INDEMNIFICATION AND INSURANCE AGREEMENT
BY AND BETWEEN
CITY OF SANTA ROSA
AND
RENEWABLE FUNDING LLC

This Indemnification and Insurance Agreement (the "Agreement") is entered into by and between the City of Santa Rosa a municipal corporation ("City") and Renewable Funding LLC, a California limited liability company, (the "Administrator"), the administrator of the CaliforniaFirst_Program, which is a program of the California Statewide Communities Development Authority, a California joint exercise of powers authority (the "Authority").

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority whose members of which include the City in addition to other cities and counties in the State of California; and

WHEREAS, the Authority established the CaliforniaFIRST ("PACE Program") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code ("Chapter 29") and the issuance of improvement bonds under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

WHEREAS, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

WHEREAS, on March 8, 2016, the City Council of the City of Santa Rosa adopted a resolution authorizing the City to join the PACE Program, authorizing the Authority to accept applications from eligible property owners, conduct assessment proceedings and levy assessments within the territory of the City and authorizing related actions; and

WHEREAS, the Authority is solely responsible for the formation, operation and administration of the PACE Program as well as the sale and issuance of any bonds in connection therewith, including the conduct of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the PACE Program; and

WHEREAS, the Administrator is the administrator of the PACE Program and agrees to indemnify the City and provide insurance and add the City as an additional insured on its insurance policy or policies in connection with the operations of the PACE Program as set forth herein; and

NOW, THERFORE, in consideration of the above premises and of the City's agreement to join the PACE Program, the parties agree as follows:

1. Agreement to Indemnify. The Administrator agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with the PACE Program except such loss or damage which was caused by the sole active negligence or willful misconduct of the City. The Administrator will conduct all defenses at its sole cost and expense and the City shall reasonably approve selection of the Administrator's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates or other parties are not a limitation upon the obligation of the Administrator including without limitation the amount of indemnification to be provided by the Administrator.

2. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the operation of the PACE Program, to maintain the insurance coverage set forth in Attachment One to this Agreement.

3. Amendment/Interpretation of this Agreement. This Agreement, including all Attachments hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

4. Assignment. Administrator shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of City, in City's sole and absolute discretion. Administrator shall be liable for the acts and omissions of any person serving as a subcontractor or sub-consultant of Administrator's duties under the CaliforniaFIRST PACE Program.

5. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

6. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

7. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

8. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

City Representative:	Administrator Representative:
Gloria Hurtado, Deputy City Manager City of Santa Rosa 100 Santa Rosa Ave, Room 3 Santa Rosa Ca, 95404 (707) 543-3021	Jonathan Kevles Renewable Funding LLC 500 12th Street, #300 Oakland, CA 94607 (510) 350-3709

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

10. Authority; Signatures Required for Corporations. Administrator hereby represents and warrants to City that it is (a) a duly organized and validly existing limited liability corporation, formed and in good standing under the laws of the State of California, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and (c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Administrator hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Administrator in accordance with the terms hereof.

If this Agreement is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant secretary, chief financial officer, or any assistant treasurer. The title of the corporate officer shall be listed under the signature.

11. Effective Date. This Agreement will be effective as of the date of the signature of City's representative as indicated below in the City's signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

ADMINISTRATOR
Name of Firm: Renewable Funding LLC
A California Limited Liability Company

By: Renewable Funding Group, Inc.
A Delaware corporation
Its sole Member

TYPE OF BUSINESS ENTITY (check one):
_____ Individual/Sole Proprietor
_____ Partnership
_____ Corporation
__X__ Limited Liability Company
_____Other (please specify) _____

Signatures of Authorized Persons:

By: _____

Print Name: **Kirk Inglis**
Chief Financial Officer
Title: _____

By: _____

Print Name: Francisco DeVries

Title: CEO and Chairman

CITY OF SANTA ROSA
a Municipal Corporation

By:_____

Print
Name:_____
Title:_____

APPROVED AS TO FORM:

_____
Office of the City Attorney

ATTEST:

_____
City Clerk

Attachments:
Attachment One - Insurance Requirements

ATTACHMENT ONE
INSURANCE REQUIREMENTS FOR
INDEMNIFICATION AGREEMENT
BY AND BETWEEN CITY OF SANTA ROSA AND ADMINISTRATOR

A. **Insurance Policies:** Administrator shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

	Insurance	Minimum Coverage Limits	Additional Coverage Requirements
1.	Commercial general liability	$ 1 million per occurrence $ 2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. **Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.**
2.	Business auto coverage	$ 1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Administrator has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than $ 1 million per accident for bodily injury and property damage.
3.	Professional liability (E&O)	$ 1 million per claim $ 1 million aggregate	Administrator shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4.	Workers' compensation and employer's liability	$ 1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than $ 1 million per accident for bodily injury or disease.

B. **Endorsements:**

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the City in accordance with the policy provisions.

2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:

   a. For any claims related to this project, Administrator's insurance coverage shall be primary and any insurance or self-insurance maintained by City

shall be excess of the Administrator's insurance and shall not contribute with it; and,

b. **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy**. General liability coverage can be provided in the form of an endorsement to Administrator's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. **Verification of Coverage and Certificates of Insurance:** Administrator shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the Agreement. The City reserves the right to require complete copies of all required policies and endorsements.

D. **Other Insurance Provisions:**

1. No policy required by this Agreement shall prohibit Administrator from waiving any right of recovery prior to loss. Administrator hereby waives such right with regard to the indemnitees.

2. All insurance coverage amounts provided by Administrator and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.

3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Administrator or City. Self-insured retentions above $10,000 must be approved by City. At City's option, Administrator may be required to provide financial guarantees.

4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.

5. City reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances, provided that City provides thirty (30) days written notice of any such changes, where any such changes are representative of changes made to the City's standard insurance requirements