FORMATION
OF
CXA LA PALOMA, LLC**

1. The name of the limited liability company is CXA La Paloma, LLC.
2. The address of its registered office in the State of Delaware is 1675 S. State Street, Suite B, in the City of Dover, County of Kent, Delaware 19901. The name of the registered agent at such address is Capitol Services, Inc.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the 14th day of September, 2017.



Kerri L. Olsen
Authorized Person

Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "CXA LA PALOMA, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-NINTH DAY OF NOVEMBER, A.D. 2017.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN ASSESSED TO DATE.



6543772 8300

SR# 20177299290

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 203652942

Date: 11-29-17

201734110179

**State of California
Secretary of State**

CERTIFICATE OF REGISTRATION

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

That on the 30th day of November, 2017, CXA LA PALOMA, LLC, complied with the requirements of California law in effect on that date for the purpose of registering to transact intrastate business in the State of California; and further purports to be a limited liability company organized and existing under the laws of Delaware as CXA LA PALOMA, LLC and that as of said date said limited liability company became and now is duly registered and authorized to transact intrastate business in the State of California, subject, however, to any licensing requirements otherwise imposed by the laws of this State.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great Seal
of the State of California this day of
December 7, 2017.



A handwritten signature in black ink, appearing to read "Alex Padilla".

**ALEX PADILLA
Secretary of State**

pny



Secretary of State

LLC-5

Application to Register a Foreign Limited Liability Company (LLC)

201734110179

FILED [Signature]
Secretary of State
State of California
NOV 30 2017 [Signature]

IMPORTANT - Read Instructions before completing this form.
Must be submitted with a current Certificate of Good Standing issued by the government agency where the LLC was formed. See Instructions.

Filing Fee - \$70.00

Copy Fees - First page \$1.00; each attachment page \$0.50;
Certification Fee - \$5.00

Note: Registered LLCs in California may have to pay minimum \$800 tax to the California Franchise Tax Board each year. For more information, go to https://www.ftb.ca.gov.

IPC This Space For Office Use Only

1a. LLC Name (Enter the exact name of the LLC as listed on your attached Certificate of Good Standing.)

CXA La Paloma, LLC

1b. California Alternate Name, If Required (See instructions - Only enter an alternate name if the LLC name in 1a not available in California.)

[Empty box for alternate name]

2. LLC History (See Instructions - Ensure that the formation date and jurisdiction match the attached Certificate of Good Standing.)

Table with 2 columns: a. Date LLC was formed in home jurisdiction (MM/DD/YYYY) and b. Jurisdiction (State, foreign country or place where this LLC is formed.)

c. Authority Statement (Do not alter Authority Statement)
This LLC currently has powers and privileges to conduct business in the state, foreign country or place entered in Item 2b.

3. Business Addresses (Enter the complete business addresses. Items 3a and 3b cannot be a P.O. Box or "in care of" an individual or entity.)

Table with 4 columns: a. Street Address of Principal Executive Office - Do not enter a P.O. Box, City (no abbreviations), State, Zip Code

4. Service of Process (Must provide either Individual OR Corporation.)

INDIVIDUAL - Complete Items 4a and 4b only. Must include agent's full name and California street address.

Table with 4 columns: a. California Agent's First Name (if agent is not a corporation), Middle Name, Last Name, Suffix

CORPORATION - Complete Item 4c only. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) - Do not complete Item 4a or 4b
C T Corporation System

5. Read and Sign Below (See instructions. Title not required.)

I am authorized to sign on behalf of the foreign LLC.

[Handwritten Signature]

Signature

Tim H. Taylor, Secretary/ Treasurer

Type or Print Name

Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "CXA LA PALOMA, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-NINTH DAY OF NOVEMBER, A.D. 2017.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN ASSESSED TO DATE.



6543772 8300

SR# 20177299290

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Authentication: 203652942

Date: 11-29-17

201734110179



CALIFORNIA
SECRETARY OF STATE



Business Entities, 1500 11th St., 3rd Floor,
Sacramento, CA 95814

Thank You for Doing Business in California

Congratulations on the registration of your limited liability company with the California Secretary of State (SOS). Please see below for important information.

The details of your business entity and free images of filings are available online at BusinessSearch.sos.ca.gov. For additional information about starting a new business in California, go to www.sos.ca.gov/business/be/starting-business-checklist.

What's next? Required Filings

SOS Statement of Information – Limited liability companies must fill out and file a complete Statement of Information (Form LLC-12) within the first 90 days of registering with the SOS, and every 2 years thereafter before the end of the calendar month of the original registration date.

How can you file your Statement of Information?

- Online Service:
 - Submit your Statement of Information online at LLCbizfile.sos.ca.gov.
- Other Submission Options:
 - Submit your Statement of Information by mail to the SOS's Sacramento office; or
 - Submit your Statement of Information (drop off) at the SOS's Sacramento office.
- Additional information regarding Statements of Information, including forms, instructions and fees is available at www.sos.ca.gov/business/be/statements.

Franchise Tax Board (FTB) Tax Filing – Once your limited liability company is registered with the SOS, you are required to file a tax return with FTB for each taxable year even if you are not conducting business or have no income. Contact FTB at ftb.ca.gov or (800) 852-5711 for forms and requirements concerning franchise taxes or income taxes.

Be aware, if you fail to file a return by the original or extended due date, or fail to pay taxes when due, a penalty may be imposed by FTB. Please visit ftb.ca.gov/businesses/Penalty-Information.shtml for tax penalty related information.

Other Business Information and Resources

All business entities are subject to state and federal tax laws. You may wish to contact the following agencies to assist you with these issues:

- Internal Revenue Service – irs.gov or call (800) 829-1040 for forms and issues concerning Federal tax, employer identification numbers, subchapter S elections.
- State Board of Equalization – boe.ca.gov or call (800) 400-7115 for forms and issues concerning sales taxes or use taxes.
- Employment Development Department – edd.ca.gov or call (800) 300-5616 for forms and issues concerning employment and payroll taxes.
- CalGold – caldgold.ca.gov for appropriate permit, licensing, and contact information for the various agencies that administer and issue these permits.
- SOS Business Resources – www.sos.ca.gov/business/be/resources for a list of agencies you may need to contact to ensure proper compliance with California state law.
- CA Governor's Office of Business and Economic Development (Go-Biz) – business.ca.gov for a range of business services including, site selection and permit assistance.

Request for Taxpayer Identification Number and Certification

**Give Form to the
requester. Do not
send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. CXA LA PALOMA LLC	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small> <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) 5 & 11 Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions. 6000 Legacy Drive	Requester's name and address (optional)
	6 City, state, and ZIP code Plano, Texas 75024	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
[] [] [] - [] [] - [] [] [] []	
or	
Employer identification number	
8 2 - 2 9 0 2 0 7 6	

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶	Date ▶ 4/12/18
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

EXHIBIT B

**AFFIDAVIT OF JAMES ERWIN,
SENIOR VICE PRESIDENT OF CXA LA PALOMA, LLC**

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

LA PALOMA GENERATING PLANT

Docket No. 98-AFC-2C

**AFFIDAVIT OF JAMES ERWIN IN
SUPPORT OF PETITION TO TRANSFER
OWNERSHIP AND OPERATIONAL
CONTROL OF THE LA PALOMA
GENERATING PLANT**

I, James Erwin, herein attest that:

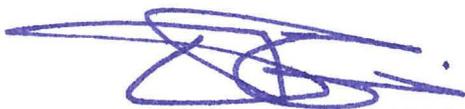
1. I am the Senior Vice President of CXA La Paloma, LLC (“CXA La Paloma”), duly authorized to execute and deliver this affidavit on behalf of CXA La Paloma.
2. CXA La Paloma is making an administrative petition (the “Petition”) to the California Energy Commission (“CEC”) under California Code of Regulations, Title 20, section 1769(b), for the transfer of ownership and operational control of the La Paloma Generating Project, a 1,124 MW natural gas-fired, combined cycle electric generating project located in McKittrick, California (the “Project”), which was certified by the CEC in 1999 and began commercial operations in January 2003.
3. This affidavit is intended to be attached to the Petition prepared on behalf of CXA La Paloma by our attorneys, Hunton Andrews Kurth LLP, and is submitted on behalf of CXA La Paloma in support of the Petition in accordance with California Code of Regulations, Title 20, sections 1707 and 1769(b).
4. As more fully described in the Petition, as a result of the bankruptcy and reorganization of La Paloma Generating Company, LLC (“LPGC”) and CEP La Paloma Operating Company, LLC (“CEP”), the former owner and operator, respectively, of the Project, the

United States Bankruptcy Court for the District of Delaware authorized and directed LPGC and CEP to transfer the Project, together with related contracts, permits, and governmental authorizations and approvals, to CXA La Paloma, which transfer occurred on December 4, 2017.

5. CXA La Paloma seeks no changes to the Project or the conditions of the CEC's certification of the Project, except for the administrative change requested in the Petition to formalize said transfer in the CEC's records regarding the Project.
6. In accordance with California Code of Regulations, Title 20, sections 1707 and 1769(b), I confirm that CXA La Paloma is responsible for compliance with the CEC's conditions of certification of the Project, that CXA La Paloma understands the conditions of the CEC's certification of the Project, and that CXA La Paloma agrees to comply with those conditions.

This affidavit is made under penalty of perjury under the laws of the State of California as to the as to the truth and accuracy of the Petition submitted herewith and is executed at

PLANO, Texas on July 31, 2018.



Name: James Erwin

Title: Senior Vice President

CXA LA PALOMA, LLC

STATE OF Texas)
) ss.
County of Collin)

The foregoing instrument was acknowledged before me, the undersigned notary public in and for said county and state, this 31st day of July, 2018, by Jamez Erwin, the Senior Vice President of CXA LA PALOMA, LLC, a Delaware limited liability company, for and on behalf of said company.

Ruth B. Harrison
Notary Public

My Commission Expires:

4/24/2021

